

**CITY OF SHERMAN  
CITY COUNCIL REGULAR MEETING AGENDA  
COUNCIL CHAMBERS OF THE CITY HALL  
220 WEST MULBERRY STREET  
SHERMAN, TEXAS  
MONDAY, NOVEMBER 5, 2012  
5:00 P.M.**

- A.1 [CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN](#)
- A.2 [PLEDGE OF ALLEGIANCE](#)
- A.3 [INVOCATION BY COUNCIL MEMBER DAVID PLYLER](#)
- A.4 [APPROVE MINUTES OF THE REGULAR CITY COUNCIL MEETING OF OCTOBER 15, 2012](#)

**Public Hearing**

- B.1 [INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5759](#)  
Providing for Permanent “Stop” Signs at the Intersection of North Cleveland Avenue and East Tuck Street within the City Limits of the City of Sherman; Providing for a Penalty Provision

**Close Public Hearing and Consider Adoption of Ordinances**

- B.2 [ADOPTION OF ORDINANCES](#)  
Consider Adoption of Ordinance Number:  
(a) 5759
- B.3 [CONSENT AGENDA](#)  
Asterisked (\*) items are considered to be routine and will be enacted in one motion without discussion unless a Council Member or a citizen requests a specific item be discussed and voted on separately

**Resolutions**

- C.1 [\\* RESOLUTION NO. 5719](#)  
Authorizing the City Manager to Execute a Contract with the Sherman Council for the Arts & Humanities, Inc. for Expenditure of a Portion of the Funds Collected by the City of the Hotel-Motel Occupancy Tax
- C.2 [\\* RESOLUTION NO. 5720](#)  
Authorizing Execution of a Development Agreement with ET Joint Venture for the Construction of Public Facilities in the Crescent Oaks Addition to the City of Sherman

- C.3**     [\\* RESOLUTION NO. 5721](#)  
Authorizing Execution of a Professional Services Agreement with Freeman-Millican, Inc. for the Design of the Sears Lift Station Relief Sewer Improvements
- C.4**     [\\* RESOLUTION NO. 5722](#)  
Authorizing Execution of an Agreement with Mario Tobar for the Abatement of Ad Valorem Property Taxes for the Construction of a New Single-Family Residence at 703 East Cherry Street
- C.5**     [\\* RESOLUTION NO. 5723](#)  
Authorizing the Purchase of a Front Load Transfer Trailer for the Solid Waste Services Department from Wilkens Industries, Inc. through the Texas Local Government Purchasing Cooperative (BuyBoard)
- C.6**     [RESOLUTION NO. 5724](#)  
Authorizing the Purchase of Four Chevrolet Tahoe Police Patrol Vehicles for the Sherman Police Department from Caldwell Country through the Texas Local Government Purchasing Cooperative (BuyBoard)

#### **Requests to Advertise**

- D.1**     [\\* REQUEST TO ADVERTISE](#)  
Repairs to Shepherd Drive 1 Woodbine Water Well

#### **Other Business**

- D.2**     [OTHER BUSINESS](#)  
Consider Request of St. Mary's Catholic School to Temporarily Close Certain Streets for the 2<sup>nd</sup> Annual "Run Run Rudolph 5K and Family Fun Run/Walk" on Saturday, December 8, 2012
- D.3**     [OTHER BUSINESS](#)  
Consider Request of the Sherman Chamber of Commerce to Temporarily Close Certain Streets for the Annual Sherman Christmas Parade on Friday, December 7, 2012
- D.4**     [\\* OTHER BUSINESS](#)  
Approval of the 2012 Ad Valorem Tax Roll Value and Tax Levy
- D.5**     [\\* OTHER BUSINESS](#)  
Approve Quarterly Investment Reports for Period Ending September 30, 2012
- D.6**     [\\* OTHER BUSINESS](#)  
Final Plat Approval of West Canyon Creek Oaks Estates, Section 1, being 1.626 acres in the James H. Vaden Survey, Abstract No. 1288; Westfield Estates, LP, Owner; John Szabuniewicz, Representative; Roger Allred, General Contractor; and Harlan Land Surveying, Inc., Surveyors (200 Block of Shady Oaks Lane)

**D.7**    [\\* OTHER BUSINESS](#)

Site Plan Approval for Bill McCown, Owner, Donnie Snider, Hope Concrete Company, Applicant, and Sartin & Associates, Surveyor under Ordinance No. 2252, Article IV, Section 410(2)(b) to Allow a Temporary Concrete Batch Plant for a Period of One Year in the Blalock Industrial Park District at 320 Progress Drive

**D.8**    [CITIZEN REQUESTS](#)

**D.9**    [MEDIA QUESTIONS](#)

**D.10**   [COUNCIL COMMENTS](#)

**D.11**   [RECOGNITION OF OUTGOING COUNCIL MEMBERS](#)

**D.12**   [ADJOURNMENT](#)

[COUNCIL CALENDAR](#)



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. A.1

**CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN**

The Honorable Bill Magers, Mayor



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. A.2

### PLEDGE OF ALLEGIANCE

The Honorable David Plyler, Council Member



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. A.3

**INVOCATION BY COUNCIL MEMBER DAVID PLYLER**



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. A.4

**APPROVE MINUTES**  
**OF THE REGULAR CITY COUNCIL MEETING OF OCTOBER 15, 2012**

STATE OF TEXAS

§

October 15, 2012

COUNTY OF GRAYSON

§

BE IT REMEMBERED THAT A Regular Meeting of the City Council of the City of Sherman, Grayson County, Texas was begun and held in the Council Chambers of City Hall on October 15, 2012.

MEMBERS PRESENT: MAYOR BILL MAGERS; DEPUTY MAYOR WILLIE STEELE.  
COUNCIL MEMBERS HOWETH, PLYLER, SMITH, SOFTLY,  
WACKER.

MEMBERS ABSENT: NONE.

CALL TO ORDER

Mayor Magers called the meeting to order at 5:00 p.m. The Pledge of Allegiance and the Invocation were given by Council Member Cary Wacker.

CALL TO ORDER

APPROVE MINUTES

The Council reviewed the Minutes of the Regular City Council Meeting of October 1, 2012. Deputy Mayor Steele moved to approve the Minutes as presented; Second by Council Member Smith. All present voted AYE.  
MOTION CARRIED.

APPROVE MINUTES

CONSENT AGENDA

The Council reviewed the Consent Agenda. Council Member Smith moved to approve the Consent Agenda, as presented. Second by Council Member Howeth. All present voted AYE.

CONSENT AGENDA

RESOLUTIONS

RESOLUTION NO. 5714 – AUTHORIZING THE ACCEPTANCE OF FISCAL YEAR 2012 STATE HOMELAND SECURITY GRANT PROGRAM (SHSP) FEDERAL GRANT AWARD NUMBER EMW-2012-22-00018-S01 FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY AND THE U.S. DEPARTMENT OF HOMELAND SECURITY; AUTHORIZING THE PURCHASE OF EQUIPMENT RELATED TO REGIONAL RESPONSE

RES 5714  
GRANT FOR  
FIRE DEPARTMENT  
COMMUNICATIONS  
EQUIPMENT

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE ACCEPTANCE OF FISCAL YEAR 2012 STATE HOMELAND SECURITY GRANT PROGRAM (SHSP) FEDERAL GRANT AWARD NUMBER EMW-2012-SS-00018-S01 FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY AND THE U.S. DEPARTMENT OF HOMELAND SECURITY; AUTHORIZING THE PURCHASE OF EQUIPMENT RELATED TO REGIONAL RESPONSE.

Jeff Jones, Fire Chief, explained that since 2004, the City of Sherman has been awarded a little over \$1.3 million in Homeland Security Funds. These funds are dedicated to making improvements that were identified as deficiencies after the attack on September 11, 2001, which includes



facility improvements, and communications and equipment designed for regional response.

This year's award is \$42,000, which is about 50% of the amount received last year. The amount of the grant has declined since 2010, Chief Jones anticipated that the funds would eventually disappear or be dedicated to other agencies.

He asked the City Council to approve the grant and allow the City to spend the funds on regional communication projects.

Council Member Wacker verified that the money will be used to update communications equipment for the Police and Fire Departments. This will allow better inter-agency communication as well.

Chief Jones added that there are still deficiencies talking to other agencies within Grayson County and within the Texoma region. As funds become available, improvements to the mobile radios and the handheld radio will be made so they can talk to the other agencies on the same radios and not have to switch frequencies or channels.

**ACTION TAKEN.**

Motion by Council Member Wacker to approve Resolution No. 5714, as presented. Second by Council Member Howeth.

VOTING AYE: Howeth, Plyler, Smith, Softly, Steele, Wacker.

VOTING NAY: None.

MOTION CARRIED.

**RESOLUTION NO. 5715 – AUTHORIZING EXECUTION OF A MUTUAL AID AGREEMENT WITH THE TOWN OF CANEY, OKLAHOMA**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A MUTUAL AID AGREEMENT WITH THE TOWN OF CANEY, OKLAHOMA.

CONSENT AGENDA.

RES 5715  
MUTUAL AID  
AGREEMENT

**RESOLUTION NO. 5716 – AUTHORIZING EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF SHERMAN AND THE CITY OF FORT WORTH FOR HOUSEHOLD HAZARDOUS WASTE SERVICES**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF SHERMAN AND THE CITY OF FORT WORTH FOR HOUSEHOLD HAZARDOUS WASTE SERVICES.

RES 5716  
HOUSEHOLD  
HAZARDOUS  
WASTE SERVICES

Clay Barnett, City Engineer, briefed the City Council on the Household Hazardous Waste program. He said the City has had the Household Hazardous Waste program since 2006 and it has been very successful. Usually about 100 residents bring in hazardous waste during the event.

The program is a part of the Stormwater Management Program, which is a program required by the State of Texas, and ultimately by the Environmental Protection Agency. The Household Hazardous Waste program costs approximately \$5,000 annually.

The objective of the program is to educate the public on the proper disposal of these hazardous materials and to decrease the likelihood of illicit dumping throughout Sherman.

Council Member Howeth felt it was a wonderful program, especially for hazardous waste and electronic recycling, and she asked about the possibility of holding the event twice each year.

George Olson, City Manager, said it was a financial decision to hold the event once each year. In years past, the program was handled by the Texoma Council of Governments through grant money. Tonight's agenda item is to approve the interlocal agreement. The dates will be set later.

Council Member Howeth asked that, with the increased amount of usage, the staff look at holding the event twice a year for residents. Mr. Barnett added that the actual date will be set later in the Spring.

**ACTION TAKEN.**

Motion by Council Member Howeth to approve Resolution No. 5716, as presented. Second by Council Member Softly.

VOTING AYE: Howeth, Plyler, Smith, Softly, Steele, Wacker.

VOTING NAY: None.

MOTION CARRIED.

**RESOLUTION NO. 5717 – AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH THE SHERMAN MUSEUM FOR EXPENDITURE OF A PORTION OF THE FUNDS COLLECTED BY THE CITY OF THE HOTEL-MOTEL OCCUPANCY TAX**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH THE SHERMAN MUSEUM FOR EXPENDITURE OF A PORTION OF THE FUNDS COLLECTED BY THE CITY OF THE HOTEL-MOTEL OCCUPANCY TAX.

CONSENT AGENDA.

RES 5717  
SHERMAN MUSEUM

**RESOLUTION NO. 5718 – AUTHORIZE THE PURCHASE AND INSTALLATION OF E-CITATION / MOBILE DATA CAPTURE ELECTRONIC HAND-HELD TICKET WRITERS FOR THE SHERMAN POLICE DEPARTMENT FROM BRAZOS TECHNOLOGY (A SUBSIDIARY OF TYLER TECHNOLOGIES)**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE PURCHASE AND INSTALLATION OF E-CITATION / MOBILE DATA CAPTURE

RES 5718  
POLICE HAND-  
HELD TICKET  
WRITERS

ELECTRONIC HAND-HELD TICKET WRITERS FOR THE SHERMAN POLICE DEPARTMENT FROM BRAZOS TECHNOLOGY (A SUBSIDIARY OF TYLER TECHNOLOGIES).  
CONSENT AGENDA.

**OTHER BUSINESS**

**CONSIDER REQUEST OF THE AUSTIN COLLEGE KAPPA GAMMA CHI TO TEMPORARILY CLOSE CERTAIN STREETS FOR THE HOMECOMING 2012 'ROO RUN ON SATURDAY, OCTOBER 27, 2012**

The City Council approved the request of Austin College Kappa Gamma Chi to temporarily close certain streets surrounding the Austin College campus for the Homecoming 2012 'Roo Run on October 27, 2012. Labor and equipment will be used to implement barricade placement and removal.  
CONSENT AGENDA.

CLOSE STREETS  
FOR AUSTIN COLLEGE  
'ROO RUN

**REPLAT APPROVAL OF PERKINS ADDITION, A REPLAT OF LOTS 10-11, BLOCK 1, PEPPERTREE ADDITION AND LOTS 1-4, BLOCK 5, WESTERN HILLS ADDITION, SECTION 4, CONTAINING 2.03 ACRES; LLOYD AND DOROTHY PERKINS, JAMES AND HENRIETTA FULLENWIDER, MIKEAL TRENT AND MARIANNE GRAHAM, JOHN AND KATHY GALVAN, AND DAN AND SHARON ANDERSON, OWNERS; KATHY GALVAN, REPRESENTATIVE; AND UNDERWOOD DRAFTING AND SURVEYING, INC., SURVEYORS (1702, 1706, 1710 AND 1714 RIDGEWAY DRIVE AND 1813 GLENWAY DRIVE)**

The City Council approved the Replat of the Perkins Addition, a Replat of Lots 10 through 11, Block 1, Peppertree Addition and Lots 1 through 4, Block 5, Western Hills Addition, Section 4, located at 1702, 1706, 1710 and 1714 Ridgeway Drive and 1813 Glenway Drive, and containing 2.03 acres.

APPROVE REPLAT  
PEPPERTREE  
ADDITION

The property is zoned an R-1 (One Family Residential) District and the owners would like to replat the property into five lots, moving lot lines. The Planning and Zoning Commission recommended approval of the Replat.  
CONSENT AGENDA.

**SET DATE TO CANVASS RESULTS OF THE CITY OF SHERMAN'S REGULAR MUNICIPAL ELECTION**

Mayor Magers verified that there was a specific time frame in which to canvass the Election. Mr. Olson said the staff recommended that the canvass be held on November 14, 2012.

SET DATE TO  
CANVASS ELECTION

**ACTION TAKEN.**

Motion by Council Member Smith to schedule a Called Council Meeting for Wednesday, November 14, 2012, at 12 noon to canvass the results of the November 6, 2012 Regular Municipal Election, as presented. Second by Council Member Wacker.

VOTING AYE: Howeth, Plyler, Smith, Softly, Steele, Wacker.  
VOTING NAY: None.  
MOTION CARRIED.

#### CITIZENS REQUESTS

##### SHERMAN MUSEUM

Dan Steelman, Sherman Museum Executive Director, thanked the City Council for their support of the Museum over the past year. He said they look forward to the upcoming year and have a lot of activities planned.

Mayor Magers congratulated Mr. Steelman on the “great job” he is doing at the Museum. He said there is more activity and “a lot of buzz” going on at the Museum because of Mr. Steelman.

##### MEDIA QUESTIONS

There were no media questions.

#### COUNCIL COMMENTS

##### SHERMAN HIGH SCHOOL BAND

Council Member Howeth congratulated the Sherman High School Band on a recent competition where they received “straight ones.” They also won sweepstakes later in the day at the competition.

She added that, at the last City Council Meeting she invited everyone to watch the Bearcats beat the Denison Yellow Jackets, and they won!

##### MEALS ON WHEELS

Mayor Magers thanked City Council Member Robert Softly for his service to the City Council. He said several years ago the Mayors of Sherman, Denison, Gainesville, and Bonham, and the three County Judges became involved with Meals on Wheels to address some specific issues.

Since that time, Phyllis Hicks has been the City of Sherman’s representative on the Board. They have now changed the by-laws and are asking that elected officials serve on the Board.

Council Member Softly has stepped up to serve until the canvass, and then a permanent Council Member will be appointed. He thanked Council Member Softly for his service.

##### CHILDREN’S ADVOCACY GOLF TOURNAMENT

Mayor Magers discussed a recent “Mayor’s Cup” golf tournament and displayed two trophies that were recently won by a golf team put together by Deputy Mayor Steele. The team won by two strokes and was comprised of Tony Aleman, Josh Martin, Richard Barber, and Deputy Mayor Willie Steele.

SHERMAN MUSEUM

MEDIA QUESTIONS

SHS BAND

MEALS ON WHEELS

CHILDREN’S  
ADVOCACY  
GOLF TOURNAMENT

The tournament was held for the Children's Advocacy Center and was a charitable event.

Plaques on the two trophies read "Children's Advocacy Center Guardian Angel Golf Tournament Mayor's Cup" and "Children's Advocacy Center Golf Tournament Battle of the Axe October 4, 2012".

**CANNED FOOD DRIVE**

Council Member Howeth also credited Denison High School with winning the canned food drive for charity during the Battle of the Axe week against Sherman High School.

**CANNED FOOD  
DRIVE**

**ADJOURNMENT**

On Motion duly made and carried, the meeting adjourned at 5:15 p.m.

**ADJOURNMENT**

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**MAYOR**

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**CITY CLERK**



## Storm Water Management Program

- Permit required for storm water discharges
- Clean Water Act & EPA, Phase I began in 1990  
Municipalities > 100,000
- The TCEQ is the permitting authority for Texas
- TCEQ Phase II began August 13, 2007 Municipalities < 100,000
- Permit will provide coverage for 5-years
- Sherman just completed the 5<sup>th</sup> year of coverage
- Required development of a Storm Water Management Program (SWMP) that includes:
  - List of Best Management Practices (BMPs) and measurable goals for 7 minimum control measures
  - A schedule for implementation over the 5-year permit term
  - Description of how each measurable goal will be evaluated



## City of Sherman Household Hazardous Waste Collection Event

**WHEN:** Saturday, April 28, 2012  
**TIME:** 9:00AM to 12:00AM  
**WHERE:** City Hall (Old Post Office)  
220 West Mulberry St.  
**WHO:** Sherman Residents ONLY—MUST show latest waterbill!!

### The following household hazardous waste items will be accepted:

- Bug spray
- Concrete Cleaner
- Antifreeze
- Drain cleaner
- Gasoline
- Fluorescent lights
- Used degreasers
- Oil/filters
- Paint thinner
- Aerosols
- All batteries—including Auto, boat & motorcycle
- All types of paint—Oil, latex & solvent based
- Cooking Oil
- Pool chemicals
- Oven cleaner
- Pesticides
- Insect killer
- Solvents
- Weed killer
- Driveway Sealer
- Lighter fluid

### The following items will not be accepted:

- Tires
- Compressed flammable gas containers
- Radioactive materials
- Biological, etiologic, & infectious materials
- Explosive or potentially shock sensitive materials
- TSCA regulated PCB's
- Regulated dioxins



Questions:  
903.892.7077

## Electronics Recycling Event



**WHEN:** SATURDAY, April 28, 2012

**WHERE:** City Hall 220 West Mulberry St.  
(the Old Post Office across from the United Methodist Church)

**TIME:** 9 a.m.-12 a.m.

**COST:** FREE!!!

**WHO:** Sherman Residents

### Keystone Enterprises will accept the following electronics items:

- Computers
- Ink cartridges
- Cell phones
- Televisions
- Fax machines
- Copiers
- Small and Big Appliances
- Monitors
- Keyboards
- Printers
- Washers/dryers
- Guns
- Ammunition



Contact person: Questions?  
Call 903.892.7077



# City of Sherman

## Household Hazardous Waste Collection and Electronics Recycling Event

**WHEN: Saturday, April 28, 2012**

**TIME: 9:00AM to 12:00AM**

**WHERE: City Hall (Old Post Office) at 220 West Mulberry St.**

**WHO: Sherman Residents ONLY—MUST show latest waterbill!!**

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**The following household hazardous waste items will be accepted:**

- Auto/boat/motorcycle batteries
- Bug spray
- Concrete Cleaner
- All batteries
- Antifreeze
- Drain cleaner
- Gasoline
- Fluorescent lights
- Used degreasers
- Oil/filters
- Paint thinner
- All types of paint –oil, latex,& solvent based
- Aerosols
- Lighter fluid
- Driveway sealer
- Weed killer
- Solvents
- Insect killer
- Pesticides
- Oven cleaner
- Pool chemicals
- Cooking oil

**The following items will not be accepted:**

- Tires
- Compressed flammable gas containers
- Radioactive materials
- Biological, etiologic, & infectious materials
- Explosive or potentially shock sensitive materials
- TSCA regulated PCB's
- Regulated dioxins

**Keystone Enterprises will accept the following electronics items:**

- |                            |                  |
|----------------------------|------------------|
| • Computers                | • Monitors       |
| • Ink cartridges           | • Keyboards      |
| • Cell phones              | • Printers       |
| • Televisions              | • Washers/dryers |
| • Fax machines             | • Guns           |
| • Copiers                  | • Ammunition     |
| • Small and Big Appliances |                  |



Any questions please call 903-892-7077



## MEMORANDUM



**DATE:** April 30, 2012

**TO:** Andreas Liss,  
City of Sherman

**From:** Rex Johnson, Supervisor  
Environmental Collection Center, City of Fort Worth

**SUBJECT:** Waste amounts collected

I am providing you with the waste amounts collected during your collection event on April 28, 2012 collection, there were **103** households that participated. The waste amounts go as follows:

### April, Waste Amounts

| TYPE OF WASTE             | WASTE IN POUNDS |
|---------------------------|-----------------|
| PAINTS, ETC.              | 7,000           |
| SOLVENTS                  | 500             |
| AEROSOL CANS              | 700             |
| FLAMMABLE LOOSE           | 1,200           |
| OIL/TRANS. FLUID          | 500             |
| OIL FILTERS (each)        | 40              |
| ANTIFREEZE                | 100             |
| AUTO BATTERIES (each)     | 20              |
| HERB/PESTICIDE/FERTILIZER | 2,000           |
| CLEANERS                  | 50              |
| CORROSIVES                | 100             |
| COOKING OIL               | 100             |
| LIGHT BULBS (each)        | 100             |
| HOUSEHOLD BATTERIES       | 100             |
| PHARACUTICALS             | 10              |
| Recycled products         | 1,700 pounds    |

If you have any questions, feel free to contact me at 871-5275.



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. B.1

### **INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5759**

**Providing for Permanent “Stop” Signs  
at the Intersection of North Cleveland Avenue and East Tuck Street  
within the City Limits of the City of Sherman; Providing for a Penalty Provision**

#### **Issue**

To consider introducing, seeking public input, and adopting an ordinance providing for permanent “Stop” signs at the intersection of North Cleveland Avenue and East Tuck Street, stopping northbound and southbound traffic on North Cleveland Avenue

#### **Background**

Staff received a citizen request for the “Stop” signs and evaluated the request based on the criteria set forth by the Texas Manual of Uniform Traffic Control Devices. The signs have been up for a 90-day trial period with no complaints or issues noted.

#### **Origination**

Citizen request and Engineering

#### **Financial Consideration**

The City’s cost for installing the signs, totaling approximately \$340.00 (time and materials)

#### **Staff Recommendation**

It is recommended that the City Council adopt the proposed ordinance.

#### **Alternatives**

As directed by the Council

#### **Attachments**

Ordinance No. 5759

Exhibit (Location Map)

**Prepared by:**  
Clay Barnett, City Engineer

**Approved by:**  
George Olson, City Manager

## **ORDINANCE NO. 5759**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, PROVIDING FOR PERMANENT “STOP” SIGNS AT THE INTERSECTION OF NORTH CLEVELAND AVENUE AND EAST TUCK STREET WITHIN THE CITY LIMITS OF THE CITY OF SHERMAN; PROVIDING FOR A PENALTY PROVISION; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:**

**SECTION 1.** That, from and after the passage of this ordinance, permanent “Stop” signs shall be in place at the following locations within the corporate limits of the City of Sherman, Texas:

At the intersection of North Cleveland Avenue and East Tuck Street, stopping northbound and southbound traffic on North Cleveland Avenue, as shown by the exhibit attached hereto and incorporated herein for all purposes.

**SECTION 2.** That the City Engineer is directed to designate this action by the appropriate markings and signs.

**SECTION 3.** That, from and after the erection of the stop signs herein authorized, it shall be unlawful for the driver of any vehicle approaching such stop signs to fail to bring such vehicle to a complete stop at a clearly-marked stop line; but, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. Violators of this ordinance shall be subject to fine as provided in Section 1-6 of the Code of Ordinances of the City of Sherman, Texas, codified.

**SECTION 4.** That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

**SECTION 5.** That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 6.** That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

**INTRODUCED** on this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

**ADOPTED** on this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

**EFFECTIVE DATE** on this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY OF SHERMAN, TEXAS**

**BY:** \_\_\_\_\_  
**BILL MAGERS, MAYOR**

**ATTEST:**

**BY:** \_\_\_\_\_  
**LINDA ASHBY, CITY CLERK**

**APPROVED AS TO FORM  
AND CONTENT:**

**BY:** \_\_\_\_\_  
**BRANDON S. SHELBY,  
CITY ATTORNEY**



*Sherman*  
CLASSIC TOWN. BROAD HORIZON.  
Engineering Department

Stop Signs





# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. B.2

### ADOPTION OF ORDINANCES

**Consider Adoption of Ordinance Number: 5759**

**B.1 INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5759**

Providing for Permanent “Stop” Signs at the Intersection of North Cleveland Avenue and East Tuck Street within the City Limits of the City of Sherman; Providing for a Penalty Provision





# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-05-2012

**Subject:** Agenda Item No. B.3

### CONSENT AGENDA

**Asterisked (\*) items are considered to be routine and will be enacted in one motion without discussion unless a Council Member or a citizen requests a specific item be discussed and voted on separately**

**C.1 \* RESOLUTION NO. 5719**

Authorizing the City Manager to Execute a Contract with the Sherman Council for the Arts & Humanities, Inc. for Expenditure of a Portion of the Funds Collected by the City of the Hotel-Motel Occupancy Tax

**C.2 \* RESOLUTION NO. 5720**

Authorizing Execution of a Development Agreement with ET Joint Venture for the Construction of Public Facilities in the Crescent Oaks Addition to the City of Sherman

**C.3 \* RESOLUTION NO. 5721**

Authorizing Execution of a Professional Services Agreement with Freeman-Millican, Inc. for the Design of the Sears Lift Station Relief Sewer Improvements

**C.4 \* RESOLUTION NO. 5722**

Authorizing Execution of an Agreement with Mario Tobar for the Abatement of Ad Valorem Property Taxes for the Construction of a New Single-Family Residence at 703 East Cherry Street

**C.5 \* RESOLUTION NO. 5723**

Authorizing the Purchase of a Front Load Transfer Trailer for the Solid Waste Services Department from Wilkens Industries, Inc. through the Texas Local Government Purchasing Cooperative (BuyBoard)

**D.1 \* REQUEST TO ADVERTISE**

Repairs to Shepherd Drive 1 Woodbine Water Well

**D.4 \* OTHER BUSINESS**

Approval of the 2012 Ad Valorem Tax Roll Value and Tax Levy

**D.5 \* OTHER BUSINESS**

Approve Quarterly Investment Reports for Period Ending September 30, 2012

**D.6 \* OTHER BUSINESS**

Final Plat Approval of West Canyon Creek Oaks Estates, Section 1, being 1.626 acres in the James H. Vaden Survey, Abstract No. 1288; Westfield Estates, LP, Owner; John Szabuniewicz, Representative; Roger Allred, General Contractor; and Harlan Land Surveying, Inc., Surveyors (200 Block of Shady Oaks Lane)

**D.7 \* OTHER BUSINESS**

Site Plan Approval for Bill McCown, Owner, Donnie Snider, Hope Concrete Company, Applicant, and Sartin & Associates, Surveyor under Ordinance No. 2252, Article IV, Section 410(2)(b) to Allow a Temporary Concrete Batch Plant for a Period of One Year in the Blalock Industrial Park District at 320 Progress Drive





# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. C.1

**\* RESOLUTION NO. 5719**

**Authorizing the City Manager to Execute a Contract with the Sherman Council  
for the Arts & Humanities, Inc. for Expenditure of a Portion of the Funds Collected  
by the City of the Hotel-Motel Occupancy Tax**

**Issue**

To distribute a portion of the Hotel-Motel Occupancy Tax funds received by the City of Sherman to the Sherman Council for the Arts & Humanities, Inc. (SCAH)

**Background**

At the 2012-2013 Budget Workshop, the City Council allocated \$36,000.00 of the Hotel-Motel Occupancy Tax Fund dollars to be used to promote tourism through SCAH.

SCAH has asked for an additional \$1,000.00 to allocate to their member nonprofit groups according to the distribution calculation set forth in SCAH's grant policy. Funding for this additional request is available in the Tourism grant budget.

**Origination**

Don Keene, Director of Public Works

**Financial Consideration**

The \$36,000.00 allocation for SCAH was approved by Council in the 2012-2013 budget and will be funded with Hotel-Motel Occupancy Tax Fund revenues. The additional \$1,000.00 requested by SCAH will also be funded with Hotel-Motel Occupancy Tax Fund revenues, but through the City's Tourism grant budget.

**Staff Recommendation**

The staff recommends granting the City Manager authority to execute a contract with SCAH in the funding amount established by the Council and provide \$1,000.00 additional grant funding to SCAH as requested.

**Alternatives**

As directed by the City Council

**Attachments**

Resolution No. 5719

Proposed Contract with SCAH

Letter dated October 15, 2012 describing terms of City's support for 2013 Sherman Arts Festival  
Exhibit "A" - V.T.C.A., Tax Code § 351.101

**Prepared by:**  
**Don Keene, Director of Public Works**

**Approved by:**  
**George Olson, City Manager**

**RESOLUTION NO. 5719**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH THE SHERMAN COUNCIL FOR THE ARTS & HUMANITIES, INC. FOR EXPENDITURE OF A PORTION OF THE FUNDS COLLECTED BY THE CITY OF THE HOTEL-MOTEL OCCUPANCY TAX; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**WHEREAS**, Chapter 351 of the Texas Tax Code authorizes the City to collect and levy an occupancy tax on hotels and motels; and

**WHEREAS**, said Chapter specifies the purposes for which such tax receipts may be utilized; and

**WHEREAS**, such stated purposes include the promotion of tourism, the advertisement of the City and its vicinity, and the promotion and improvement of the arts and humanities within the community;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:**

**SECTION 1.** That the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form and content by the City Attorney and subject to budget approval, to execute a contract with the Sherman Council for the Arts & Humanities, Inc., with Exhibit "A" attached, in accordance with the terms and provisions of all contract documents attached hereto and made a part hereof for all purposes.

**SECTION 2.** That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

**PASSED AND APPROVED** on this the \_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY OF SHERMAN, TEXAS**

**BY:** \_\_\_\_\_  
**BILL MAGERS, MAYOR**

**ATTEST:**

**BY:** \_\_\_\_\_  
**LINDA ASHBY, CITY CLERK**

**APPROVED AS TO FORM  
AND CONTENT:**

**BY:** \_\_\_\_\_  
**BRANDON S. SHELBY,**  
**CITY ATTORNEY**

**CONTRACT BETWEEN CITY OF SHERMAN**  
**AND SHERMAN COUNCIL FOR THE ARTS & HUMANITIES, INC.**

**THIS CONTRACT** is made and entered into by and between the **CITY OF SHERMAN**, a municipal corporation of the State of Texas (hereinafter called "CITY"), and the **SHERMAN COUNCIL FOR THE ARTS & HUMANITIES, INC.**, a non-profit corporation of the State of Texas (hereafter called "ARTS COUNCIL").

**WHEREAS**, Chapter 351 of the Texas Tax Code authorizes a city to levy and collect an occupancy tax on hotels and motels; and

**WHEREAS**, CITY levies and collects a tax equal to seven percent (7%) of the consideration paid by occupants of hotels and motels; and

**WHEREAS**, CITY and ARTS COUNCIL desire to promote the arts and humanities in the City of Sherman and its vicinity;

**NOW, THEREFORE**, CITY and ARTS COUNCIL agree as follows:

**I.**

**Amount Funded by the City**

CITY agrees to reimburse ARTS COUNCIL not to exceed Thirty-Seven Thousand Dollars and No Cents (\$37,000.00) of actual expenditures used in the promotion of the arts and humanities in Sherman and its surrounding area, including organization and execution of the Sherman Arts Festival, terms of which are described in a separate letter dated October 15, 2012. This amount shall be paid in four (4) installments on the final execution of this Contract: October 15, 2012, and January 15, April 15, and June 15, 2013. The Thirty-Seven Thousand Dollars and No Cents (\$37,000.00) shall be collected under the Hotel/Motel Occupancy Tax of the CITY.

## **II.**

### **Expenditure of Money**

ARTS COUNCIL shall spend no money received by it pursuant to this Contract that does not strictly conform to the requirements, intent and purposes as set forth in the Texas Tax Code, Chapter 351, Section 351.101(a)(1)-(7), as amended, and such statutorily authorized administrative expenses, together with the Texas Attorney General opinions interpreting Section 351.101 of the Texas Tax Code. Specifically, ARTS COUNCIL agrees to use such hotel tax revenues solely for the purposes promoting Tourism and the convention and hotel industry and will use the revenues solely for the permissible uses listed in Section 351.101(a) of the Texas Tax Code.

## **III.**

### **Budget**

ARTS COUNCIL represents that it has prepared a proposed budget to be administered under this Contract to the Sherman City Council for the fiscal year of 2012-2013. Any changes, amendments, additions or deletions to this budget shall be approved by the Sherman City Council before such changes, amendments, additions or deletions shall take place.

Acceptance of ART COUNCIL'S budget, or any changes to it by the Sherman City Council shall not act as or be deemed to be approval of the items listed by ARTS COUNCIL to receive hotel tax revenues or approval that such expenditures comply with Section 351.101 of the Texas Tax Code.

## **IV.**

### **Quarterly Reports**

ARTS COUNCIL shall furnish CITY quarterly financial reports on arts and humanities activities which show all actual expenditures whether those expenditures are budgeted or not

from records maintained pursuant to Section 351.108(a) of the Texas Tax Code. The report shall compare actual expenditures to budgeted expenditures and to actual expenditures from the prior year. The report shall also provide an explanation of how the expenditure of such monies complied with Section 351.101 of the Texas Tax Code.

The ARTS COUNCIL shall also provide a quarterly report of activities in arts and humanities to CITY. Each quarterly financial report and each quarterly report of activities shall be presented to the Director of Support Services no later than the end of the month immediately following each calendar quarter. Further, ARTS COUNCIL shall provide to CITY a copy of Form 990 submitted to the Internal Revenue Service.

#### V.

##### **Term of Contract**

This Contract shall be for the term of one (1) year, beginning October 1, 2012 through September 30, 2013, unless the Hotel/Motel Occupancy Tax Ordinances of the City of Sherman are repealed or amended within such term, or the failure of ARTS COUNCIL to conditions herein.

#### VI.

##### **Termination of Contract**

Notwithstanding the above, CITY and ARTS COUNCIL retain the right to cancel this Contract at any time, with or without cause and without liability or expense, by the giving of sixty (60) days notice of such intention to cancel. Notice to cancel by CITY shall be in writing, signed by the City Manager with prior City Council approval. Notice to cancel by ARTS COUNCIL shall be in writing, signed by the ARTS COUNCIL President with prior ARTS COUNCIL Board of Directors approval.

**VII.**

**Renewal of Contract**

CITY and ARTS COUNCIL shall consider renewal of this Contract in subsequent years. ARTS COUNCIL agrees to provide a plan of work in conjunction with any request to renew this Contract.

**VIII.**

**General Contract Terms**

**Captions.** The captions to the various clauses of this Contract are for informational purposes only and shall not alter the substance of the terms and conditions of the Agreement.

**Construction of Contract.** This is a negotiated Contract. If any part of this Agreement is in dispute, the parties stipulate that the Contract shall not be construed more favorably for either party.

**Amendments and Choice of Law/Venue.** This Contract may not be changed, varied, or altered except by an instrument in writing and duly executed on behalf of CITY and by ARTS COUNCIL. This Contract shall be construed in accordance with the laws of the State of Texas, and shall be deemed performable and enforceable in the State of Texas, with venue in Grayson County, Texas.

**IN TESTIMONY WHEREOF,** this Contract, in duplicate originals of equal force, has been executed on behalf of the **SHERMAN COUNCIL FOR THE ARTS & HUMANITIES, INC.** and on behalf of the **CITY OF SHERMAN**, by its City Manager and attested by its City Clerk, effective the 1<sup>st</sup> day of October, 2012.

CITY OF SHERMAN, TEXAS

BY: \_\_\_\_\_  
NAME: GEORGE OLSON  
TITLE: CITY MANAGER  
DATE: \_\_\_\_\_

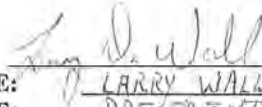
ATTEST:

BY: \_\_\_\_\_  
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM  
AND CONTENT:

BY: \_\_\_\_\_  
BRANDON S. SHELBY,  
CITY ATTORNEY

SHERMAN COUNCIL FOR THE ARTS  
& HUMANITIES, INC.

BY:  \_\_\_\_\_  
NAME: LARRY WALL  
TITLE: PRESIDENT  
DATE: 10/15/2012



October 15, 2012

Via E-Mail: [ldwall@cablcone.net](mailto:ldwall@cablcone.net)

Mr. Larry Wall, President  
Sherman Council for the Arts & Humanities, Inc.  
P. O. Box 907  
Sherman, Texas 75091

Dear Mr. Wall:

The purpose of this letter is to confirm the City of Sherman's support for the 2013 Sherman Arts Festival (SAF) organized by the Sherman Council for the Arts & Humanities, Inc. (SCAH).

**The City's Role:**

- As in prior years, the City of Sherman (City) will continue to waive standard rental fees for the event, including use of the municipal building and grounds, as well as use of City-owned tables and chairs. City will allow up to six (6) City-owned 10 x 10 tents to be used at gatekeeper locations and for the festival information booth.
- To the best of our ability, the City will honor requests for barricades, street closures and service for trash carts, dumpsters and street sweepers.
- The City will provide a representative to attend all SAF meetings, maintain an open line of communication with SCAH's point of contact for logistics, and provide general support for the SAF.
- The City's Tourism Department will continue to handle SAF publicity. This includes (but is not limited to) notices on the City's websites (directing to [scah.info/SAF](http://scah.info/SAF)), print material, billboards, television and other media.

**Roles the City Will No Longer Perform:**

- The City's Tourism Department will no longer handle registration for SAF vendors, nonprofit groups or Exhibition Stage performers. We will direct all inquiries to SCAH or its designee. However, we will be a resource during the transition by providing information about methods which have proven to be successful in the past year. For example, in 2012, nonprofit organizations agreeing to serve as gatekeepers and groups agreeing to perform on the Exhibition Stage were offered free booth space. We are also willing to assist SCAH's vendor committee with placement of booths and marking booth locations around the municipal building.
- The City will no longer lead the Youth Art Show. In 2012, a local children's art studio agreed to take on that role. We suggest that SCAH continue to foster relationships with the local art community, both young and old.

Mr. Larry Wall, President of SCAH  
2013 Sherman Arts Festival  
October 15, 2012  
Page 2 of 2

- The City will no longer handle SAF financial transactions. All SAF activity will flow through SCAH or its designee.

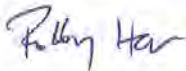
**SCAH's Role:**

- SCAH will be responsible for water usage, security, portable toilet rentals, rentals of tables and chairs beyond what is available from the City, as well as rental of any additional power sources required for the event above the capacity of the electrical pedestals located on the municipal grounds.
- The City asks SCAH to provide volunteers to work with City staff in picking up loose trash on the grounds throughout the day and at the end of the event.
- SCAH will organize vendors, gatekeepers, the Exhibition Stage and the Youth Art Show as they see fit (see City's limited role above).
- SCAH will coordinate activities with the Sherman Service League and other community groups contributing to the SAF (i.e. Sherman Art League, Texoma Woodcarvers, Sherman Education Foundation, Altrusa International of Sherman, Sherman Community Players/Theatrics, Community Series, TAPS, local museums, Friends of the Library, Script to Screen coordinators, performers on the Gazebo Stage, etc.).

The City appreciates SCAH's efforts in continuing the longstanding tradition of the Sherman Arts Festival and looks forward to supporting the 31<sup>st</sup> annual event in September 2013.

Please direct all questions and concerns to Ms. Tammy Davis, the City's Support Services Director, at 903-892-7228 or [tammyd@ci.sherman.tx.us](mailto:tammyd@ci.sherman.tx.us).

Sincerely,



Robby Hefton  
Asst. City Manager/CFO

RH/td/pc

## EXHIBIT "A"

**Effective: September 1, 2011**

Vernon's Texas Statutes and Codes Annotated [Currentness](#)

**Tax Code** ([Refs & Amos](#))

Title 3. Local Taxation ([Refs & Amos](#))

Subtitle D. Local **Hotel Occupancy Taxes**

[§351](#) **Chapter 351. Municipal Hotel Occupancy Taxes**([Refs & Amos](#))

[§351.101](#) **Subchapter B. Use and Allocation of Revenue**

**→→ § 351.101. Use of Tax Revenue**

(a) **Revenue** from the municipal **hotel occupancy tax** may be used only to promote tourism and the convention and **hotel** industry, and that use is limited to the following:

- (1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;
- (2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;
- (3) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;
- (4) the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;
- (5) historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:
  - (A) at or in the immediate vicinity of convention center facilities or visitor information centers; or
  - (B) located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates;
- (6) for a municipality located in a county with a population of one million or less, expenses, including promotion expenses, directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at **hotels** and motels within the municipality or its vicinity;
- (7) subject to [Section 351.1076](#), the promotion of tourism by the enhancement and upgrading of existing sports facilities or fields, including facilities or fields for baseball, softball, soccer, and flag football, if:
  - (A) the municipality owns the facilities or fields;
  - (B) the municipality:

- (i) has a population of 80,000 or more and is located in a county that has a population of 350,000 or less;
  - (ii) has a population of at least 75,000 but not more than 95,000 and is located in a county that has a population of less than 200,000 but more than 160,000;
  - (iii) has a population of at least 36,000 but not more than 39,000 and is located in a county that has a population of 100,000 or less that is not adjacent to a county with a population of more than two million;
  - (iv) has a population of at least 13,000 but less than 39,000 and is located in a county that has a population of at least 200,000;
  - (v) has a population of at least 70,000 but less than 90,000 and no part of which is located in a county with a population greater than 150,000;
  - (vi) is located in a county that:
    - (a) is adjacent to the Texas-Mexico border;
    - (b) has a population of at least 500,000; and
    - (c) does not have a municipality with a population greater than 500,000; or
  - (vii) has a population of at least 25,000 but not more than 26,000 and is located in a county that has a population of 90,000 or less; and
- (C) the sports facilities and fields have been used, in the preceding calendar year, a combined total of more than 10 times for district, state, regional, or national sports tournaments;
- (8) for a municipality with a population of at least 70,000 but less than 90,000, no part of which is located in a county with a population greater than 150,000, the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility;
- (9) signage directing the public to sights and attractions that are visited frequently by **hotel** guests in the municipality; and
- (10) the construction of a recreational venue in the immediate vicinity of area **hotels**, if:
- (A) the municipality
    - (i) is a general-law municipality;
    - (ii) has a population of not more than 900; and
    - (iii) does not impose an ad valorem **tax**;
  - (B) not more than \$100,000 of municipal **hotel occupancy tax revenue** is used for the construction of the recreational venue;



- (C) a majority of the **hotels** in the municipality request the municipality to construct the recreational venue;
  - (D) the recreational venue will be used primarily by **hotel** guests; and
  - (E) the municipality will pay for maintenance of the recreational venue from the municipality's general fund;
- (11) the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility, if the municipality:
- (A) has a population of at least 90,000 but less than 120,000; and
  - (B) is located in two counties, at least one of which contains the headwaters of the San Gabriel River; and
- (12) for a municipality with a population of more than 175,000 but less than 225,000 that is located in two counties, each of which has a population of less than 200,000, the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility and related infrastructure or a venue, as defined by [Section 334.001\(4\), Local Government Code](#), that is related to the promotion of tourism.
- (b) **Revenue** derived from the **tax** authorized by this chapter shall be expended in a manner directly enhancing and promoting tourism and the convention and **hotel** industry as permitted by Subsection (a). That **revenue** may not be used for the general **revenue** purposes or general governmental operations of a municipality.
- (c) The governing body of a municipality by contract may delegate to a person, including another governmental entity or a private organization, the management or supervision of programs and activities funded with **revenue** from the **tax** authorized by this chapter. The governing body in writing shall approve in advance the annual budget of the person to which it delegates those functions and shall require the person to make periodic reports to the governing body at least quarterly listing the expenditures made by the person with **revenue** from the **tax** authorized by this chapter. The person must maintain **revenue** provided from the **tax** authorized by this chapter in a separate account established for that purpose and may not commingle that **revenue** with any other money. The municipality may not delegate to any person the management or supervision of its convention and visitors programs and activities funded with **revenue** from the **tax** authorized by this chapter other than by contract as provided by this subsection. The approval by the governing body of the municipality of the annual budget of the person to whom the governing body delegates those functions creates a fiduciary duty in the person with respect to the **revenue** provided by the **tax** authorized by this chapter.
- (d) A person with whom a municipality contracts under this section to conduct an activity authorized by this section shall maintain complete and accurate financial records of each expenditure of **hotel occupancy tax revenue** made by the person and, on request of the governing body of the municipality or other person, shall make the records available for inspection and review to the governing body or other person.
- (e) **Hotel occupancy tax revenue** spent for a purpose authorized by this section may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing expenditures authorized under Section 351.101(a). If a municipal or other public or private entity that conducts an activity authorized under this section conducts other activities that are not authorized under this section, the portion of the total administrative costs of the entity for which **hotel occupancy tax revenue** may be used may not exceed the portion of those administrative costs actually incurred in conducting the authorized activities.

(f) Municipal **hotel occupancy tax revenue** may not be spent for travel for a person to attend an event or conduct an activity the primary purpose of which is not directly related to the promotion of tourism and the convention and **hotel** industry or the performance of the person's job in an efficient and professional manner.

(g) Nothing in this section shall prohibit any private entity, person, or organization from making subgrants by contract to any other person, entity, or private organization for expenditures under Section 351.101(a)(4). A subgrantee shall:

- (1) at least annually make periodic reports to the governing body of its expenditures from the **tax** authorized by this chapter; and
- (2) make records of these expenditures available for review to the governing body or other person.

#### CREDIT(S)

Added by [Acts 1987, 70th Leg., ch. 191, § 1, eff. Sept. 1, 1987](#). Amended by [Acts 1989, 71st Leg., ch. 2, § 14.24\(a\), eff. Aug. 28, 1989](#); [Acts 1989, 71st Leg., ch. 1110, § 4, eff. Oct. 1, 1989](#); [Acts 1993, 73rd Leg., ch. 680, § 3, eff. Sept. 1, 1993](#); [Acts 1995, 74th Leg., ch. 1027, § 1, eff. Aug. 28, 1995](#); [Acts 2001, 77th Leg., ch. 755, § 1, eff. June 13, 2001](#); [Acts 2001, 77th Leg., ch. 1308, § 3, eff. June 16, 2001](#); [Acts 2003, 78th Leg., ch. 209, § 90, eff. Oct. 1, 2003](#); [Acts 2003, 78th Leg., ch. 303, § 1, eff. June 18, 2003](#); [Acts 2005, 79th Leg., ch. 1247, § 1, eff. June 18, 2005](#); [Acts 2007, 80th Leg., ch. 1144, § 1, eff. June 15, 2007](#); [Acts 2009, 81st Leg., ch. 402, § 1, eff. June 19, 2009](#); [Acts 2009, 81st Leg., ch. 1220, § 3\(a\), eff. June 19, 2009](#); [Acts 2009, 81st Leg., ch. 1322, § 1, eff. June 19, 2009](#); [Acts 2011, 82nd Leg., ch. 91 \(S.B. 1303\), § 23.004, eff. Sept. 1, 2011](#); [Acts 2011, 82nd Leg., ch. 247 \(H.B. 970\), § 1, eff. June 17, 2011](#); [Acts 2011, 82nd Leg., ch. 764 \(H.B. 1690\), § 1, eff. June 17, 2011](#); [Acts 2011, 82nd Leg., ch. 1163 \(H.B. 2702\), § 120, eff. Sept. 1, 2011](#).

#### HISTORICAL AND STATUTORY NOTES

##### 2008 Main Volume

Acts 2001, 77th Leg., ch. 755, in subsec. (a), added subd. (6).

Acts 2001, 77th Leg., ch. 1308, deleted subsecs. (d), (h), and (j) and redesignated former subsecs. (e) to (i) as (d) to (g). Prior to the amendment, subsecs. (d), (h), and (j) read:

“(d) An eligible municipality, as defined in [Section 351.001\(3\), Tax Code](#), may not contract with a private organization under Subsection (c) unless the contract requires the organization to select a new governing body as soon as practicable after the contract takes effect and to limit the composition of its governing body to not more than 54 members, and provides that the appointment, election, or other designation of each member of the governing body be submitted to and approved by the governing body of the municipality as long as the contract is in effect. The contract is not valid unless before the contract is executed the private organization amends its charter, bylaws, or other governing rules to conform to the requirements of this subsection.”

“(h) The governing body of an eligible municipality, as defined in [Section 351.001\(3\), Tax Code](#), may not approve the budget of a person with whom the eligible municipality enters into a contract under Subsection (c) unless the governing body first holds a public hearing to consider the proposed budget. The governing body may not hold the hearing unless notice of the hearing is published not later than the seventh day before the date of the hearing. The notice must be published in at least three newspapers having general circulation in the eligible municipality. If there are at least two newspapers having general circulation in the eligible municipality that are published daily, the notice must be published in at least two of those newspapers. If there is at least one newspaper having general circulation in the eligible municipality that is published weekly, the notice must be published in at least one of those newspapers. If



there are fewer than three newspapers having general circulation in the eligible municipality, the notice must be published in every newspaper having general circulation in the eligible municipality. The notice may not be smaller than one-eighth of a page of the newspaper in which it appears and may not be published in the part of the newspaper in which legal notices and classified advertisements appear. The notice must include the purpose, date, time, and exact location of the public hearing and must clearly indicate that members of the public will be permitted to present their views at the hearing. The notice must contain a summary of the proposed budget, including the name of the person whose budget is being considered, the total amount to be budgeted, and the general uses for which the budget authorizes **hotel occupancy tax revenue** to be spent. The hearing must be held at a location convenient to members of the general public in the downtown business district of the eligible municipality. At the hearing, the governing body must afford all interested persons an opportunity to present their views on the proposed budget and its adoption."

"(j) Subsections (d) and (h) of this section do not apply to any private entity, person, or organization that receives **tax revenue** under Subsection (a) of this section and makes expenditures under Paragraph (4) of Subsection (a) of this section."

Acts 2003, 78th Leg., ch. 209, in subsec. (a)(6), substituted "290,000" for "65,000".

Section 97(h) of Acts 2003, 78th Leg., ch. 209 provides:

"(h) This Act takes effect July 1, 2003, if it receives a vote of two-thirds of all the members elected to each house, as provided by [Section 39, Article III, Texas Constitution](#). If this Act does not receive the vote necessary for effect on that date, this Act takes effect October 1, 2003. The change in law made by this Act does not affect **taxes** imposed before the effective date of this Act, and the law in effect before the effective date of this Act is continued in effect for purposes of the liability for and collection of those **taxes**."

Acts 2003, 78th Leg., ch. 303, in subsec. (a)(6), substituted "250,000" for "65,000".

Acts 2005, 79th Leg., ch. 1247, in subsec. (a), substituted "one million" for "290,000" in subd. (6), added subd. (7), and made nonsubstantive changes to subds. (5)(B) and (6).

Acts 2007, 80th Leg., ch. 1144 added subsec. (a)(7)(B)(iii); and made nonsubstantive changes.

2012 Electronic Pocket Part Update

2009 Legislation

Acts 2009, 81st Leg., ch. 402 added subsec. (a)(7)(A)(iv) to (vi) and (8) and made other nonsubstantive changes.

Acts 2009, 81st Leg., ch. 1220 added subsec. (a)(8) and made other nonsubstantive changes.

Section 6 of Acts 2009, 81st Leg., ch. 1220 provides:

"The change in law made by this Act applies only to **revenue** derived from the **tax** to which this section applies that is pledged on or after the effective date of this Act. **Revenue** pledged before the effective date of this Act is governed by the law in effect when the **revenue** was pledged, and the former law is continued in effect for that purpose."

Acts 2009, 81st Leg., ch. 1322 added subsec. (a)(8) and made other nonsubstantive changes.

2011 Legislation

Acts 2011, 82nd Leg., ch. 91 (S.B. 1303) redesignated former subsec. (a)(8), as added by Acts 2009, 81st Leg., ch. 1220, § 3(a), as subsec. (a)(9) and redesignated former subsec. (a)(8), as added by Acts 2009, 81st Leg., ch. 1322, § 1, as subsec. (a)(10).

Acts 2011, 82nd Leg., ch. 247 (H.B. 970) reenacted and amended subsec. (a) in (a)(7)(C) and (a)(8) as added by Acts 2009, 81st Leg., ch. 402, § 1, making nonsubstantive changes; redesignated former subsecs. (a)(8) as added by Acts 2009, 81st Leg., ch. 1220, § 3(a) and (a)(8) as added by Acts 2009, 81st Leg., ch. 1322, § 1, as subsec. (a)(9) and (10), respectively, and made nonsubstantive changes; and added subsecs. (a)(11) and (a)(12).

Acts 2011, 82nd Leg., ch. 764 (H.B. 1690) added subsec. (a)(7)(B)(vii); redesignated former subsec. (a)(8) as added by Acts 2009, 81st Leg., ch. 1220, § 3(a), as subsec. (a)(9); and redesignated former subsec. (a)(8) as added by Acts 2009, 81st Leg., ch. 1322, § 1, as subsec. (a)(10).

Acts 2011, 82nd Leg., ch. 1163 (H.B. 2702) rewrote subsec. (a)(7)(B)(ii) and (iii), in subsec. (a)(7)(B)(v), substituted "70,000 but less than 90,000" for "65,000 but less than 80,000"; in subsec. (a)(8), as added by Acts 2009, 81st Leg., ch. 402, substituted "70,000" for "65,000" and "90,000" for "80,000"; redesignated subsec. (a)(8) as added by Acts 2009, 81st Leg., ch. 1220, and subsec. (a)(8) as added by Acts 2009, 81st Leg., ch. 1322, as (a)(9) and (10) respectively; and made nonsubstantive changes. Prior to amendment, subsec. (a)(7)(B)(ii) and (iii) read:

"(ii) has a population of at least 65,000 but not more than 70,000 and is located in a county that has a population of 155,000 or less;

"(iii) has a population of at least 34,000 but not more than 36,000 and is located in a county that has a population of 90,000 or less;"

Section 201 of Acts 2011, 82nd Leg., ch. 1163 (H.B. 2702) provides:

"(a) This Act is not intended to revive a law that was impliedly repealed by a law enacted by the 81st Legislature or a previous legislature.

"(b) To the extent that a law enacted by the 82nd Legislature, Regular Session, 2011, conflicts with this Act, the other law prevails, regardless of the relative dates of enactment or the relative effective dates."

#### 2008 Main Volume

#### Prior Laws:

Acts 1971, 62nd Leg., p. 1810, ch. 536, § 2.

Acts 1977, 65th Leg., p. 183, ch. 90, § 1.

Acts 1983, 68th Leg., p. 5196, ch. 944, § 2.

Acts 1987, 70th Leg., ch. 1125, §§ 2, 3.

Acts 1989, 71st Leg., ch. 2, § 14.24(c).



[Vernon's Ann. Civ. St. art. 1269j-4.1, § 3e\(a\), \(c\)](#)

#### LIBRARY REFERENCES

2008 Main Volume

[Innkeepers](#)  [4](#).  
Westlaw Topic No. [213](#).  
[C.J.S. Inns, Hotels, and Eating Places §§ 14 to 16](#).

#### RESEARCH REFERENCES

2012 Electronic Pocket Part Update

Encyclopedias

[TX Jur. 3d Automobiles § 700](#), Substituted Service on Nonresident Motorists--Effecting Substituted Service on Nonresident.

[TX Jur. 3d Taxation § 292](#), **Hotel Occupancy Taxes**.

Treatises and Practice Aids

[Brooks, 22 Tex. Prac. Series § 9.26](#), Municipal **Hotel Occupancy Tax**.

#### NOTES OF DECISIONS

Authorized expenditures [3](#)  
Determination of permissible use [2](#)  
Recreational facilities [1](#)

##### [1](#). Recreational facilities

This section sets out the exclusive purposes for which the municipal **hotel tax** may be used; the **tax** may not be used for the operation of general recreational facilities. [\(1988\) Tex. Att'y Gen. Op. No. JM-965](#).

##### [2](#). Determination of permissible use

Whether a particular proposed expenditure of municipal **hotel occupancy tax revenue** is a permissible use and will "directly enhance and promote tourism and the convention and **hotel** industry" is for a municipality's governing body to determine in the first instance. [Tex. Att'y Gen. Op., No. GA-0124](#).

##### [3](#). Authorized expenditures

**Hotel occupancy tax revenues** collected must be expended only as authorized by chapter 351. Chapter 351 prohibits **hotel occupancy tax revenues**, including any surplus funds, from being expended for general city purposes. [Tex. Att'y Gen. Op., No. GA-0851 \(2011\)](#).

V. T. C. A., Tax Code § 351.101, TX TAX § 351.101

Current through the end of the 2011 Regular Session and First Called Session of the 82nd Legislature

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END OF DOCUMENT



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. C.2

**\* RESOLUTION NO. 5720**

**Authorizing Execution of a Development Agreement with ET Joint Venture for the Construction of Public Facilities in the Crescent Oaks Addition to the City of Sherman**

**Issue**

The construction of public facilities in the Crescent Oaks Addition to the City of Sherman

**Background**

ET Joint Venture proposes to construct the Crescent Oaks Addition, which includes the construction of a water main extension.

**Origination**

Department of Engineering, 119

**Financial Consideration**

The City will receive a "Review and Testing" fee of \$813.15.

**Staff Recommendation**

Staff recommends approval of the Development Agreement.

**Alternatives**

As directed by the City Council

**Attachments**

Resolution No. 5720

Development Agreement

Location Map

**Prepared by:**  
**Mark Gibson, Director of Utilities & Engineering**

**Approved by:**  
**George Olson, City Manager**

**RESOLUTION NO. 5720**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT WITH ET JOINT VENTURE FOR THE CONSTRUCTION OF PUBLIC FACILITIES IN THE CRESCENT OAKS ADDITION TO THE CITY OF SHERMAN; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:**

**SECTION 1.** That the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form and content by the City Attorney, to execute a Development Agreement with ET Joint Venture for the construction of public facilities in the Crescent Oaks Addition to the City of Sherman, Grayson County, Texas, in the same or substantially same form as the contract documents to be attached hereto and incorporated herein for all purposes.

**SECTION 2.** That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

**PASSED AND APPROVED** on this the \_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY OF SHERMAN, TEXAS**

**ATTEST:**

**BY:** \_\_\_\_\_  
**LINDA ASHBY, CITY CLERK**

**BY:** \_\_\_\_\_  
**BILL MAGERS, MAYOR**

**APPROVED AS TO FORM  
AND CONTENT:**

**BY:** \_\_\_\_\_  
**BRANDON SHELBY,  
CITY ATTORNEY**

STATE OF TEXAS                   §  
                                             §  
COUNTY OF GRAYSON         §

**DEVELOPMENT AGREEMENT BETWEEN  
CITY OF SHERMAN AND ET JOINT VENTURE**

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012 (the "Effective Date"), by and among City of Sherman ("City"), a municipal corporation organized under the laws of the State of Texas, and ET JOINT VENTURE ("Developer").

**WITNESSETH**

WHEREAS, City recognizes the importance of its continued role in local economic development, and

WHEREAS, Developer is developing a portion of the City and making improvements to the City, and

WHEREAS, Developer owns or controls lands located in Sherman, Texas, and described in the final plat submitted to the City by the Developer as **the Crescent Oaks Subdivision** and attached hereto and made a part hereof as if fully set out in this paragraph as Exhibit "A" and hereinafter referred to as the "Property", and Developer intends to develop the Property by constructing improvements thereon; and

WHEREAS, the Developer desires that the City accept the dedication of the streets, utilities, and other improvements as reflected on the plans and specifications submitted by the Developer as a part of the public facilities of the City, as indicated in Paragraph 2 of Article I; and

WHEREAS, the City is willing to provide, in accordance with the provisions of this Agreement and the prevailing state and local laws, city services to the Property and thereafter operate applicable facilities so that the occupants of the improvements on the Property will receive City services; and

NOW THEREFORE, in consideration of the mutual covenants and obligations herein, the parties agree as follows:

## ARTICLE I.

### SPECIFIC CONTRACT PROVISIONS

1. **Assurance of Title:** At the time of execution of this Agreement, the Developer agrees to deliver to City a copy of a Title Insurance Policy, or an opinion of title from a qualified attorney-at-law addressed to the City in a form and substance satisfactory to City with respect to the Property, which opinion shall include a current report on the status of the title, setting out the name of the legal title holders, the outstanding mortgages, taxes, liens and covenants. The provisions of this paragraph are for the purpose of evidencing Developer's legal right to grand the exclusive rights of service contained in this Agreement.
2. **Assurance of Accuracy of Documents:** Developer has caused the subdivision plat of the property (the "Plat") and all plans and specifications (the "Plans") for the streets, utilities and other improvements to be developed on the Property (collectively the "Project") as part of the public facilities of the City, to be prepared by a Registered Professional Engineer and that Plat and Plans accurately depict such subdivision and the improvements comprising the Project. Developer understands that the City will rely on the accuracy of the Plat and Plans in making its determination as to whether the documents comply with all City ordinances, state and federal law.
3. **Development Documents:** Upon the execution of this Agreement, Plat, Plans, and orders of the City Planning and Zoning Commission and the City Council, made in connection with the approval of the subdivision depicted on the Plat (hereinafter the "Subdivision") are confirmed, ratified, and agreed upon by both parties and attached hereto as Exhibit "A". Developer agrees to comply with such orders and Ordinance No. 2684, and any amendments as of the date of the execution of the contract, as applicable to the Subdivision; and all the work of the Project will be done under the supervision of the City Engineer (as defined in Paragraph 8 of this Article) to City standards, and in accordance with applicable City regulations. The Plat, Plans, orders of the City Planning and Zoning Commission, and the City Council and Ordinance No. 2684 (hereinafter collectively referred to as the "Development Documents") are incorporated into this Agreement a part thereof for all purposes.

4. **Delivery of Improvements:** The Developer will pay for and deliver to the City free and clear of all liens and costs, all of the improvements provided in the Development Documents.
5. **Performance Bond:** No work shall be performed within the Subdivision until the Developer presents to the City Manager a satisfactory Performance Bond and Payment Bond, as provided by Chapter 2253 of the Texas Government Code, from the Contractor in favor of the Developer and the City. Such bond shall be made for 100% of the contract price for all streets and utilities and public works to be installed in the Subdivision, and shall be in a form containing all other provisions set forth in Chapter 2253 of the Texas Government Code, including, but not limited to, Section 2253.021 of that Chapter.
6. **Failure to Complete Development:** If the Developer does not complete the improvements contained in the Development Documents on or before April 30, 2013, City may, at its election, use the Performance Bond to complete such improvements. The date in this Paragraph maybe extended by the mutual agreement of the parties. Such extension shall be in writing, as provided in Paragraph 13 of Article II.
7. **Availability of Public Facilities:** No public facilities will be made available to any lot within any segment of this Subdivision until the work on each segment is performed and approved as agreed upon in this Agreement.
8. **Registered Civil Engineer:** All of the Plans for the improvements herein mentioned in the Development Documents, shall be prepared by a Registered Professional Civil Engineer, and all of the improvements shall be built under the supervision of such engineer, and the engineer shall certify to the City that, as each segment is built, such segment as built is true and correct in accordance with the plans and specifications, and that the same was built under his supervision, and the certificate shall be signed and sealed by such engineer. All of the expense of such engineering shall be paid for by the Developer.
9. **City Engineer:** Before work is begun on any improvement, the City Engineer shall designate a person, hereinafter identified as "City Engineer," who shall be notified and arrangements made for inspection by the City Engineer at such stages of construction as required by him, and



no improvement constructed underground shall be covered by the Developer until inspected by the City Engineer and approved by him. At any time any construction is contrary to the Plans, the City Engineer shall be, and is, empowered to stop construction and require correct construction and installation at the Developer's risk and without liability to the City.

10. **Coordination of Work:** The work will be coordinated between the City and the Developer so that the utilities will be in place before the permanent improvements are installed.

11. **Utility Arrangements:** The Developer will make its own arrangements with gas, electric, and telephone service providers for extensions of their utilities, and upon complying with this Agreement, the City utilities will be furnished.

12. **Fees:** Other fees normally charged by the City for building permits, water taps, service connections, and similar fees will be paid as required to the City by the Developer.

13. **Guarantee or Maintenance Bond:**

- a. If, within one year of the acceptance of this Agreement, defects should appear in the materials or workmanship, the Developer shall have such defects promptly repaired at its own expense, and shall leave the work as intended by the Plans. This guarantee will apply to all parts of the work which have been accepted by the City.
- b. Instead of the Guarantee set forth in subparagraph (a) of this paragraph, Developer may provide a Maintenance Bond to the City at the time of final acceptance of the improvements by the City Engineer. The bond shall name the City as an obligee under the bond and the bond shall provide a one (1) year guarantee on all the improvements contained in the Development Documents.

14. **WAIVER OF RIGHTS UNDER STATE LAW:**

- a. **WAIVER OF RIGHTS:**

b. Section 212.904 of the Texas Local Government Code

- (i.) Developer understands that, pursuant to Section 212.904 of the Texas Local Government Code, the developer is entitled to an apportionment of the municipal infrastructure cost and that such apportionment must be done by a professional engineer. Developer hereby agrees that any land or property it donates to the City, as reflected on the Final Plat, is roughly proportionate to the need for such land. Developer further acknowledges and agrees that all prerequisites to such a determination of rough proportionality have been met, and that any costs incurred relative to said donation are related both in nature and extent to the impact of the development of the Property and its needs related thereto. BY MY DEVELOPER'S SIGNATURE ON THIS AGREEMENT, I CONTRACT ON ITS EXECUTION, DEVELOPER HEREBY FREELY, KNOWINGLY AND VOLUNTARILY WAIVES ITS RIGHTS UNDER SECTION 212.904 OF THE TEXAS LOCAL GOVERNMENT CODE, OR ANY OTHER RELATED CLAIMS. DEVELOPER AGREES THAT THE DEVELOPER'S AGREEMENT MAY PROCEED WITHOUT THE REQUIREMENTS IMPOSED ON THE CITY UNDER SECTION 212.904 OF THE TEXAS LOCAL GOVERNMENT CODE, EXCEPT DEVELOPER SPECIFICALLY RESERVES ITS RIGHT TO APPEAL THE APPORTIONMENT IN ACCORDANCE WITH SECTION 212.904 OF THE TEXAS LOCAL GOVERNMENT CODE. I CONSENT TO THIS WAIVER AFTER HAVING THE OPPORTUNITY TO REVIEW THIS AGREEMENT AND WAIVER PROVISION WITH MY ATTORNEY, OR IF I HAVE NOT REVIEWED THIS WITH AN ATTORNEY, THAT I HAVE HAD THE OPPORTUNITY TO DO SO AND HAVE VOLUNTARILY CHOSEN NOT TO SEEK THE ADVICE OF AN ATTORNEY.
- (ii.) BOTH DEVELOPER AND THE CITY FURTHER AGREE TO WAIVE AND RELEASE ALL CLAIMS ONE MY HAVE AGAINST THE OTHER RELATED TO ANY AND ALL ROUGH PROPORTIONALITY AND INDIVIDUAL DETERMINATION REQUIREMENTS MANDATED BY

DOLAN V. TOWN OF TIGARD, 512 U.S. 374 (1994), AND ITS PROGENY, AND AS WELL AS ANY OTHER REQUIREMENTS OF A NEXUS BETWEEN THE DEVELOPMENT CONDITIONS AND THE PROJECTED IMPACT OF THE FOREGOING, INCLUDING ALL DEDICATIONS OF LAND, PARKLAND, AND ANY INFRASTRUCTURE REFERENCED HEREIN. I CONSENT TO THIS WAIVER AFTER HAVING THE OPPORTUNITY TO REVIEW THIS AGREEMENT AND WAIVER PROVISION WITH MY ATTORNEY, OR IF I HAVE NOT REVIEWED THIS WITH AN ATTORNEY, THAT I HAVE HAD THE OPPORTUNITY TO DO SO AND HAVE VOLUNTARILY CHOSEN NOT TO SEEK THE ADVICE OF AN ATTORNEY.

**15. Other Provisions:**

- a. The Developer will construct the water extension to serve the Subdivision in accordance with the Plans prepared by George Kalmon, P.E. and approved by the City of Sherman.
- b. Upon completion of construction of any public improvements associated with the Subdivision or any portion of the Subdivision, one electronic copy and one set of reproducible "Record" drawings will be supplied to the City.
- c. The Developer shall pay to the City an engineering plan review, inspection, and testing fee equal for \$813.15.
- d. Developer agrees that the development, as set forth in the Contract Documents, will comply with all federal, state and local laws relating to the discharge of storm water upon completion of the Project.

**ARTICLE II.**

**GENERAL CONTRACT PROVISIONS**

1. **Force Majeure.** If the performance by any of the parties hereto is delayed by reason of war, civil commotion, acts of God, inclement weather, unanticipated subsurface conditions, fire or other casualty, court

injunction or any circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated or not, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement shall be extended for a period of time equal to the period such party was delayed. The terms above shall not apply to extend the time permitted for any payment obligations set forth in this Agreement.

2. **INDEMNIFICATION AND HOLD HARMLESS.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, DEVELOPER OBLIGATES ITSELF TO THE CITY TO FULLY AND UNCONDITIONALLY PROTECT, INDEMNIFY AND DEFEND THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, AND HOLD IT HARMLESS FROM AND AGAINST ANY AND ALL COSTS, EXPENSES, REASONABLE ATTORNEY FEES, CLAIMS, SUITS, LOSSES OR LIABILITY FOR INJURIES TO PROPERTY, INJURIES TO PERSONS (INCLUDING DEVELOPER'S EMPLOYEES), INCLUDING DEATH, AND FROM ANY OTHER COSTS, EXPENSES, REASONABLE ATTORNEY FEES, CLAIMS, SUITS, LOSSES OR LIABILITIES OF ANY AND EVERY NATURE WHATSOEVER ARISING IN ANY MANNER, DIRECTLY OR INDIRECTLY, OUT OF OR IN CONNECTION HERewith, REGARDLESS OF CAUSE OR OF THE SOLE, JOINT, COMPARATIVE OR CONCURRENT NEGLIGENCE OR GROSS NEGLIGENCE OF DEVELOPER, ITS OFFICERS, AGENTS OR EMPLOYEES. THIS INDEMNIFICATION AND SAVE HARMLESS SHALL APPLY TO ANY IMPUTED OR ACTUAL JOINT ENTERPRISE LIABILITY. This indemnity does not waive any governmental immunity available to the City under Texas law and does not waive any defenses of the parties under Texas law.
3. **Authority to Bind.** Each general partner or member executing this Agreement on behalf the Developer represents that, by executing this Agreement in such capacity, it acts within the scope of its authority and does not exceed the bounds of its authority to act to bind such party regarding the obligations and assurances contained in this Agreement. City represents that the execution of this Agreement as provided below has been duly authorized by the City Council as provided in the Approval Resolution.

4. **Events of Default.** A default shall exist if either party fails to perform or observe any material covenant contained in this Agreement. The non-defaulting party shall immediately notify the defaulting party in writing upon becoming aware of any change in the existence of any condition or event which would constitute a default under this Agreement. Such notice shall specify the nature and the period of existence thereof and what action, if any, the notifying party requires or proposes to require with respect to curing the default.
5. **Remedies Available to City.** If a default by Developer shall occur and continue, after thirty (30) day's notice to cure default, City may, at its option, pursue any and all remedies it may be entitled to, at law or in equity, in accordance with Texas law and including using the Performance Bond to complete the work, without the necessity of further notice to or demand upon Developer. City shall not, however, have the right to exercise such remedies for so long as Developer proceeds in good faith and with due diligence to remedy and correct the default, provided that Developer has commenced to cure such default within thirty (30) days following notice, pursues such cure with reasonable diligence and completes such cure within one hundred eighty (180) days.
6. **No Waiver of Defenses.** Nothing in this Agreement shall be construed or intended to waive any defenses available to the City, including, but not limited to, governmental immunity.
7. **Venue and Governing Law.** This Agreement is performable in Grayson County, Texas and venue of any action arising out of this Agreement shall be exclusively in Grayson County. This Agreement shall be governed and construed in accordance with the laws of the State of Texas.
8. **Notices.** Any notice required by this Agreement shall be deemed to be properly served (i) three (3) days following deposit if deposited in the U.S. mail by certified letter, return receipt requested; (ii) on the next business day if sent by nationally recognized overnight delivery service; or (iii) upon receipt if transmitted by facsimile or electronic transmission, addressed to the recipient at the recipient's address shown below, subject to the right of either party to designate a different address by notice given in the manner just described.

**CITY:**

DESIGNEE: Mark Gibson Director of Public Works and  
Engineering

ADDRESS: P.O. Box 1106  
Sherman, Texas 75091

PHONE: 903-892-7210

FAX: 903-870-7802

**DEVELOPER:**

DESIGNEE: Kyle Booth  
ET JOINT VENTURE

ADDRESS: 2913 Overland Trail, Suite 100

PHONE: 903-819-1835

FAX: \_\_\_\_\_

9. **Legal Construction:** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.
10. **Counterparts.** This Agreement may be executed in any number of counterparts, which may be transmitted originally or electronically, each of which shall be deemed an original and constitute one and the same instrument.
11. **Captions.** The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

12. **Successors and Assigns.** The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto, provided however, this Agreement shall not be assigned by Developer without prior written approval by the City Manager of the City, which approval shall not be unreasonably withheld or delayed. City may assign or delegate any of its rights or obligations under this Agreement but the same shall not constitute a novation.

13. **Entire Agreement.** This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Agreement, and except as otherwise provided herein cannot be modified without written agreement of the parties to be attached to and made a part of this Agreement.

14. **Interpretation of Agreement.** This is a negotiated Agreement. If any part of this Agreement is in dispute, the parties stipulate that the Agreement shall not be construed more favorably for either party.

IN WITNESS WHEREOF parties have caused this Agreement to be executed in duplicate this \_\_\_\_\_ day of \_\_\_\_\_ 2012, with an original to each party.

**DEVELOPER:**

BY: \_\_\_\_\_

NAME: Kyle Booth

TITLE: President, ET Joint Venture

ATTEST:

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

**CITY: CITY OF SHERMAN**

BY: \_\_\_\_\_

NAME: George Olson

TITLE: City Manager

ATTEST:

BY: \_\_\_\_\_

NAME: Linda Ashby

TITLE: City Clerk

**CITY: CITY OF SHERMAN**

BY: \_\_\_\_\_

NAME: Brandon Shelby, City Attorney





City of Sherman, Texas  
Developmental Services Department

## 1600-1700 Blocks U.S. Highway 75 North

0 250 500 1,000 Feet





# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. C.3

**\* RESOLUTION NO. 5721**

**Authorizing Execution of a Professional Services Agreement with Freeman-Millican, Inc.  
for the Design of the Sears Lift Station Relief Sewer Improvements**

**Issue**

To consider a contract for professional services with Freeman-Millican, Inc. for the design of the Sears Lift Station Relief Sewer Improvements

**Background**

The current Capital Improvement Program contains a project to extend a sewer main from the existing Sears Lift Station to the existing lift station near the intersection of Highway 75 and Highway 691. The existing Sears Lift Station will be decommissioned after construction of the sewer improvements. Engineering and surveying services are required to design the improvements.

**Origination**

Utilities Administration 710

**Financial Consideration**

The fee for engineering services will be \$75,632.00. The project will be funded through bonds issued by the Greater Texoma Utility Authority.

**Staff Recommendation**

It is recommended that the contract for professional engineering services with Freeman-Millican, Inc. to design the Sears Lift Station Relief Sewer Improvements be approved.

**Alternatives**

As may be directed by the City Council

**Attachments**

Resolution No. 5721

Engineering service Agreement

Location Map

**Prepared by:**  
**Mark Gibson, Director of Engineering & Utilities**

**Approved by:**  
**George Olson, City Manager**

**RESOLUTION NO. 5721**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH FREEMAN-MILLICAN, INC. FOR THE DESIGN OF THE SEARS LIFT STATION RELIEF SEWER IMPROVEMENTS; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:**

**SECTION 1.** That the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form and content by the City Attorney, to execute a Professional Services Agreement with Freeman-Millican, Inc. for the design of the Sears Lift Station Relief Sewer Improvements in accordance with all contract documents attached hereto and made a part hereof for all purposes.

**SECTION 2.** That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

**PASSED AND APPROVED** on this the \_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY OF SHERMAN, TEXAS**

**ATTEST:**

**BY:** \_\_\_\_\_  
**LINDA ASHBY, CITY CLERK**

**BY:** \_\_\_\_\_  
**BILL MAGERS, MAYOR**

**APPROVED AS TO FORM  
AND CONTENT:**

**BY:** \_\_\_\_\_  
**BRANDON S. SHELBY,  
CITY ATTORNEY**

## ENGINEERING SERVICES AGREEMENT

**THIS AGREEMENT** is made and entered by and between the CITY OF SHERMAN, a Home-Rule Municipality, organized and existing under the laws of the state of Texas, hereinafter referred to as "City", and, Freeman-Millican, Inc. hereinafter referred to as "Engineer", to be effective upon the date indicated below.

### WITNESSETH:

WHEREAS, the City desires to engage the services of the Engineer to prepare construction plans, specifications, details and special provisions and to perform other related engineering services in connection with the **Sears Lift Station Relief Sewer Improvements** in the City of Sherman, Texas, hereinafter referred to as the "Project"; and

WHEREAS, the Engineer desires to render such engineering services for the City subject to the terms and conditions provided herein.

NOW, THEREFORE, in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties hereto agree as follows:

1. **Employment of the Engineer.** The City hereby agrees to retain the Engineer to perform professional engineering services in connection with the Project. Engineer agrees to perform such services in accordance with the terms and conditions of this Agreement.
2. **Scope of Work.** The parties agree that Engineer shall perform such services as are set forth and described in Exhibit "1", which is attached hereto and made a part of this Agreement. The parties understand and agree that deviations or modifications in the form of written contract modifications may be authorized from time to time by the City. Engineer agrees to submit all final documents in a form acceptable to the City.
3. **Time of the Essence.** Time is of the essence. Engineer agrees to commence work immediately upon execution of this Agreement and to proceed diligently to completion except for delays beyond Engineer's reasonable control.
4. **Compensation and Method of Payment.** The parties agree that Engineer shall be compensated for all services provided pursuant to this Agreement in the amount described and set forth in Exhibit "1".
5. **Access To The Site.** City agrees to provide access to the Project area necessary or Engineer to complete his work.
6. **Insurance.** Engineer agrees to procure the following insurance:
  - a. Workers' Compensation as required by law.
  - b. Professional Liability Insurance in an amount not less than \$1,000,000 in the aggregate.

c. Comprehensive General Liability and Property Damage Insurance with minimum limits of \$1,000,000 for injury or death of any one person, \$1,000,000 for each occurrence, and \$1,000,000 for each occurrence of damage to or destruction of property.

d. Comprehensive Automobile and Truck Liability Insurance covering owned, hired, and non-owned vehicles, with minimum limits of \$1,000,000 for injury or death of any one person, \$1,000,000 for each occurrence, and \$1,000,000 for property damage.

e. The Engineer shall include the City as an additional insured under the policies, with the exception of the Professional Liability Insurance and Workers' Compensation. Certificates of Insurance and endorsements shall be furnished to the City before work commences. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, and/or reduced in coverage or in limits ("Change in Coverage") except with prior written consent of the City and only after the City has been provided with written notice of such Change in Coverage, such notice to be sent to the City either by hand delivery to the City Manager or by certified mail, return receipt requested, and received by the City no fewer than thirty (30) days prior to the effective date of such Change in Coverage. Prior to commencing services under this Contract, Engineer shall furnish City with Certificates of Insurance, or formal endorsements as required by this Contract, issued by Engineer's insurer(s), as evidence that policies providing the required coverage, conditions, and limits required by this Contract are in full force and effect.

**7. Indemnity and Duty to Defend.**

a. Engineer shall release, defend, indemnify and hold city and its officers, agents and employees harmless from and against all damages, injuries (including death), claims, property damages (including loss of use), losses, demands, suits, judgments and costs, including reasonable attorney's fees and expenses, in any way arising out of, related to, or resulting from the services provided by engineer and to the extent caused by the negligent act or omission or intentional wrongful act or omission of engineer, its officers, agents, employees, subcontractors, licensees, invitees or any other third parties for whom engineer is legally responsible. This agreement does not waive, nor shall it be deemed to waive, any immunity or defense, including, but not limited to Governmental immunity that would otherwise be available to the city against claims arising from the exercise of governmental powers and functions.

b. Engineer is expressly required to defend the City against all Claims for which the City becomes liable. In its sole discretion, City shall have the right to select or to approve defense counsel to be retained by Engineer in fulfilling its obligation hereunder to defend and indemnify City, unless such a right is expressly waived by City in writing by the City Manager, approved by the City Attorney, and properly authorized by the City's Council. City reserves the right to provide a portion or all of its own defense; however, City is under no obligation to do so. Any such action by City is not to be construed as a waiver of Engineer's obligation to defend the City or as a waiver of Engineer's obligation to indemnify the City pursuant to this Contract. Engineer shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Contract. If Engineer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Engineer shall be liable for all costs incurred by City in defense of Claims for which Engineer is liable under this Paragraph.

c. This indemnification and duty to defend is subject to and does not waive any governmental immunity available to the City under Texas law, and any defenses of the parties



under Texas law. The provisions of this paragraph are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

8. **Independent Contractor.** Engineer is an independent contractor and not an officer, agent, servant or employee of City. Engineer shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between City and Engineer, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Engineer.

9. **Assignment and Subletting.** The Engineer agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of the City. The Engineer further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Engineer from its full obligations to the City as provided by this Agreement.

10. **Contract Termination.** The parties agree that City shall have the right to terminate this Agreement with or without cause upon thirty (30) days written notice to Engineer. In the event of such termination, Engineer shall deliver to City all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items prepared by Engineer in connection with this Agreement. Engineer shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to termination. In the event this Agreement is terminated, the City shall have the option of entering into an Agreement with another party for the completion of the work.

11. **Ownership of Documents.** Original drawings and specifications are the property of the Engineer; however, the Project is the property of the City and Engineer may not use the drawings and specifications therefore for any purpose not relating to the Project without City's consent. City shall be furnished with such reproductions of drawings and specifications as City may reasonably require. Upon completion of the work or any earlier termination of this Agreement under Paragraph 10, Engineer will revise drawings, if necessary, and he will promptly furnish the City with one (1) complete set of reproducible record prints. Prints shall be furnished, as an additional service, at any other time requested by City. All such reproductions shall be the property of the City who may use them without Engineer's permission for any proper purpose including, but not limited to, additions to or completion of the Project. Engineer also acknowledges that such information shall become subject to the Public Information Laws of this State and that Engineer agrees to waive any copyright claims to the information once the information is submitted to the City.

12. **Complete Contract.** This Agreement, including Exhibit "1", constitutes the entire agreement by and between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings. To the extent that any of the provisions in Exhibit "1" conflicts with this Agreement, the provisions in the Agreement control over the provisions in the exhibit(s). This Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument.

13. **Mailing of Notices.** Unless instructed otherwise in writing, Engineer agrees that all notices or communications to City permitted or required under this Agreement shall be addressed to City at the following address:

Director of Utilities & Engineering  
City of Sherman  
P.O. Box 1106  
Sherman, TX. 75090

City agrees that all notices or communications to Engineer permitted or required under this Agreement shall be addressed to Engineer at the following address:

Richard Dormier  
Freeman-Millican, Inc.  
12225 Greenville Ave., Suite 121 Dallas,  
Texas 75243

All notices or communications required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date such notice or communication is posted by the sending party.

14. **Miscellaneous.**

a. **Paragraph Headings.** The paragraph headings contained herein are for convenience only and are not intended to define or limit the scope of any provision in this Agreement.

b. **Contract Interpretation.** Although this Agreement is drafted by the City, should any part be in dispute, the parties agree that the Agreement shall not be construed more favorably for either party.

c. **Venue/Governing Law.** The parties agree that the laws of the State of Texas shall govern this Agreement. Exclusive venue shall lie in Grayson County, Texas.

d. **Successors and Assigns.** City and Engineer, and their partners, successors, subcontractors, executors, legal representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

e. **Severability.** In the event a term, condition, or provision of this Agreement is determined to be void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision, shall be deleted and the remainder of the Agreement shall remain in full force and effect.

f. **Effective Date.** This Agreement shall be effective from and after execution by both parties hereto.

SIGNED on the date indicated below.

**CITY OF SHERMAN**

**ENGINEER:  
Freeman-Millican, Inc.**

BY \_\_\_\_\_  
George Olson  
City Manager

BY  \_\_\_\_\_  
Richard Dormier, P.E.  
Vice President

DATE \_\_\_\_\_

DATE 10-10-12 \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Brandon S. Shelby, City Attorney



EXHIBIT "1"  
ENGINEERING SERVICES AGREEMENT

**City of Sherman, Texas**  
**Sears Lift Station Relief Sewer Improvements**  
Scope of Professional Services

OWNER and ENGINEER, in consideration of their mutual covenants herein, agree in respect of the performance of professional engineering services by ENGINEER and the payment for those services by OWNER as set forth below.

ENGINEER shall provide professional engineering services for OWNER in all phases of the Project to which this Agreement applies, serve as OWNER'S professional engineering representative for the Project as set forth below, and shall give professional engineering consultation and advice to OWNER during the performance of services hereunder.

OWNER intends to construct, through Prime Contractor(s) the Sears Lift Station Relief Sewer Improvements, hereinafter called the "Project".

**SECTION 1 - BASIC SERVICES OF ENGINEER**

**1.1 GENERAL**

- 1.1.1 ENGINEER shall perform professional services as hereinafter stated which include customary civil, structural, mechanical, and electrical engineering services and customary architectural services incidental thereto.

**1.2 PRELIMINARY DESIGN PHASE**

After authorization to proceed with the Preliminary Design Phase, ENGINEER shall:

- 1.2.1 In consultation with OWNER, determine the extent of the Project.
- 1.2.2 Advise OWNER as to the necessity of OWNER'S providing, or obtaining from others, data or services of the types described in paragraph 3.3, and act as OWNER'S representative in connection with any such services.
- 1.2.3 Prepare preliminary design documents consisting of final design criteria, preliminary drawings, and outline specifications.
- 1.2.4 Based on the information contained in the preliminary design documents, submit a revised opinion of probable Project Costs.
- 1.2.5 Furnish 3 copies of the above preliminary design documents and present and review them in person with OWNER.

**1.3 FINAL DESIGN PHASE**

After authorization to proceed with the Final Design Phase, ENGINEER shall:

- 1.3.1 On the basis of comments from the review of the preliminary design documents and the revised opinion of probable Project Cost, prepare for incorporation in the Contract

Documents final drawings to show the character and extent of the Project (hereinafter called "Drawings") and Specifications.

- 1.3.2 Furnish to OWNER such documents and design data as may be required for, and assist in the preparation of, the required documents so that OWNER may apply for approvals of such governmental authorities as have jurisdiction over design criteria applicable to the Project, and assist in obtaining such approvals by participating in submissions to and negotiations with appropriate authorities.
- 1.3.3 Advise OWNER of any adjustments to the latest opinion of probable Project Cost caused by changes in extent or design requirements of the Project or Construction Costs and furnish a revised opinion of probable Project Cost based on the Drawings and Specifications.
- 1.3.4 Prepare for review and approval by OWNER, his legal counsel, and other advisors, contract agreement forms, general conditions and supplementary conditions, and (where appropriate) bid forms, invitations to bid and Instructions to bidders, and assist in the preparation of other related documents.
- 1.3.5 Submit plans, specifications, and contract documents to applicable regulatory agencies for approval.
- 1.3.6 Furnish 3 copies of the above documents and present and review them in person with OWNER. Make any needed final revisions.

#### 1.4 BIDDING PHASE

After authorization to proceed with the Bidding Phase, ENGINEER shall:

- 1.4.1 Assist OWNER in obtaining bids for each separate prime contract for construction, materials, equipment, and services.
- 1.4.2 Consult with and advise OWNER as to the acceptability of subcontractors and other persons and organizations proposed by the prime contractor(s) (hereinafter called "Contractor(s)") for those portions of the work as to which such acceptability is required by the bidding documents.
- 1.4.3 Prepare a tabulation of bids and assist OWNER in evaluating bids and in assembling and awarding contracts.

#### 1.5 CONSTRUCTION PHASE

During the Construction Phase ENGINEER shall:

- 1.5.1 Consult with and advise OWNER and act as his representative as provided in the General Conditions of the Construction Contract. All of OWNER'S instructions to Contractor(s) will be issued through ENGINEER who will have authority to act on behalf of OWNER to the extent provided in said General Conditions except as otherwise provided in writing.
- 1.5.2 Make visits to the site at intervals appropriate to the various stages of construction to observe as an experienced and qualified design professional the progress and quality of the executed work of Contractor(s) and to determine in general if such work is proceeding in accordance with the Contract Documents. ENGINEER shall not be

required to make exhaustive or continuous on-site inspections to check the quality or quantity of such work. ENGINEER shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by Contractor(s) or the safety precautions and programs incident to the work of Contractor(s). ENGINEER'S efforts will be directed toward providing a greater degree of confidence for OWNER that the completed work of Contractor(s) will conform to the Contract Documents, but ENGINEER shall not be responsible for the failure of Contractor(s) to perform the work in accordance with the Contract Documents. During such visits and on the basis of on-site observations ENGINEER shall keep OWNER informed of the progress of the work and shall endeavor to guard OWNER against defects and deficiencies in such work and may disapprove or reject work failing to conform to the Contract Documents.

- 1.5.3 Review Shop Drawings and samples, the results of tests and inspections and other data which each Contractor is required to submit, but only for conformance with the design concept of the Project and general compliance with the information given in the Contract Documents (but such review and approval or other action shall not extend to means, methods, sequences, techniques or procedures of construction or to safety precautions and programs incident thereto); determine the acceptability of substitute materials and equipment proposed by Contractor(s); and receive and review (for general content as required by the Specifications) maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection which are to be assembled by Contractor(s) in accordance with the Contract Documents.
- 1.5.4 Issue all instructions of OWNER to Contractor(s); issue necessary interpretations and clarifications of the Contract Documents and in connection therewith prepare change orders as required; have authority, as OWNER'S representative, to require special inspection or testing of the work; act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder and make decisions on all claims of OWNER and Contractor(s) relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work; but ENGINEER shall not be liable for the results of any such interpretations or decisions rendered by him in good faith.
- 1.5.5 Based on ENGINEER'S on-site observations as an experienced and qualified design professional and on review of applications for payment and the accompanying data and schedules, determine the amounts owing to Contractor(s) and recommend in writing payments to Contractor(s) in such amounts: such recommendations of payment will constitute a representation to OWNER, based on such observations and review, that the work has progressed to the point indicated, that, to the best of ENGINEER'S knowledge, information and belief, the quality of such work is in accordance with the Contract Documents (subject to an evaluation of such work as a functioning Project upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any qualifications stated in his recommendation), and that payment of the amount recommended is due Contractor(s); but by recommending any payment ENGINEER will not thereby be deemed to have represented that continuous or exhaustive examinations have been made by ENGINEER to check the quality or quantity of the work or to review the means, methods, sequences, techniques or procedures of construction or safety precautions or programs incident thereto or that ENGINEER has made an examination to ascertain how or for what purposes any Contractor has used the moneys paid on account of the Contract Price, or that title to any of the work, materials or equipment has passed to OWNER free and clear of any

lien, claims, security interests or encumbrances, or that Contractor(s) have completed their work exactly in accordance with the Contract Documents.

- 1.5.6 Conduct in company with OWNER, an inspection to determine if the Project is substantially complete and a final inspection for compliance with the Contract Documents and if each Contractor has fulfilled all of his obligations thereunder so that ENGINEER may recommend, in writing, final payment to each Contractor and may give written notice to OWNER and the Contractor(s) that the work is acceptable (subject to any conditions therein expressed), but any such recommendation and notice shall be subject to the limitations expressed in paragraph 1.5.5.
- 1.5.7 ENGINEER shall not be responsible for the acts or omissions of any Contractor, or subcontractor, or any of the Contractor(s)' or subcontractors' agents or employees or any other persons (except ENGINEER'S own employees and agents) at the site or otherwise performing any of the Contractor(s)' work; however, nothing contained in paragraphs 1.5.1 through 1.5.7, inclusive, shall be construed to release ENGINEER from liability for failure to properly perform duties undertaken by him in the Contract Documents.
- 1.5.8 Revise contract drawings (unless redrawing is required), with the assistance of the OWNER and Contractor(s), and furnish two set in Adobe Acrobat Portable Document Format (pdf).

## SECTION 2 - ADDITIONAL SERVICES OF ENGINEER

### 2.1 GENERAL

If authorized in writing by OWNER, ENGINEER shall furnish or obtain from others Additional Services of the following types which are not considered normal or customary Basic Services

- 2.1.1 Preparation of applications and supporting documents for governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
- 2.1.2 Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.
- 2.1.3 Services resulting from significant changes in extent of the Project or its design including, but not limited to, changes in size, complexity, OWNER'S schedule, or character of construction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are due to causes beyond ENGINEER'S control.
- 2.1.4 Providing renderings or models for OWNER'S use.
- 2.1.5 Furnishing the services of special consultants for other than the normal civil, structural, mechanical and electrical engineering and normal architectural design incidental

thereto, such as consultants for interior design, furniture, furnishings, communications, acoustics, kitchens and landscaping; and providing data or services of the types described in paragraph 3.3 when OWNER authorizes ENGINEER to provide such data or services in lieu of furnishing the same in accordance with paragraph 3.3.

- 2.1.6 Services resulting from the arranging for performance by persons other than the principal prime contractors of services for the OWNER and administering OWNER'S contracts for such services.
- 2.1.7 Provide staking to enable Contractor(s) to proceed with their work and providing other special field surveys.
- 2.1.8 Services during out-of-town travel required of ENGINEER other than visits to the site and OWNER'S office as required by SECTION 1 and authorized by OWNER.
- 2.1.9 Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or neglected work of Contractor(s), (3) prolongation of the contract time of any prime contract by more than sixty days, (4) acceleration of the progress schedule involving services beyond normal working hours, and (5) default by Contractor(s).
- 2.1.10 Preparation of operating and maintenance manuals; protracted or extensive assistance in the utilization of any equipment or system (such as initial startup, testing, adjusting and balancing); and training personnel for operation and maintenance.
- 2.1.11 Services after completion of the Construction Phase, such as inspections during any guarantee period and reporting observed discrepancies under guarantees called for in any contract for the Project.
- 2.1.12 Preparing to serve or serving as a consultant or witness for OWNER in any litigation, public hearing or other legal or administrative proceeding involving the Project (except as agreed to under Basic Services).
- 2.1.13 Additional services in connection with the Project, including services normally furnished by OWNER and services not otherwise provided for in this Agreement.
- 2.1.14 Preparation of property descriptions.
- 2.1.15 Additional copies of reports (over agreed number) and additional sets of Contract Documents (over agreed number).
- 2.1.16 Services of a resident Project representative, and other field personnel as required, for on-the-site observation of construction.
- 2.1.17 Any other special or miscellaneous assignments specifically authorized by OWNER.

### SECTION 3 - OWNER'S RESPONSIBILITIES

OWNER shall:

- 3.1 Provide all criteria and full information as to OWNER'S requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish

copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications.

- 3.2 Assist ENGINEER by placing at his disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.
- 3.3 Furnish to ENGINEER, as required for performance of ENGINEER'S Basic Services, data prepared by or services of others, including without limitation core borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment; appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements; property, boundary, easement, right-of-way, topographic and utility surveys; property descriptions; zoning, deed and other land use restrictions; and other special data or consultations not covered in SECTION 2; all of which ENGINEER may rely upon in performing his services.
- 3.4 Provide field control surveys and establish reference points and base lines to enable Contractor(s) to proceed with the layout of the work.
- 3.5 Arrange for access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform his services.
- 3.6 Examine all studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by ENGINEER, obtain advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of ENGINEER.
- 3.7 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.
- 3.8 Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services as OWNER may require or ENGINEER may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as OWNER may require to ascertain how or for what purpose any Contractor has used the moneys paid to him under the construction contract and such inspection services as OWNER may require to ascertain that Contractor(s) are complying with any law, rule or regulation applicable to their performance of the work.
- 3.9 Designate in writing a person to act as OWNER'S representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER'S policies and decisions with respect to materials, equipment, elements and systems pertinent to ENGINEER'S services.
- 3.10 Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER'S services, or any defect in the work of Contractor(s).

- 3.11 Furnish, or direct ENGINEER to provide, necessary Additional Services as stipulated in Section 2 of this Agreement or other services as required.
- 3.12 Bear all costs incident to compliance with the requirements of this Section 3.

#### SECTION 4 - PERIOD OF SERVICE

- 4.1 The provisions of this Section 4 and the various rates of compensation for ENGINEER'S services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion of the Construction Phase. ENGINEER'S obligation to render services hereunder will extend for a period which may reasonably be required for the design, award of contracts and construction of the Project including extra work and required extensions thereto.
- 4.2 After acceptance by OWNER of the ENGINEER'S Drawings, Specifications and other Final Design Phase documentation including the most recent opinion of probable Project Cost and upon written authorization to proceed, ENGINEER shall proceed with performance of the services called for in the Bidding. This Phase shall terminate and the services to be rendered thereunder shall be considered complete upon commencement of the Construction Phase or upon cessation of the negotiations with prospective Contractor(s) (except as may be otherwise required to complete the services called for in paragraph 6.1.2.5).
- 4.3 The Construction Phase will commence with the execution of the first prime contract to be executed for the work of the Project or any part thereof, and will terminate upon written approval by ENGINEER of final payment on the last prime contract to be completed. Construction Phase services may be rendered at different times in respect of separate prime contracts if the Project involves more than one prime contract.
- 4.4 If OWNER has requested significant modifications or changes in the extent of the Project, the time of performance of ENGINEER'S services and his various rates of compensation shall be adjusted appropriately.
- 4.5 If OWNER fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, or if the Construction Phase has not commenced within 90 calendar days (plus such additional time as may be required to complete the services called for under paragraph 6.2.2.5) after completion of the Final Design Phase, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement.
- 4.6 If ENGINEER'S services for design or during construction of the Project are delayed or suspended in whole or in part by OWNER for more than three months for reasons beyond ENGINEER'S control, ENGINEER shall on written demand to OWNER (but without termination of this Agreement) be paid as provided in paragraph 5.3.2. If such delay or suspension extends for more than one year for reasons beyond ENGINEER'S control, or if ENGINEER for any reason is required to render services more than one year after Substantial Completion, the various rates of compensation provided for elsewhere in this Agreement shall be subject to renegotiation.

- 4.7 In the event that the work designed or specified by ENGINEER is to be performed under more than one prime contract, OWNER and ENGINEER shall, prior to commencement of the Final Design Phase, develop a schedule for performance of ENGINEER'S services during the Final Design, Bidding and Construction Phases in order to sequence and coordinate properly such services as applicable to the work under such separate contracts.

#### SECTION 5 - PAYMENTS TO ENGINEER

##### 5.1 METHODS OF PAYMENT FOR SERVICES AND EXPENSES OF ENGINEER

###### 5.1.1 For Basic Services

OWNER shall pay ENGINEER for Basic Services rendered under SECTION 1 and as further identified in Exhibit "A" a lump sum in the amount of \$75,632.00.

###### 5.1.2 For Additional Services

OWNER shall pay ENGINEER for Additional Services rendered under SECTION 2 as follows:

###### 5.1.2.1 General

For Additional Services rendered under paragraphs 2.1.1 through 2.1.17, inclusive (except services covered by paragraph 2.1.5 and services as a consultant or witness under paragraph 2.1.12), payment will be at the hourly rates in Exhibit "A".

###### 5.1.2.2 Special Consultants

For services and reimbursable expenses of special consultants employed by ENGINEER pursuant to paragraph 2.1.5 or 2.1.17, the amount billed to ENGINEER therefor times a factor of 1.10

###### 5.1.2.3 Serving as a Witness

For the services rendered by principals and employees as consultants or witnesses in any litigation, hearing or proceeding in accordance with paragraph 2.1.12, at the rate of \$ 2,500 per day or any portion thereof (but compensation for time spent in preparing to appear in any such litigation, hearing or proceeding will be on the basis provided in paragraph 5.1.2.1).

- 5.1.3 As used in this paragraph 5.1 the term "Reimbursable Expenses" will have the meaning assigned to it in paragraph 5.4.



5.2 TIMES OF PAYMENTS

5.2.1 ENGINEER shall submit monthly statements for Basic and Additional Services rendered and for reimbursable Expenses incurred. The statements will be based upon ENGINEER'S estimate of the proportion of the total services actually completed at the time of billing. OWNER shall make prompt monthly payments in response to ENGINEER'S monthly statements.

5.2.2 Upon conclusion of each phase of Basic Services, OWNER shall pay such additional amount, if any, as may be necessary to bring total compensation paid on account of such phase to the following percentages of total compensation payable for all phases of Basic Services:

| Phase                                                 | Percent of Basic Services |
|-------------------------------------------------------|---------------------------|
| Preliminary Design, Surveying & Easement Descriptions | 40%                       |
| Final Design                                          | 38%                       |
| Bidding or Negotiating                                | 6%                        |
| Construction                                          | 16%                       |
| TOTAL                                                 | 100%                      |

5.3 OTHER PROVISIONS CONCERNING PAYMENTS

5.3.1 Changes in Project Scope

In the event the OWNER changes the scope of the project after the commencement of the Final Design Phase and such changes render the work unusable that has been performed to the date of the change in project scope, ENGINEER will be paid for services rendered during that phase to the date of notice of the change in project scope at the hourly rates in Exhibit "B" for services rendered by principals and employees assigned to the Project during that phase to date of notice of the change in project scope. In the event of any such change in scope, ENGINEER will be paid for all unpaid Additional Services and unpaid Reimbursable Expenses.

In the event the OWNER changes the scope of the project after the commencement of the Final Design Phase and such changes require the Engineer to modify, redesign or otherwise change engineering work that has been completed or partially completed at the date of the change in scope, ENGINEER will be paid for services required to modify, redesign or otherwise change completed engineering work to meet the requirements of the revised scope of services at the hourly rates in Exhibit "B" for principals and employees assigned to the Project. In the event of any such change in scope, ENGINEER will be paid for all Additional Services and Reimbursable Expenses required to make the above stated changes. Before making changes to the engineering work under this provision, the ENGINEER shall submit an estimate of the cost of making the changes under this paragraph. The ENGINEER shall not begin making changes to the engineering work until authorized by the OWNER.

5.3.2 If OWNER fails to make any payment due ENGINEER for services and expenses within sixty days after receipt of ENGINEER'S bill therefor, the amounts due ENGINEER shall include a charge at the rate of 1% per month from said sixtieth day, and in addition, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement until he has been paid in full all amounts due him for services and expenses.

5.3.3 In the event of termination by OWNER, upon the completion of any phase of the Basic Services, progress payments due ENGINEER for services rendered through such phase shall constitute total payment for such services. In the event of such termination by OWNER during any phase of the Basic Services, ENGINEER will be paid for services rendered during that phase at the hourly rates in Exhibit "B" for services rendered during that phase to date of termination by principals and employees assigned to the Project. In the event of any such termination, ENGINEER will be paid for all unpaid Additional Services and unpaid Reimbursable Expenses, plus all termination expenses. Termination expenses mean Reimbursable Expenses directly attributable to termination, which shall include an amount computed as a percentage of total compensation for Basic Services earned by ENGINEER to the date of termination, as follows:

20% if termination occurs after commencement of the Preliminary Design Phase but prior to commencement of the Final Design Phase; or

10% if termination occurs after commencement of the Final Design Phase.

#### 5.4 DEFINITIONS

5.4.1 Reimbursable Expenses mean the actual expenses incurred directly or indirectly in connection with the Project for: transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); furnishing and maintaining field office facilities; subsistence and transportation of Resident Project Representatives and their assistants; toll telephone calls and telegrams; reproduction of reports, Drawings, Specifications, and similar Project related items in addition to those required under Section 1; and, if authorized in advance by OWNER, overtime work requiring higher than regular rates.

### SECTION 6 - OPINIONS OF COST

#### 6.1 OPINIONS OF COST

6.1.1 Since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, his opinions of probable Project Cost and Construction Cost provided for herein are to be made on the basis of his experience and qualifications and represent his best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but ENGINEER cannot and does not guarantee that proposals, bids or actual Project or Construction Cost will not vary from opinions of probable cost prepared by him. If prior to the Bidding Phase OWNER wishes greater assurance as to Project or Construction Cost he shall employ an independent cost estimator as provided in paragraph 3.8. If a

Construction Cost limit is established by written agreement between OWNER and ENGINEER, the following will apply:

- 6.1.1.1 The acceptance by OWNER at any time during the Basic Services of a revised opinion of probable Project or Construction Cost in excess of the then established cost limit will constitute a corresponding revision in the Construction Cost limit to the extent indicated in such revised opinion.
- 6.1.1.2 Any Construction Cost limit so established will include a contingency of ten percent unless another amount is agreed upon in writing.
- 6.1.1.3 ENGINEER will be permitted to determine what materials, equipment, component systems and types of construction are to be included in the Drawings and Specifications and to make reasonable adjustments in the extent of the Project to bring it within the cost limit.
- 6.1.1.4 If the Bidding Phase has not commenced within six months after completion of the Final Design Phase, the established Construction Cost limit will not be binding on ENGINEER, and OWNER shall consent to an adjustment in such cost limit commensurate with any applicable change in the general level of prices in the construction industry between the date of completion of the Final Design Phase and the date on which proposals or bids are sought.
- 6.1.1.5 If the lowest bona fide proposal or bid exceeds the established Construction Cost limit, OWNER shall (1) give written approval to increase such cost limit, (2) authorize negotiating or rebidding the Project within a reasonable time, or (3) cooperate in revising the Project's extent or quality. In the case of (3), ENGINEER shall, without additional charge, modify the Contract Documents as necessary to bring the Construction Cost within the cost limit. The providing of such service will be the limit of ENGINEER'S responsibility in this regard and, having done so, ENGINEER shall be entitled to payment for his services in accordance with this Agreement.

## SECTION 7 - GENERAL CONSIDERATIONS

### 7.1 REUSE OF DOCUMENTS

All documents including Drawings and Specifications prepared by ENGINEER pursuant to this Agreement are instruments of service in respect to the Project. They are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by ENGINEER for the specific purpose intended will be at OWNER'S sole risk and without liability or legal exposure to ENGINEER; and OWNER shall indemnify and hold harmless ENGINEER from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

## SECTION 8 - SPECIAL PROVISIONS, EXHIBITS AND SCHEDULES

- 8.1 The following Exhibits are attached to and made a part of this Exhibit 1:  
Exhibit "A" Scope of Work and Exhibit "B" – Freeman-Millican, Inc. - Hourly Rate

**Exhibit "A"**

**Sherman Scars Lift Station Relief Sewer**

**Scope of Work**

Conduct project meeting with the City staff.  
Review and refine preliminary alignment up/down stream of L.S.  
Provide alignment on aerial map and work with City staff on property owner permission to survey & clear brush.  
Provide on site preliminary alignment flagging to permit City dozing of brush.  
Complete a design survey.  
Determine final alignment & review with city for approval.  
Obtain deeds, check corners & develop easement descriptions for city easement acquisition.  
Provide areal maps and flagging to assist city with easement execution.

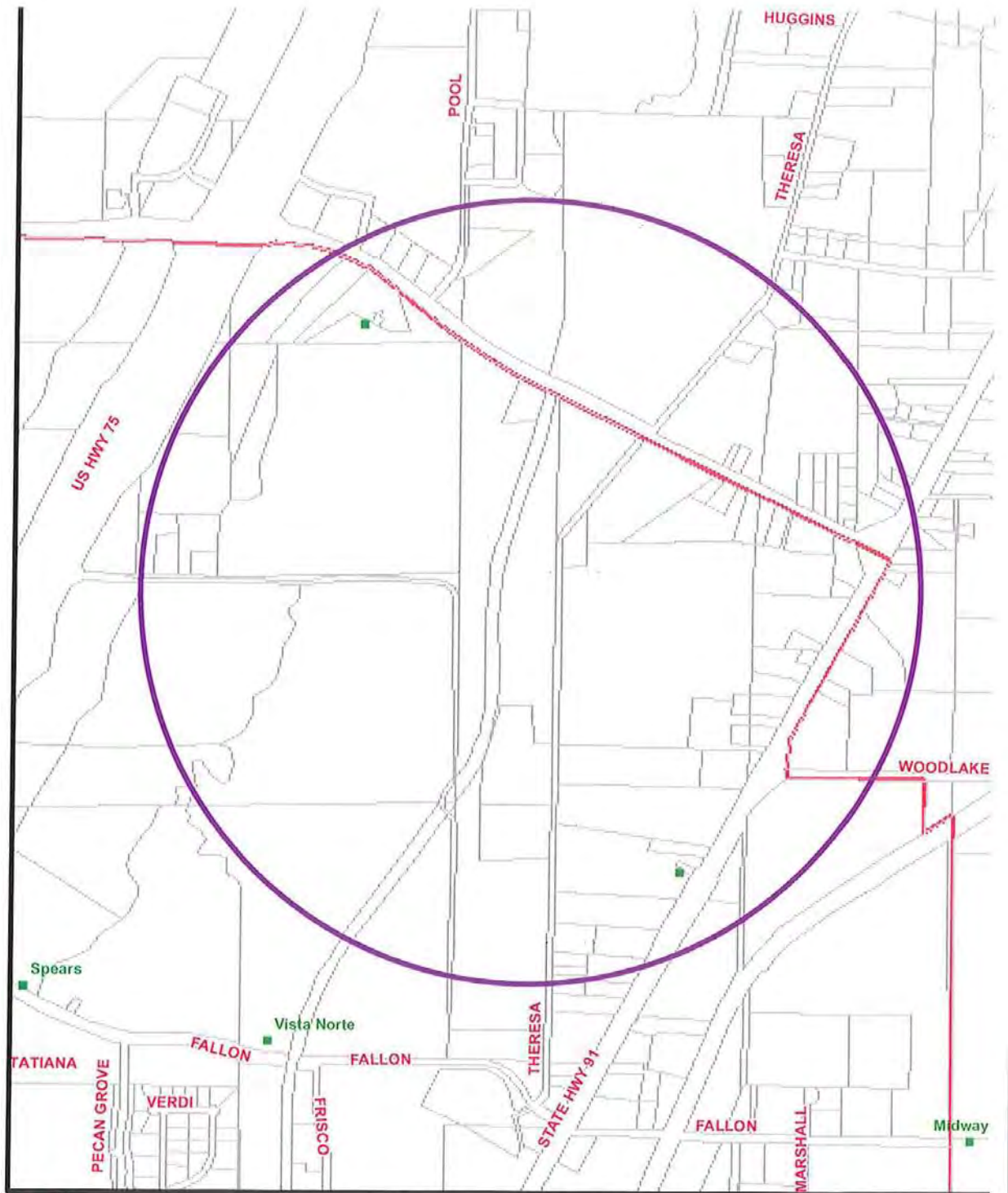
Develop TCEQ required engineering report.  
Develop plans, specifications, and bid documents for project construction.  
Review plans & specifications with city staff and revise per comments.  
Review plans & specifications with TCEQ and revise per comments.  
Print plans, specification & bid documents for bidding.  
Revise opinion of construction cost based on final bid documents.

Provide bid documents to plan rooms and bidders.  
Bid and recommend award of construction.  
Develop construction contracts for execution.

Revise and issue construction documents.  
Conduct a preconstruction meeting at the Sherman Engineering offices.  
Review contractor construction material submittals and provide approved submittals to Owner and contractor.  
Review monthly progress payment applications and recommend payment by Owner.  
Review and process any required changes.  
Provide on site review of pier drilling to establish bottom elevation.  
Conduct final inspection and provide punch list.  
Provide close out documentation to Owner.  
Provide record drawings (1 reproducible & 2 PDF copies) base on city inspector reviewed contractor as-built marked up drawings.

EXHIBIT "B"  
FREEMAN-MILLICAN, INC.  
HOURLY RATES

| <u>Employee Category</u>    | <u>Hourly Rate</u> |
|-----------------------------|--------------------|
| Principal Engineer          | \$165              |
| Associate Engineer          | \$130              |
| Senior Project Engineer     | \$115              |
| Architect                   | \$110              |
| Project Engineer            | \$100              |
| EIT                         | \$85               |
| Designer                    | \$75               |
| CAD                         | \$60               |
| Clerical                    | \$50               |
| RPLS                        | \$150              |
| Survey Crew (Including GPS) | \$125              |



**Sherman**  
CLASSIC TOWN. BROAD HORIZON.

Lift Station Project

N

Department

1,000 500 0 1,000 Feet



Engineering Department



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. C.4

**\* RESOLUTION NO. 5722**

**Authorizing Execution of an Agreement with Mario Tobar  
for the Abatement of Ad Valorem Property Taxes for the Construction of a  
New Single-Family Residence at 703 East Cherry Street**

**Issue**

This item is to consider property tax abatement for the construction of a new single-family residence at 703 East Cherry Street.

**Background**

Several years ago, the City Council began a residential tax abatement program to encourage the redevelopment of older sections of town. This application is for the construction of a new single-family residence at this location. This lot is in the designated zone for residential tax abatements.

**Origination**

Mario Tobar, Applicant

**Financial Consideration**

A \$75.00 application fee has been received for this residential lot. If granted, the initial abatement for this lot will be approximately \$240.00 annually.

**Staff Recommendation**

The staff recommends approval of this abatement since it meets the requirements of the process.

**Alternatives**

The City Council could decide against granting this abatement.

**Attachments**

Resolution No. 5722  
Residential Tax Abatement Agreement  
Application  
Warranty Deed  
Site Plan  
Photo  
Building Permit Application  
Location Map

**Prepared by:**  
**Scott Shadden, Director of Development Services**

**Approved by:**  
**George Olson, City Manager**

**RESOLUTION NO. 5722**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT WITH MARIO TOBAR FOR THE ABATEMENT OF AD VALOREM PROPERTY TAXES FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 703 EAST CHERRY STREET; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:**

**SECTION 1.** That the City Manager be and is hereby authorized and directed, subject to receipt of a fully-executed agreement from Mario Tobar and subject to all contract documents being properly completed and approved as to form and content by the City Attorney, to execute an agreement with Mario Tobar for the abatement of ad valorem property taxes for a period of ten (10) years, for the construction of one (1) new single-family residence at 703 East Cherry Street, lying within the City of Sherman's Residential Tax Reinvestment Zone, in accordance with the City's policies and procedures established for this purpose.

**SECTION 2.** That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

**PASSED AND APPROVED** on this the \_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY OF SHERMAN, TEXAS**

**ATTEST:**

**BY:** \_\_\_\_\_  
**LINDA ASHBY, CITY CLERK**

**BY:** \_\_\_\_\_  
**BILL MAGERS, MAYOR**

**APPROVED AS TO FORM  
AND CONTENT:**

**BY:** \_\_\_\_\_  
**BRANDON S. SHELBY,  
CITY ATTORNEY**



THE STATE OF TEXAS           §  
                                                 §  
COUNTY OF GRAYSON       §

**AGREEMENT**

**THIS AGREEMENT**, entered into by and between the **CITY OF SHERMAN, TEXAS**, a home rule city and municipal corporation of the State of Texas, duly acting herein by and through its City Manager, hereinafter referred to as CITY, and **MARIO TOBAR**, hereinafter referred to as OWNER,

**WITNESSETH:**

**WHEREAS**, on the 18<sup>th</sup> day of April, 2011, the City Council of Sherman, Texas, passed Ordinance No. 5692 establishing a reinvestment zone for residential tax abatement, as authorized by Chapter 312 of the Texas Tax Code, as amended, hereinafter referred to as CODE; and

**WHEREAS**, the CITY has adopted a resolution (Resolution No. 5571) stating that it elects to be eligible to participate in a residential tax abatement program; and

**WHEREAS**, the CITY desires to create the proper economic and social environment to induce the investment of private resources in real estate construction located in incorporated areas of the CITY; and

**WHEREAS**, the CITY hereby finds that it may effectively encourage and assist the creation of such an environment by participating in tax abatement pursuant to the CITY; and

**WHEREAS**, the CITY has created a reinvestment zone within its jurisdiction to induce the investment of private resources in real estate construction located in incorporated areas of the CITY, and OWNER has agreed to construct certain real property improvements; and

**WHEREAS**, OWNER is prepared to comply with the provisions of the CITY'S guidelines and criteria enacted the 18<sup>th</sup> day of April, 2011;

**NOW, THEREFORE, WITNESS THIS TAX ABATEMENT AGREEMENT** which provides as follows:

**I.**

**1.01** To the extent authorized by the Texas Constitution and by the Tax Code, CITY hereby agrees to exempt from City of Sherman taxation a portion of the increase in value of taxable real property of OWNER in the CITY over the same real property and its value as calculated by the Grayson Appraisal District for ad valorem property tax purposes in accordance with the following schedule. Such tax exemption shall be in effect for tax years beginning January 1, 2012, and continuing for tax years 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020

and 2021, with same constituting ten (10) tax years. However, nothing contained herein shall be construed to grant an abatement of taxes to be assessed based on the change of use of the property from an agricultural use to another use, sometimes referred to as rollback taxes, penalties or interest. In the event rollback taxes are applicable for the real property utilized by OWNER, then such increase in value of taxable property resulting from such rollback shall be used as the tax value for such property for the tax year 2012, sometimes referred to herein as the Base Tax Year.

#### **SCHEDULE OF TAXES ASSESSED**

| <b><u>TAX YEAR</u></b> | <b><u>ABATEMENT</u></b> |
|------------------------|-------------------------|
| 2012                   | 100%                    |
| 2013                   | 100%                    |
| 2014                   | 100%                    |
| 2015                   | 100%                    |
| 2016                   | 100%                    |
| 2017                   | 100%                    |
| 2018                   | 80%                     |
| 2019                   | 60%                     |
| 2020                   | 40%                     |
| 2021                   | 20%                     |

#### **II.**

**2.01** OWNER warrants and represents that the real property upon which OWNER has constructed or will construct improvements is qualified property within the meaning of that Act, and that such has been and will remain eligible for tax abatement under the provisions of the Property Redevelopment and Tax Abatement Act, Sections 312.001, et seq., Texas Tax Code.

**2.02** To continue to qualify for tax abatement under the terms of this Agreement, OWNER hereby warrants and represents that the improvements made by OWNER on the real property described herein are for residential use.

**2.03** The tax abatement granted under the terms of the Agreement shall only be implemented if appraised value of all real property and improvements located thereon owned by OWNER and lying within designated zone exceeds the base year value. The OWNER agrees that Grayson Appraisal District shall, at reasonable times upon reasonable notice, have access to the property made the subject of this Agreement, and that the above set forth inspectors shall be able to inspect the property to insure that the improvements are being made in accordance with the terms and conditions hereof and utilized in accordance with this Agreement.

#### **III.**

**3.01** The term of this Agreement shall be for tax years 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020 and 2021, as indicated above in paragraph 1.01.

#### IV.

**4.01** The kind, number and location of all proposed property improvements are set forth as follows:

Construction of one (1) new single-family residence at 703 East Cherry Street, Sherman, Texas, and as more particularly described by the following:

**BEGINNING** at a found 3/8" iron rod in the northerly R.O.W. line of E. Cherry Street (a 40' Public R.O.W.) for the southeast corner of the herein described tract, the southwest corner of a tract of land conveyed to John Daniel Low and Chelsie Kristine Low in Vol. 4896, Pg. 786, Deed Records of Grayson County, Texas;

**THENCE** along and with said R.O.W., South 73°40'41" West, a distance of 64.00 feet (called South 74°00'00" West, a distance of 64.00 feet) to a set 1/2" iron rod for the southwest corner of the herein described tract, the southeast corner of a tract of land conveyed to Mack R. Broiles in Vol. 1385, Pg. 261, Deed Records of Grayson County, Texas;

**THENCE** along and with the common boundary of the herein described tract and said Broiles Tract, North 16°00'00" West, a distance of 125.69 feet (called North 16°00'00" West, a distance of 125.00 feet) to a set 1/2" iron rod for the northwest corner of the herein described tract, the northeast corner of said Broiles Tract, a point in the south boundary line of a tract of land conveyed to Community Baptist Church in Vol. 2734, Pg. 309, Deed Records of Grayson County, Texas;

**THENCE** along and with said boundary, North 74°00'00" East, a distance of 64.00 feet to a found 1/2" iron rod for the northeast corner of the herein described tract, a point in the south boundary line of a tract of land conveyed to Community Baptist Church in Vol. 4776, Pg. 100, Deed Records of Grayson County, Texas, the northwest corner of said Low Tract;

**THENCE** continuing along and with the common boundary line of said Lot Tract and the herein described tract, South 16°00'00" East, a distance of 125.33 feet (called South 16°00'00" East, a distance of 125.00 feet) to the **POINT OF BEGINNING** and containing 0.18 acres, more or less.....

## **V.**

**5.01** OWNER agrees that, should he fail to make improvements substantially as described or fail to perform any other term or covenant hereof, CITY shall have the right, after giving notice and opportunity to cure as hereinafter set out, to recapture all tax revenue on said property in the zone lost as a result of this Agreement for the entire term of the Agreement. Such recapture shall mean that all of such property shall be taxed at the full improved value as assessed by the Grayson Appraisal District for all years this Agreement has been in effect. The payment of such recaptured taxes minus any taxes paid by OWNER during the years this Agreement has been in force shall be due January 1 of the next following year and shall be delinquent if not paid on or prior to January 31<sup>st</sup>. Penalties and interest shall be calculated thereafter as if all taxes had become due in the same year. The CITY agrees prior to enforcement of the terms of this paragraph to give 120 days written notice to the address shown below of OWNER'S default in completing the improvements called for in this Agreement, and OWNER shall have the right to cure such default within the 120-day period.

## **VI.**

**6.01** This Agreement shall inure to the benefit of CITY and OWNER, and shall be binding upon them, their heirs, successors and assigns. It is specifically provided and agreed that the right to tax abatement shall inure to the benefit of subsequent owners so long as the term and conditions of this Agreement are in effect.

## **VII.**

**7.01** CITY agrees that this Agreement may be assigned and the improvements leased or sub-leased, without any further necessity for consent, by the OWNER to any person, firm or corporation.

## **VIII.**

**8.01** At any time before the expiration of the term hereof, this Agreement may be modified by the mutual action of the parties hereto to include other provisions that could have been included in the original agreement or to delete provisions that were not necessary to the original agreement. Such modification must be in writing and signed by all the parties hereto and made by the same procedure by which the original Agreement was approved and executed. In no event may the original Agreement be modified so as to extend the term beyond the original term of this Agreement.

## **IX.**

**9.01** This Agreement shall be construed subject to the laws of the State of Texas, and particularly to the Property Redevelopment and Tax Abatement Act, Chapter 312 of the Texas Tax Code.

**9.02** All appraisal values for real property shall be made by the Grayson Appraisal District or such other entity as may succeed or replace such District.

**9.03** OWNER is hereby notified that the Grayson Appraisal District may impose additional requirements which must be met in order for OWNER to realize the benefit of tax abatement and this Agreement. Contact should be made by OWNER with the District in person at 205 North Travis Street, Sherman, Texas, or by telephone at (903) 893-9673.

## **X.**

**10.01** This Agreement is subject to all provisions of all outstanding bond issues of CITY. To the extent that this Tax Abatement Agreement conflicts with any of the provisions of such bond issues, such bond issues and attendant documents thereto shall control.

## **XI.**

**11.01** This Tax Abatement Agreement is specifically subject to present laws of the State of Texas and any future laws enacted subsequent to the execution of this Agreement which may provide retroactively for a modification of Agreements of this type as a matter of law. Upon the effective date of any such law, then this Agreement shall automatically be so modified.

## **XII.**

**12.01** Notices required by this Agreement shall be mailed to the following addresses as same may be in the future changed by either party upon written notice to the other:

City of Sherman  
P.O. Box 1106  
Sherman, Texas 75091-1106  
(903) 892-7200

Mario Tobar  
1308 Pintail Drive  
Sherman, Texas 75092  
(903) 816-0410

Copy to: Grayson Appraisal District  
205 North Travis Street  
Sherman, Texas 75090  
(903) 893-9673

This Agreement is performable in Grayson County, Texas. Witness our hands on this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY:**  
**CITY OF SHERMAN, TEXAS**

**OWNER:**  
**MARIO TOBAR**

**BY:** \_\_\_\_\_  
**GEORGE OLSON**  
**CITY MANAGER**

**BY:** \_\_\_\_\_  
**MARIO TOBAR**

**ATTEST:**

**BY:** \_\_\_\_\_  
**LINDA ASHBY**  
**CITY CLERK**

**APPROVED AS TO FORM**  
**AND CONTENT:**

**BY:** \_\_\_\_\_  
**BRANDON S. SHELBY**  
**CITY ATTORNEY**

**THE STATE OF TEXAS   §  
COUNTY OF GRAYSON   §**

**BEFORE ME**, the undersigned authority, on this day personally appeared **MARIO TOBAR**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein express.

**GIVEN UNDER MY HAND** and seal of office this \_\_\_\_day of \_\_\_\_\_, 2012 A.D.

---

**NOTARY PUBLIC IN AND FOR THE  
STATE OF TEXAS**

**CITY OF SHERMAN  
APPLICATION FOR RESIDENTIAL TAX ABATEMENT**

**Property Owner:**

Name: Mario Tolon

Mailing Address: 1308 Pintail Dr Sherman TX 75092

Telephone Number: (905) 816-0410

**Contact (if different than owner):**

Name: Same

Mailing Address: Same

Telephone Number: \_\_\_\_\_

**Property:**

Physical Address: 703 E Cherry St Sherman TX 75092

Summary Legal Description: Lot: \_\_\_\_\_ Block: \_\_\_\_\_ Addition: \_\_\_\_\_

Full Legal Description: Include as an attachment a full legal description with metes and bounds.

**Improvements:**

Type of Improvements (please check one). New Construction: ☒ Remodeling: \_\_\_\_\_

Estimated Value of Improvements: \$75,000

Estimated Date of Start of Construction: 10/15/12

Estimated Date of Completion of Project: 12/30/12

Description of Project: New Residential

Applicant(s): 

Date: 10/09/12

Date: \_\_\_\_\_



Grayson County  
Wilma Bush  
Grayson County Clerk  
Sherman, Texas 75090



Instrument Number: 2012-00013559

Recorded On: July 10, 2012

As  
Recordings

Parties: WALLEY BADER CONSTRUCTION INC ETAL

Billable Pages: 8

To TOBAR MARIO

Number of Pages: 10

Comment: WD

( Parties listed above are for Clerk's reference only )

\*\* Examined and Charged as Follows: \*\*

|                  |       |
|------------------|-------|
| Recordings       | 44.00 |
| Total Recording: | 44.00 |

\*\*\*\*\* DO NOT REMOVE, THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision hereof which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2012-00013559

Receipt Number: 357326

Recorded Date/Time: July 10, 2012 11:58:45A

Book-Vol/Pg: BK-OR VL-5148 PG-536

User / Station: G WHITE - Cashiering Station 1

Record and Return To:

CHAPIN TITLE CO., INC.

620 N. TRAVIS ST.

SHERMAN TX 75090



THE STATE OF TEXAS  
COUNTY OF GRAYSON  
I hereby certify that this instrument was FILED in the Public Records on the date and  
time printed herein, and was duly RECORDED in the Official Records of Grayson County, Texas.

*Wilma Blackshear Bush*

Wilma Blackshear Bush, Grayson County Clerk

237368

Bk Vol Ps  
00013559 OR 5148 537

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

General Warranty Deed

Date: June 29, 2012

Grantor: VALLEY BADER CONSTRUCTION, INC, MARILYN BADER AS INDEPENDENT ADMINISTRATRIX OF THE ESTATE OF WALTER HENRY BADER, JR., DECEASED; MARILYN BADER and JOHN BRADLEY BADER, AS HEIR OF WALTER HENRY BADER, JR., DECEASED

Grantor's Mailing Address:

401 Tolbert Ave.  
Sherman, TX 75092  
Grayson County

Grantee: MARIO TOBAR

Grantee's Mailing Address:

1308 Pintail Dr.  
Sherman, TX 75092  
Grayson County

Consideration:

TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

Property (including any improvements):

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF FOR ALL PURPOSES.

Reservations from Conveyance:

None

**Exceptions to Conveyance and Warranty:**

Validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing instruments, other than conveyances of the surface fee estate, that affect the Property; and taxes for 2012, which Grantee assumes and agrees to pay, and subsequent assessments for that and prior years due to change in land usage, ownership, or both, the payment of which Grantee assumes.

As a material part of the Consideration for this deed, Grantor and Grantee agree that Grantee is taking the property "AS IS" with any and all latent and patent defects and that there is no warranty by Grantor that the Property has a particular financial value or is fit for a particular purpose. Grantee acknowledges and stipulates that Grantee is not relying on any representation, statement, or other assertion with respect to the Property condition but is relying on Grantee's examination of the Property. Grantee takes the Property with the express understanding and stipulation that there are no express or implied warranties.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

Bk Vol Pg  
00013559 OR S148 539

When the context requires, singular nouns and pronouns include the plural.

WALLEY BADER CONSTRUCTION, INC.

BY: Marilyn Bader, President  
MARILYN BADER, PRESIDENT

Marilyn Bader  
MARILYN BADER AS INDEPENDENT  
ADMINISTRATRIX OF THE ESTATE OF  
WALTER HENRY BADER, JR., DECEASED

Marilyn Bader  
MARILYN BADER

JOHN BRADLEY BADER, AS HEIR OF WALTER  
HENRY BADER, JR., DECEASED

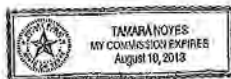
STATE OF TEXAS

COUNTY OF Grayson

Before me, a Notary Public, on this day personally  
appeared MARILYN BADER, known to me to be the person whose name is  
subscribed to the foregoing instrument and acknowledged to me that  
MARILYN BADER executed the same as the act of WALLEY BADER CONSTRUCTION,  
INC., as its PRESIDENT, for the purposes and consideration therein  
expressed.

Given under my hand and seal of office this 27<sup>th</sup> day of June,  
2012.

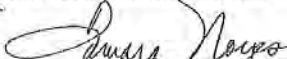
Tamara Noyes  
Notary Public, State of Texas  
My commission expires:



STATE OF TEXAS )

COUNTY OF Grayson )

This instrument was acknowledged before me on June 29, 2012, by MARTILYN BADER AS INDEPENDENT ADMINISTRATRIX OF THE ESTATE OF WALTER HENRY BADER, JR., DECEASED.

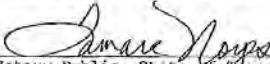
  
Notary Public, State of Texas  
My commission expires:



STATE OF TEXAS )

COUNTY OF Grayson )

This instrument was acknowledged before me on June 29, 2012, by MARILYN BADER.

  
Notary Public, State of Texas  
My commission expires:



STATE OF TEXAS )

COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on \_\_\_\_\_, 2012, by JOHN BRADLEY BADER, AS HEIR OF WALTER HENRY BADER, JR., DECEASED.

\_\_\_\_\_  
Notary Public, State of Texas  
My commission expires:

Bk Vol Ps  
00013559 DR 5148 541

When the context requires, singular nouns and pronouns include the plural.

WALLEY BADER CONSTRUCTION, INC.

BY: Marilyn Bader, President  
MARILYN BADER, PRESIDENT

Marilyn Bader  
MARILYN BADER AS INDEPENDENT  
ADMINISTRATRIX OF THE ESTATE OF  
WALTER HENRY BADER, JR., DECEASED

Marilyn Bader  
MARILYN BADER  
John Bradley Bader  
JOHN BRADLEY BADER, AS HEIR OF WALTER  
HENRY BADER, JR., DECEASED

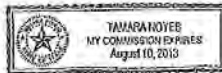
STATE OF TEXAS )

COUNTY OF Grayson )

Before me, a Notary Public, on this day personally  
appeared MARILYN BADER, known to me to be the person whose name is  
subscribed to the foregoing instrument and acknowledged to me that  
MARILYN BADER executed the same as the act of WALLEY BADER CONSTRUCTION,  
INC., as its PRESIDENT, for the purposes and consideration therein  
expressed.

Given under my hand and seal of office this 21<sup>st</sup> day of June,  
2012.

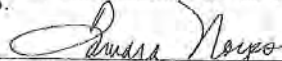
Tamara Noyes  
Notary Public, State of Texas  
My commission expires:



STATE OF TEXAS )

COUNTY OF Crayson )

This instrument was acknowledged before me on June 29, 2012, by MARILYN BADER AS INDEPENDENT ADMINISTRATRIX OF THE ESTATE OF WALTER HENRY BADER, JR., DECEASED.

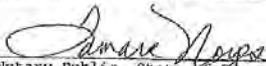
  
Notary Public, State of Texas  
My commission expires:



STATE OF TEXAS )

COUNTY OF Crayson )

This instrument was acknowledged before me on June 29, 2012, by MARILYN BADER.

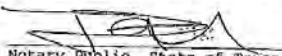
  
Notary Public, State of Texas  
My commission expires:



STATE OF TEXAS )

COUNTY OF Dallas )

This instrument was acknowledged before me on July 6, 2012, 2012, by JOHN BRADLEY BADER, AS HEIR OF WALTER HENRY BADER, JR., DECEASED.

  
Notary Public, State of Texas  
My commission expires:  
July 22, 2014



|          | Bk | Vol  | Pa  |
|----------|----|------|-----|
| 00013557 | QR | 5148 | 543 |

PREPARED IN THE OFFICE OF:

ADAMS, BENNETT & DUNCAN  
100 East Broadway  
Gainesville, Texas 76240

AFTER RECORDING RETURN TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**EXHIBIT "A"**

|          |      |      |
|----------|------|------|
| BOOK     | VOL  | PAGE |
| 00013559 | 5148 | 544  |

**METES & BOUNDS DESCRIPTION**

OF A 0.18 ACRE TRACT OF LAND OUT OF THE G.B. PILANT SURVEY, ABSTRACT NO. 963, COUNTY OF GRAYSON, STATE OF TEXAS, BEING THE CALLED 50 FT. X 125 FT. TRACT OF LAND DESCRIBED AS FIRST TRACT, AND THE CALLED 14 FT. X 125 FT. TRACT OF LAND DESCRIBED AS SECOND TRACT IN A DEED FROM N.F. CRANFILL ET AL TO W.R. CHILD ET UX RECORDED IN VOLUME 1216, PAGE 227, DEED RECORDS OF GRAYSON COUNTY, TEXAS, BEING THE SAME TRACT OF LAND AS CONVEYED FROM W.C. MORRIS TO WALLEY BADER CONSTRUCTION CO., INC. IN VOLUME 1760, PAGE 492 DEED RECORDS OF GRAYSON COUNTY, TEXAS, SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** at a found 3/8" iron rod in the northerly R.O.W. line of E. Cherry Street (a 40' Public R.O.W.) for the southeast corner of the herein described tract, the southwest corner of a tract of land conveyed to John Daniel Low and Chelsie Kristine Low in Vol. 4896, Pg. 786, Deed Records of Grayson County, Texas;

**THENCE** along and with said R.O.W., South 73°40'41" West, a distance of 64.00 feet (called South 74°00'00" West, a distance of 64.00 feet) to a set 1/2" iron rod for the southwest corner of the herein described tract, the southeast corner of a tract of land conveyed to Mack R. Broiles in Vol. 1385, Pg. 261, Deed Records of Grayson County, Texas;

**THENCE** along and with the common boundary of the herein described tract and said Broiles Tract, North 16°00'00" West, a distance of 125.69 feet (called North 16°00'00" West, a distance of 125.00 feet) to a set 1/2" iron rod for the northwest corner of the herein described tract, the northeast corner of said Broiles Tract, a point in the south boundary line of a tract of land conveyed to Community Baptist Church in Vol. 2734, Pg. 309, Deed Records of Grayson County, Texas;

**THENCE** along and with said boundary, North 74°00'00" East, a distance of 64.00 feet to a found 1/2" iron rod for the northeast corner of the herein described tract, a point in the south boundary line of a tract of land conveyed to Community Baptist Church in Vol. 4776, Pg. 100, Deed Records of Grayson County, Texas, the northwest corner of said Low Tract;

**THENCE** continuing along and with the common boundary line of said Low Tract and the herein described tract, South 16°00'00" East, a distance of 125.33 feet (called South 16°00'00" East, a distance of 125.00 feet) to the **POINT OF BEGINNING** and containing 0.18 acres, more or less.

00013559 DR 5148 545

Filed for Record in:  
Grayson County

On: Jul 10, 2012 at 11:58A

As a  
Recording

Document Number: 00013559

Amount: 44.00

Receipt Number: 357326

By:  
GAIL WHITE

STATE OF TEXAS COUNTY OF GRAYSON  
I hereby certify that this instrument was  
filed on the date and time stated hereon by me  
and was duly recorded in the volume and page  
of the record records of:  
Grayson County  
as stated hereon by me.

Jul 10, 2012

Milam Bush, Grayson County Clerk  
Grayson County

(VOL. 2734, PG. 309)

(VOL. 4776, PG. 100)

N 74°00'00" E 64.00'

FND.  
1/2"  
I.R.

### LEGEND

These standard symbols will be found in the drawing.

- BOUNDARY LINE
- - - - EASEMENT LINE
- - - - BUILDING SETBACK LINE
- FOUND IRON ROD
- SET IRON ROD
- DEED RECORDED ON DEED
- (F.M.) FIELD MEASURED

GA. FILANT,  
ABSTRACT NO. 945

VACANT LOT

CALLED 64' X 125' OF LAND

8032 SQ. FT.  
0.18 ACRES

MACK R. BROILES  
(VOL. 1385, PG. 261)

N 16°00'00" W 125.69' (F.M.)  
N 16°00'00" W 125.00' (DEED)

S 16°00'00" E 125.00' (DEED)  
S 16°00'00" E 125.33' (F.M.)

JOHN DANIEL LOW &  
CHELSIE KRISTINE LOW  
(VOL. 4896, PG. 786)

P.O.B.  
0.18 ACRES

FND.  
3/8"  
I.R.

FND.  
1/2"  
I.R.

S 74°00'00" W 64.00' (DEED)  
S 73°40'41" W 64.00' (F.M.)

131.98'

EDGE OF PYMT.

CURB

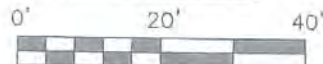
**E. CHERRY STREET**  
(40' R.O.W.)

**SURVEYOR'S NOTE:**  
BASIS OF BEARING, RECORDED  
DEED UNLESS OTHERWISE NOTED.

**FLOOD INSURANCE NOTE:** By graphics plotting only, this property is in ZONE X of the Flood Insurance Rate Map, Community Panel No. 48121C 0290 F, effective date of SEPTEMBER 29, 2010. Exact designations can only be determined by a Elevation Certificate. Based on the above information, this property IS NOT in a Special Flood Hazard Area.

The survey is hereby accepted with the discrepancies, conflicts, or shortages in area or boundary lines, encroachments, protrusions, or overlapping of improvements shown.

### GRAPHIC SCALE

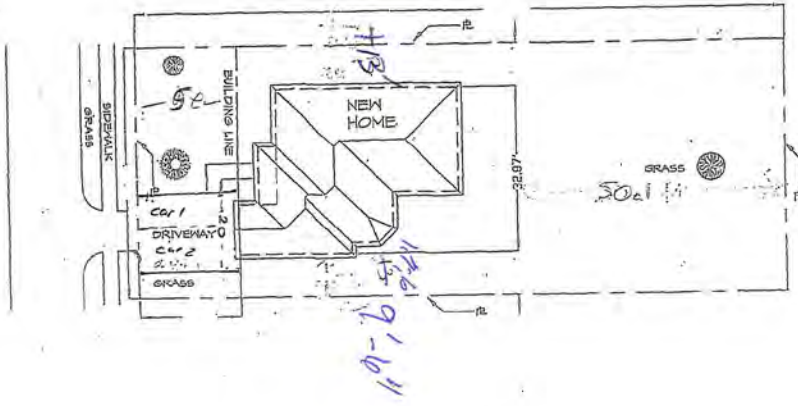


I, ROY JOHN RONNFELDT, a Registered Professional Land Surveyor in the State of Texas, do hereby certify to CHAPIN TITLE COMPANY and that the above map is true and correct according to an actual field survey, made by me on the ground or under my supervision, of the property shown hereon or described by field notes accompanying this drawing. I further certify that all easements and rights-of-way of which I have been advised are shown hereon and that, except as shown, there are no visible encroachments, no visible overlapping of improvements and no apparent discrepancies or conflicts in the boundary lines, and no visible physical evidence of easements or rights-of-way, as of the date of the field survey. I further certify that this survey meets or exceeds the minimum standards established by the State of Texas for professional land surveying. Borrower/Owner: MARIO TOBAR  
Address: E. CHERRY ST.  
**Legal Description of the Land:**  
All that certain tract or parcel of land SITUATED in the County of Grayson, State of Texas, containing 0.18 acres, more or less, bounded as follows:

### "BOUNDARY" SURVEY

|              |            |     |          |      |
|--------------|------------|-----|----------|------|
| JOB NO.:     | 1208010766 | NO. | REVISION | DATE |
| DATE:        | 06/28/12   |     |          |      |
| DRAWN BY:    | MN/SK      |     |          |      |
| APPROVED BY: |            |     |          |      |





SITE PLAN



**CITY OF SHERMAN**  
**RESIDENTIAL BUILDING PERMIT**

PERMIT #: 121752      SUBCONTRACTOR: ROBERTO DIAZ DECIGA      DATE ISSUED: 10/05/2012

PROJECT ADDRESS: 703 E CHERRY ST  
PARCEL ID:  
SUBDIVISION:

LOT #:  
BLK #:  
ZONE ORD:

ISSUED TO: ROBERTO DIAZ DECIGA  
ADDRESS: 428 CR #1330  
CITY, ST ZIP: MT PLEASANT TX 75455  
PHONE: 903-380-0811

CONTRACTOR: ROBERTO DIAZ DECIGA  
ADDRESS: 428 CR #1330  
CITY, ST ZIP: MT PLEASANT TX 75455  
PHONE: 903-380-0811

PROP. USE: SINGLE FAMILY RESIDENCE  
WORK: NEW RESIDENTIAL CONSTRUCTION  
VALUATION: \$ 75,000.00  
OCCP TYPE: SINGLE FAMILY RESIDENCE  
CNST TYPE: BRICK VENEER

SQ FT: 1,469.00  
BEDROOMS: 3  
BATHROOMS: 2  
STORIES: SINGLE

| FEE CODE     | DESCRIPTION                 | AMOUNT          |
|--------------|-----------------------------|-----------------|
| BLD10        | RESIDENTIAL STORMWATER MGMT | \$ 25.00        |
| <b>TOTAL</b> |                             | <b>\$ 25.00</b> |

NOTES:

**NOTICE**

THIS PERMIT BECOMES NULL AND VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 6 MONTHS, OR IF CONSTRUCTION OR WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 6 MONTHS AT ANY TIME AFTER WORK IS STARTED.

I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS DOCUMENT AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISION OF ANY OTHER STATE OR LOCAL LAW REGULATING CONSTRUCTION OR THE PERFORMANCE OF CONSTRUCTION.

(SIGNATURE OF CONTRACTOR OR AUTHORIZED AGENT)

10/05/12  
DATE

(APPROVED BY) FLOOD PLAIN ADMINISTRATOR

10/9/12  
DATE

(APPROVED BY) BUILDING & ZONING

10/12/12  
DATE

703 E. Cherry







703 E. Cherry

City of Sherman, Texas  
Developmental Services Department

*Sherman*  
CLASSIC TOWN. BROAD HORIZON.



1 inch = 52 feet



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. C.5

**\* RESOLUTION NO. 5723**

**Authorizing the Purchase of a Front Load Transfer Trailer for the  
Solid Waste Services Department from Wilkens Industries, Inc.  
through the Texas Local Government Purchasing Cooperative (BuyBoard)**

**Issue**

To consider approval of a resolution to purchase a front load transfer trailer from the Texas Local Government Purchasing Cooperative (BuyBoard) for use within the Solid Waste Services Department

**Background**

The purchase of the additional trailer will allow the repair of existing older trailers without affecting the transfer of materials to recycling facilities or the landfill.

The Texas Local Government Purchasing Cooperative was created to increase the purchasing power of government entities and to simplify their purchasing by using a customized electronic purchasing system called the BuyBoard.

**Origination**

Department of Public Works

**Financial Consideration**

The 2013 Wilkens Steel Front Load Ejector Transfer Trailer will be purchased from Wilkens Industries, Inc., through the Buyboard, at a total cost of \$84,331.56. Funding for this purchase was appropriated in the fiscal year 2012-2013 Solid Waste Services budget.

**Staff Recommendation**

It is recommended that staff be authorized to purchase the transfer trailer through the BuyBoard.

**Alternatives**

As may be recommended by the City Council

**Attachments**

Resolution No. 5723

BuyBoard Quote

BuyBoard Interlocal Participation Agreement

**Prepared by:**  
**Don Keene, Director of Public Works**

**Approved by:**  
**George Olson, City Manager**



**RESOLUTION NO. 5723**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE PURCHASE OF A FRONT LOAD TRANSFER TRAILER FOR THE SOLID WASTE SERVICES DEPARTMENT FROM WILKENS INDUSTRIES, INC. THROUGH THE TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE (BUYBOARD); FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:**

**SECTION 1.** That the City Manager be and is hereby authorized and directed to purchase from Wilkens Industries, Inc., through the Texas Local Government Purchasing Cooperative (BuyBoard), a front load transfer trailer at a total purchase price of Eighty-Four Thousand Three Hundred Thirty-One Dollars and Fifty-Six Cents (\$84,331.56), in accordance with the provisions of the BuyBoard proposal and the terms and conditions of the Interlocal Participation Agreement, both attached hereto and made a part hereof for all purposes. Any agreements related to the purchase must be approved by the City Attorney.

**SECTION 2.** That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

**PASSED AND APPROVED** on this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY OF SHERMAN, TEXAS**

**ATTEST:**

**BY:** \_\_\_\_\_  
**BILL MAGERS, MAYOR**

**BY:** \_\_\_\_\_  
**LINDA ASHBY, CITY CLERK**

**APPROVED AS TO FORM  
AND CONTENT:**

**BY:** \_\_\_\_\_  
**BRANDON S. SHELBY,  
CITY ATTORNEY**



Manufacturers of **LOAD RUNNER**  
and **X-SERIES** Solid Waste Transport Trailers

INDUSTRIES, INC.

R.R. 3, Box 169 Morris, MN 56267 (320) 589-1971  
1-800-833-6045  
FAX: (320) 589-1974

### BuyBoard

Refuse Bodies & Trailers/Dump Bodies 357-10 (Expires 09-31-13)

### Sales Quote

|                  |                  |         |                         |
|------------------|------------------|---------|-------------------------|
| Firm             | City of Sherman  | Date    | 10/26/12                |
| Address          |                  | PO #    |                         |
| City, State, Zip | Sherman, TX      | Fax #   | 903-813-1635            |
| Contact          | Michael Springer | Phone # | 903-892-7261            |
| Completion Date: | 90 - 120 days    | Terms   | Purchase order / net 10 |

| Qty. | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Price              |
|------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| 1    | <b>MODEL: 2013 WILKENS STEEL FRONT LOAD EJECTOR TRANSFER TRAILER (4075ELE)</b><br><b>CAPACITY: 75 CUBIC YARDS</b><br><b>OUTSIDE DIMENSIONS</b><br>A. LENGTH.....40'<br>B. HEIGHT.....12' 6"<br>C. WIDTH FRONT.....97"<br>D. WIDTH REAR.....97"<br><b>INSIDE DIMENSIONS</b><br>E. LENGTH.....39' 9"<br>F. HEIGHT FRONT.....104"<br>G. HEIGHT REAR.....104"<br>H. WIDTH FRONT.....90"<br>I. WIDTH REAR.....90"<br><b>TRAILER FEATURES</b><br>J. SIDEWALL.....50,000# M.Y. 3/16" STEEL FRONT HOPPER AREA, 10GA STEEL REMAINDER<br>K. SIDE POSTS.....12 GA. STEEL 90 DEGREE 15" OC, HORIZONTAL BRACE REAR (8) POST<br>L. ROOF.....SAME AS SIDE WALL WITH INTERLOCKING POSTS<br>M. BOTTOM RAIL.....7 GA. FORMED STEEL CHANNEL ACCEPTING CROSSMEMBERS<br>N. KING PIN TO AXLE.....35"<br>O. KING PIN SETTING.....36" WITH 3/8" STEEL T-1 PLATE<br>P. SUB-FRAME.....4" X 8" X 3/16" STEEL TUBE EXTENDED<br>Q. LANDING GEAR.....HOLLAND MARK V, SELF LEVELING SHOE<br>R. GEAR SUPPORT.....7GA<br>S. GEAR BRACES.....3" CHANNEL<br>T. SUSPENSION.....TANDEM SPRING, 50,000# CAPACITY, SET BACK<br>U. AXLES & BRAKES.....(2) 5" ROUND, 25,000# AXLES, 452M ABS WITH TOP MOUNT CHAMBERS<br>V. HUBS.....10 BOLT, OUTBOARD<br>W. RIMS.....(9) STEEL DISC<br>X. TIRES.....(9) 11R X 22.5, 14PLY, ONE TIRE & WHEEL SHIPPED LOOSE<br>Y. REAR DOOR.....SIDE SWING DOOR, MANUAL LATCHES<br>KING PIN SECTION.....FABRICATED FROM 1/2" T-1 PLATE<br>CROSSMEMBERS.....4" X 3.2# ON 12" CENTERS, STEEL I-BEAM<br>LIGHT SYSTEM.....TRUCK LIGHT 40 SERIES, LIGHTS IN DOOR<br>COVER.....ENCLOSED WITH HYDRAULIC FRONT LOADING DOOR 86" x 108" x 12 GA. STEEL<br>UNLOADING SYSTEM.....EJECTOR, SPEED RETURN VALVE, 8.5" 5-STAGE CYLINDER, 7 GA. STEEL<br>PUSH PLATE, MID-CYLINDER SUPPORT<br>FLOOR THICKNESS.....7 GA 50,000# MIN YIELD<br>MISC EQUIPMENT.....TEMA PRES-RETURN COUPLERS, 2-SPOOL HYDRAULIC VALVE TO OPERATE<br>TOP DOOR AND EJECTOR BLADE, AIR OVER HYDRAULIC WITH AIR COUPLERS.<br>METAL PREP.....EXTERIOR SANDBLASTED, EPOXY PRIMER<br>PAINT.....POLYURETHANE WHITE 4 MIL, PPG #91295<br>WEIGHT.....APPROX. 30,000# +/- 3% | \$61,748.00        |
| 1    | Top door front load ejector conversion, 3/16" hopper, 10 ga. remainder of sidewall, spare tire & rim                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | \$13,430.00        |
| 1    | Hydraulic lift rear gate, hydraulic lock. \$4,700.00 / Side walls front to back DOMEX 100,000 MY steel \$2,800.00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | \$ 7,500.00        |
|      | <b>TOTAL PRICE</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>\$82,678.00</b> |

|                                                 |      |           |                       |
|-------------------------------------------------|------|-----------|-----------------------|
| F.E.T. Federal Excise Tax                       |      | + \$      | N/A                   |
| F.E.T. Tire Credit-Quan                         | X \$ | Ea        | - \$ N/A              |
| MN State Tax (where applicable)                 |      | + \$      | N/A                   |
| Processing Fee & MN State Title, Licensing Fees |      | + \$      | N/A                   |
| Freight                                         |      | + \$      | Included              |
| Other                                           |      | + \$      | Buyboard Fee 1,653.56 |
| <b>Balance Due at delivery:</b>                 |      | <b>\$</b> | <b>84,331.56</b>      |

The purchaser agrees to accept the equipment listed and described above, on arrival, and to pay therefore the total Cash Price (less any pre-payments theretofore made) or, balance to be payable as follows:

The purchaser further agrees:

- That a service charge of 1-1/2% per month will be charged on all past due accounts with a \$1.00 minimum. This is an annual percentage rate of 18%.
- \*Special orders are non-cancelable and a minimum of 35% down payment is required on special designed trailer orders. That this document forms a legal and binding contract for both parties herein, undersigned. Any changes, additions, or deletions, must be in writing within 5 days form date accepted by Wilkins Industries, Inc.
- Any regular orders requested to be cancelled will be subject to 20% of the sale price; service charge, and/or the purchaser will forfeit their down payment whichever is greater. Any request to cancel an order shall be made in writing with a detailed explanation. Wilkins Industries, Inc. shall have the final approval of a request for cancellation.

|            |          |              |  |
|------------|----------|--------------|--|
| Signed By: |          | Accepted By: |  |
| Title:     | Sales    | Title:       |  |
| Date:      | 10/26/12 | Date:        |  |

RECEIVED JUL 15 2002

YOUR COPY

**INTERLOCAL PARTICIPATION AGREEMENT**  
**for the**  
**Texas Local Government Purchasing Cooperative**

RECEIVED JUL 15 2002

This Interlocal Participation Agreement ("Agreement") is made and entered into by and between the Texas Local Government Purchasing Cooperative ("Cooperative"), an administrative agency of cooperating local governments, acting on its own behalf and the behalf of all participating local governments, and the undersigned local government of the State of Texas ("Cooperative Member"). The purpose of this Agreement is to facilitate compliance with state bidding requirements, to identify qualified vendors of commodities, goods and services, to relieve the burdens of the governmental purchasing function, and to realize the various potential economies, including administrative cost savings, for Cooperative Members.

**WITNESSETH:**

**WHEREAS**, the Cooperative Members are authorized by Chapter 791, et seq., The Interlocal Cooperation Act of the Government Code ("the Act"), to agree with other local governments to form purchasing cooperatives; and

**WHEREAS**, the Cooperative is an administrative agency of local governments cooperating in the discharge of their governmental functions; and

**WHEREAS**, the Cooperative Member does hereby adopt the Organizational Interlocal Agreement, together with such amendments as may be made in the future, reflecting the evolving mission of the Cooperative and further agrees to become an additional party to that certain Organizational Interlocal Agreement promulgated on the 26th day of January, 1998.

**NOW, THEREFORE, BE IT RESOLVED** that the undersigned Cooperative Member in consideration of the agreement of the Cooperative and the Cooperative Members to provide services as detailed herein does agree to the following terms, conditions, and general provisions.

In return for the payment of the contributions and subject to all terms of this Agreement, the parties agree as follows:

**TERMS AND CONDITIONS**

1. **Adopt Organizational Interlocal Cooperation Agreement.** The Cooperative Member by the adoption and execution of this Agreement hereby adopts and approves the Organizational Interlocal Agreement dated January 26, 1998, together with such amendments as may be made in the future and further agrees to become a Cooperative Member.
2. **Term.** The initial term of this Agreement shall commence at 12:01 a.m. on the date executed and signed and shall automatically renew for successive one-year terms unless sooner terminated in accordance with the provisions of this Agreement. The terms, conditions, and general provisions set forth below shall apply to the initial term and all renewals.
3. **Termination.**
  - a. By the Cooperative Member. This Agreement may be terminated by the Cooperative Member at any time by thirty (30) days prior written notice to the Cooperative; provided all charges owed to the Cooperative and any vendor have been fully paid.
  - b. By the Cooperative. The Cooperative may terminate this Agreement by:
    1. Giving ten (10) days notice by certified mail to the Cooperative Member if the Cooperative Member fails or refuses to make the payments or contributions as herein provided; or
    2. Giving thirty (30) days notice by certified mail to the Cooperative Member.

- c. **Termination Procedure.** If the Cooperative Member terminates its participation during the term of this Agreement or breaches this Agreement, or if the Cooperative terminates participation of the Cooperative Member under any provision of this Article, the Cooperative Member shall bear the full financial responsibility for any purchases occurring after the termination date, and for any unpaid charges accrued during its term of membership in the Cooperative. The Cooperative may seek the whole amount due, if any, from the terminated Cooperative Member. The Cooperative Member will not be entitled to a refund of membership dues paid.
4. **Payments.**
- a. The Cooperative Member agrees to pay membership fees based on a plan developed by the Cooperative. Membership fees are payable by Cooperative Member upon receipt of an invoice from the Cooperative, Cooperative Contractor or vendor. A late charge amounting to the maximum interest allowed by law, but not less than the rate of interest under Section 2251.021, et seq., Texas Government Code, shall begin to accrue daily on the 31st day following the due date and continue to accrue until the contribution and late charges are paid in full. The Cooperative reserves the right to collect all funds that are due to the Cooperative in the event of termination by Cooperative Member or breach of this Agreement by Cooperative Member.
  - b. The Cooperative Member will make timely payments to the vendor for the goods, materials and services received in accordance with the terms and conditions of the Invitation to Bid and related procurement documents. Payment for goods, materials and services and inspections and acceptance of goods, materials and services ordered by the procuring party shall be the exclusive obligation of the procuring Cooperative Member.
5. **Cooperative Reporting.** The Cooperative will provide periodic activity reports to the Cooperative Member. These reports may be modified from time to time as deemed appropriate by the Cooperative.
6. **Administration.** Cooperative Member will use the BuyBoard purchasing application in accordance with instruction from the Cooperative; discontinue use upon termination of participation; maintain confidentiality and prevent unauthorized use; maintain equipment, software and testing to operate the system at its own expense; report all purchase orders generated to Cooperative or its designee in accordance with instructions of the Cooperative; and make a final accounting to Cooperative upon termination of membership.
7. **Amendments.** The Board may amend this agreement, provided that notice is sent to each participant at least 60 days prior to the effective date of any change described in such amendment which, in the opinion of the Board, will have a material effect on the Cooperative Members participation in the Cooperative.

#### GENERAL PROVISIONS

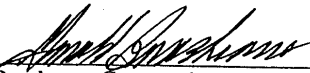
- 1. **Authorization to Participate.** Each Cooperative Member represents and warrants that its governing body has duly authorized its participation in the Cooperative.
- 2. **Bylaws.** The Cooperative Member agrees to abide by the Bylaws of the Cooperative, as they may be amended, and any and all reasonable policies and procedures established by the Cooperative.
- 3. **Compensation.** The parties agree that the payments under this Agreement and all related exhibits and documents are amounts that fairly compensate the Cooperative for the services or functions performed under the Agreement, and that the portion of gross sales paid by participating vendors enables the Cooperative to pay the necessary licensing fees, marketing costs, and related expenses required to operate a statewide system of electronic commerce for the local governments of Texas.
- 4. **Cooperation and Access.** The Cooperative Member agrees that it will cooperate in compliance with any reasonable requests for information and/or records made by the Cooperative. The Cooperative reserves the right to audit the relevant records of any Cooperative Member. Any breach of this Article shall be considered material and shall make the Agreement subject to termination on ten (10) days written notice to the Cooperative Member.

5. **Coordinator.** The Cooperative Member agrees to appoint a program coordinator who shall have express authority to represent and bind the Cooperative Member, and the Cooperative will not be required to contact any other individual regarding program matters. Any notice to or any agreements with the coordinator shall be binding upon the Cooperative Member. The Cooperative Member reserves the right to change the coordinator as needed by giving written notice to the Cooperative. Such notice is not effective until actually received by the Cooperative.
6. **Current Revenue.** The Cooperative Member hereby warrants that all payments, contributions, fees, and disbursements required of it hereunder shall be made from current revenues budgeted and available to the Cooperative Member.
7. **Defense and Prosecution of Claims.** The Cooperative Member authorizes the Cooperative to regulate the commencement, defense, intervention, or participation in a judicial, administrative, or other governmental proceeding or in an arbitration, mediation, or any other form of alternative dispute resolution, or other appearances of the Cooperative and/or any past or current Cooperative Member in any litigation, claim or dispute, and to engage counsel and appropriate experts, in the Cooperative's sole discretion, with respect to such litigation, claim or disputes. The Cooperative Member does hereby agree that any suit brought against the Cooperative or a Cooperative Member may be defended in the name of the Cooperative or the Member by the counsel selected by the Cooperative, in its sole discretion, or its designee, on behalf of and at the expense of the Cooperative as necessary for the prosecution or defense of any litigation. Full cooperation by the Cooperative Member shall be extended to supply any information needed or helpful in such prosecution or defense. Subject to specific revocation, the Cooperative Member hereby designates the Cooperative to act as a class representative on its behalf in matters arising out of this Agreement.
8. **Governance.** The Board of Trustees (Board) will govern the Cooperative in accordance with the Bylaws. Travis County, Texas will be the location for filing any dispute, claim or lawsuit.
9. **Limitations of Liability.** COOPERATIVE, ITS ENDORSERS (TEXAS ASSOCIATION OF SCHOOL BOARDS, TEXAS ASSOCIATION OF COUNTIES, AND TEXAS MUNICIPAL LEAGUE) AND SERVICING CONTRACTOR (TEXAS ASSOCIATION OF SCHOOL BOARDS) DO NOT WARRANT THAT THE OPERATION OR USE OF COOPERATIVE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. COOPERATIVE, ITS ENDORSERS AND SERVICING CONTRACTORS, HEREBY DISCLAIM ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, IN REGARD TO ANY INFORMATION, PRODUCT OR SERVICE FURNISHED UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE PARTIES AGREE THAT IN REGARD TO ANY AND ALL CAUSES OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER UNDER ANY CIRCUMSTANCES FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
10. **Merger.** This Interlocal Participation Agreement, Terms and Conditions, and General Provisions, together with the Bylaws, Organizational Interlocal Agreement, and Exhibits, represents the complete understanding of the Cooperative, and Cooperative Member electing to participate in the Cooperative.
11. **Notice.** Any written notice to the Cooperative shall be made by first class mail, postage prepaid, and delivered to the Associate Executive Director Financial Planning, Texas Association of School Boards, Inc., P.O. Box 400, Austin, Texas 78767-0400.
12. **Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and venue shall lie in Travis County, Texas.
13. **Warranty.** By the execution and delivery of this Agreement, the undersigned individuals warrant that they have been duly authorized by all requisite administrative action required to enter into and perform the terms of this Agreement.

IN WITNESS WHEREOF, the parties, acting through their duly authorized representatives, sign this Agreement as of the date indicated.

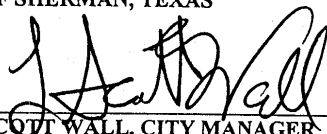
**TO BE COMPLETED BY THE COOPERATIVE:**

TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE, as acting on behalf of all other Cooperative Members

By:  Date: 7-15-02  
Gerald Brashears, Cooperative Administrator

**TO BE COMPLETED BY COOPERATIVE MEMBER:**

CITY OF SHERMAN, TEXAS

By:  Date: 5/28/2002  
L. SCOTT WALL, CITY MANAGER

Coordinator for the Cooperative Member is:

Name: MARYANN WINKLER  
Address: 405 N. RUSK STREET  
SHERMAN, TEXAS 75090  
Phone: (903) 892-7285  
Fax: (903) 891-0255  
Email: PURCH@TEXOMA.NET



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. C.6

### **RESOLUTION NO. 5724**

#### **Authorizing the Purchase of Four Chevrolet Tahoe Police Patrol Vehicles for the Sherman Police Department from Caldwell Country through the Texas Local Government Purchasing Cooperative (BuyBoard)**

#### **Issue**

Authorizing the purchase of four (4) Chevrolet Tahoe Police Package Vehicles from Caldwell Country via the Texas Local Government Purchasing Cooperative (BuyBoard) contract price (#358-10)

#### **Background**

The Sherman Police Department, as part of its program to maintain a serviceable emergency use ready fleet of patrol vehicles, has budgeted for the purchase of four (4) Chevrolet Tahoes in fiscal year 2012-2013. The budget for the purchase of these four (4) vehicles is \$103,924.00.

The Texas Local Government Purchasing Cooperative was created to increase the purchasing power of government entities and to simplify their purchasing by using a customized electronic purchasing system called the BuyBoard.

#### **Origination**

Sherman Police Department

#### **Financial Consideration**

The budgeted amount in fiscal year 2012-2013 for this purchase is \$25,856.00 per vehicle, a total of \$103,924.00 for all four (4) vehicles.

#### **Staff Recommendation**

It is recommended that the Council authorize the purchase of the four (4) Chevrolet Tahoes on BuyBoard contract #358-10.

#### **Alternatives**

There are no reasonable alternatives at this time.

#### **Attachments**

Resolution No. 5724, Contract Pricing Worksheet from Caldwell Country, BuyBoard Agreement

**Prepared by:**  
**Tom Watt, Police Chief**

**Approved by:**  
**George Olson, City Manager**

**RESOLUTION NO. 5724**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE PURCHASE OF FOUR CHEVROLET TAHOE POLICE PATROL VEHICLES FOR THE SHERMAN POLICE DEPARTMENT FROM CALDWELL COUNTRY THROUGH THE TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE (BUYBOARD); FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:**

**SECTION 1.** That the City Manager be and is hereby authorized and directed to purchase from Caldwell Country through the Texas Local Government Purchasing Cooperative (BuyBoard) four (4) 2013 Chevrolet Tahoe Police Package Vehicles at a total purchase price of One Hundred Three Thousand Nine Hundred Twenty-Four Dollars and No Cents (\$103,924.00), in accordance with the provisions of the BuyBoard proposal and the terms and conditions of the Interlocal Participation Agreement, both attached hereto and made a part hereof for all purposes. Any agreements related to the purchase must be approved by the City Attorney.

**SECTION 2.** That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

**PASSED AND APPROVED** on this the \_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY OF SHERMAN, TEXAS**

**ATTEST:**

**BY:** \_\_\_\_\_  
**LINDA ASHBY, CITY CLERK**

**BY:** \_\_\_\_\_  
**BILL MAGERS, MAYOR**

**APPROVED AS TO FORM  
AND CONTENT:**

**BY:** \_\_\_\_\_  
**BRANDON SHELBY,  
CITY ATTORNEY**



## CONTRACT PRICING WORKSHEET

[illegible]

|                                                            |  |                 |
|------------------------------------------------------------|--|-----------------|
| Subtotal C                                                 |  |                 |
| D Other Price Adjustments (Installation, Delivery, Etc...) |  |                 |
| Subtotal D FOB SHERMAN, TEXAS                              |  | INCL            |
| E Unit Cost Before Fee & Non-Equipment Charges (A+B+C+D)   |  | \$25,881        |
| Quantity Ordered                                           |  | 4               |
| X                                                          |  |                 |
| Subtotal E                                                 |  | \$103,524       |
| F Non-Equipment Charges (Trade-In, Warranty, Etc...)       |  |                 |
| BUY BOARD                                                  |  | \$400           |
| G. Color of Vehicle: BLACK EXTERIOR                        |  |                 |
| H. Total Purchase Price (E+F)                              |  | \$103,924       |
| Estimated Delivery Date:                                   |  | 60-90 DAYS APPX |

RECEIVED JUL 15 2002

YOUR COPY

**INTERLOCAL PARTICIPATION AGREEMENT**  
**for the**  
**Texas Local Government Purchasing Cooperative**

RECEIVED JUL 15 2002

This Interlocal Participation Agreement ("Agreement") is made and entered into by and between the Texas Local Government Purchasing Cooperative ("Cooperative"), an administrative agency of cooperating local governments, acting on its own behalf and the behalf of all participating local governments, and the undersigned local government of the State of Texas ("Cooperative Member"). The purpose of this Agreement is to facilitate compliance with state bidding requirements, to identify qualified vendors of commodities, goods and services, to relieve the burdens of the governmental purchasing function, and to realize the various potential economies, including administrative cost savings, for Cooperative Members.

**WITNESSETH:**

**WHEREAS**, the Cooperative Members are authorized by Chapter 791, et seq., The Interlocal Cooperation Act of the Government Code ("the Act"), to agree with other local governments to form purchasing cooperatives; and

**WHEREAS**, the Cooperative is an administrative agency of local governments cooperating in the discharge of their governmental functions; and

**WHEREAS**, the Cooperative Member does hereby adopt the Organizational Interlocal Agreement, together with such amendments as may be made in the future, reflecting the evolving mission of the Cooperative and further agrees to become an additional party to that certain Organizational Interlocal Agreement promulgated on the 26th day of January, 1998.

**NOW, THEREFORE, BE IT RESOLVED** that the undersigned Cooperative Member in consideration of the agreement of the Cooperative and the Cooperative Members to provide services as detailed herein does agree to the following terms, conditions, and general provisions.

In return for the payment of the contributions and subject to all terms of this Agreement, the parties agree as follows:

**TERMS AND CONDITIONS**

1. **Adopt Organizational Interlocal Cooperation Agreement.** The Cooperative Member by the adoption and execution of this Agreement hereby adopts and approves the Organizational Interlocal Agreement dated January 26, 1998, together with such amendments as may be made in the future and further agrees to become a Cooperative Member.
2. **Term.** The initial term of this Agreement shall commence at 12:01 a.m. on the date executed and signed and shall automatically renew for successive one-year terms unless sooner terminated in accordance with the provisions of this Agreement. The terms, conditions, and general provisions set forth below shall apply to the initial term and all renewals.
3. **Termination.**
  - a. By the Cooperative Member. This Agreement may be terminated by the Cooperative Member at any time by thirty (30) days prior written notice to the Cooperative; provided all charges owed to the Cooperative and any vendor have been fully paid.
  - b. By the Cooperative. The Cooperative may terminate this Agreement by:
    1. Giving ten (10) days notice by certified mail to the Cooperative Member if the Cooperative Member fails or refuses to make the payments or contributions as herein provided; or
    2. Giving thirty (30) days notice by certified mail to the Cooperative Member.

- c. **Termination Procedure.** If the Cooperative Member terminates its participation during the term of this Agreement or breaches this Agreement, or if the Cooperative terminates participation of the Cooperative Member under any provision of this Article, the Cooperative Member shall bear the full financial responsibility for any purchases occurring after the termination date, and for any unpaid charges accrued during its term of membership in the Cooperative. The Cooperative may seek the whole amount due, if any, from the terminated Cooperative Member. The Cooperative Member will not be entitled to a refund of membership dues paid.
4. **Payments.**
- a. The Cooperative Member agrees to pay membership fees based on a plan developed by the Cooperative. Membership fees are payable by Cooperative Member upon receipt of an invoice from the Cooperative, Cooperative Contractor or vendor. A late charge amounting to the maximum interest allowed by law, but not less than the rate of interest under Section 2251.021, et seq., Texas Government Code, shall begin to accrue daily on the 31st day following the due date and continue to accrue until the contribution and late charges are paid in full. The Cooperative reserves the right to collect all funds that are due to the Cooperative in the event of termination by Cooperative Member or breach of this Agreement by Cooperative Member.
  - b. The Cooperative Member will make timely payments to the vendor for the goods, materials and services received in accordance with the terms and conditions of the Invitation to Bid and related procurement documents. Payment for goods, materials and services and inspections and acceptance of goods, materials and services ordered by the procuring party shall be the exclusive obligation of the procuring Cooperative Member.
5. **Cooperative Reporting.** The Cooperative will provide periodic activity reports to the Cooperative Member. These reports may be modified from time to time as deemed appropriate by the Cooperative.
6. **Administration.** Cooperative Member will use the BuyBoard purchasing application in accordance with instruction from the Cooperative; discontinue use upon termination of participation; maintain confidentiality and prevent unauthorized use; maintain equipment, software and testing to operate the system at its own expense; report all purchase orders generated to Cooperative or its designee in accordance with instructions of the Cooperative; and make a final accounting to Cooperative upon termination of membership.
7. **Amendments.** The Board may amend this agreement, provided that notice is sent to each participant at least 60 days prior to the effective date of any change described in such amendment which, in the opinion of the Board, will have a material effect on the Cooperative Members participation in the Cooperative.

#### GENERAL PROVISIONS

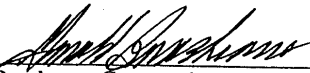
- 1. **Authorization to Participate.** Each Cooperative Member represents and warrants that its governing body has duly authorized its participation in the Cooperative.
- 2. **Bylaws.** The Cooperative Member agrees to abide by the Bylaws of the Cooperative, as they may be amended, and any and all reasonable policies and procedures established by the Cooperative.
- 3. **Compensation.** The parties agree that the payments under this Agreement and all related exhibits and documents are amounts that fairly compensate the Cooperative for the services or functions performed under the Agreement, and that the portion of gross sales paid by participating vendors enables the Cooperative to pay the necessary licensing fees, marketing costs, and related expenses required to operate a statewide system of electronic commerce for the local governments of Texas.
- 4. **Cooperation and Access.** The Cooperative Member agrees that it will cooperate in compliance with any reasonable requests for information and/or records made by the Cooperative. The Cooperative reserves the right to audit the relevant records of any Cooperative Member. Any breach of this Article shall be considered material and shall make the Agreement subject to termination on ten (10) days written notice to the Cooperative Member.

5. **Coordinator.** The Cooperative Member agrees to appoint a program coordinator who shall have express authority to represent and bind the Cooperative Member, and the Cooperative will not be required to contact any other individual regarding program matters. Any notice to or any agreements with the coordinator shall be binding upon the Cooperative Member. The Cooperative Member reserves the right to change the coordinator as needed by giving written notice to the Cooperative. Such notice is not effective until actually received by the Cooperative.
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7. **Defense and Prosecution of Claims.** The Cooperative Member authorizes the Cooperative to regulate the commencement, defense, intervention, or participation in a judicial, administrative, or other governmental proceeding or in an arbitration, mediation, or any other form of alternative dispute resolution, or other appearances of the Cooperative and/or any past or current Cooperative Member in any litigation, claim or dispute, and to engage counsel and appropriate experts, in the Cooperative's sole discretion, with respect to such litigation, claim or disputes. The Cooperative Member does hereby agree that any suit brought against the Cooperative or a Cooperative Member may be defended in the name of the Cooperative or the Member by the counsel selected by the Cooperative, in its sole discretion, or its designee, on behalf of and at the expense of the Cooperative as necessary for the prosecution or defense of any litigation. Full cooperation by the Cooperative Member shall be extended to supply any information needed or helpful in such prosecution or defense. Subject to specific revocation, the Cooperative Member hereby designates the Cooperative to act as a class representative on its behalf in matters arising out of this Agreement.
8. **Governance.** The Board of Trustees (Board) will govern the Cooperative in accordance with the Bylaws. Travis County, Texas will be the location for filing any dispute, claim or lawsuit.
9. **Limitations of Liability.** COOPERATIVE, ITS ENDORSERS (TEXAS ASSOCIATION OF SCHOOL BOARDS, TEXAS ASSOCIATION OF COUNTIES, AND TEXAS MUNICIPAL LEAGUE) AND SERVICING CONTRACTOR (TEXAS ASSOCIATION OF SCHOOL BOARDS) DO NOT WARRANT THAT THE OPERATION OR USE OF COOPERATIVE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. COOPERATIVE, ITS ENDORSERS AND SERVICING CONTRACTORS, HEREBY DISCLAIM ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, IN REGARD TO ANY INFORMATION, PRODUCT OR SERVICE FURNISHED UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE PARTIES AGREE THAT IN REGARD TO ANY AND ALL CAUSES OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER UNDER ANY CIRCUMSTANCES FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
10. **Merger.** This Interlocal Participation Agreement, Terms and Conditions, and General Provisions, together with the Bylaws, Organizational Interlocal Agreement, and Exhibits, represents the complete understanding of the Cooperative, and Cooperative Member electing to participate in the Cooperative.
11. **Notice.** Any written notice to the Cooperative shall be made by first class mail, postage prepaid, and delivered to the Associate Executive Director Financial Planning, Texas Association of School Boards, Inc., P.O. Box 400, Austin, Texas 78767-0400.
12. **Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and venue shall lie in Travis County, Texas.
13. **Warranty.** By the execution and delivery of this Agreement, the undersigned individuals warrant that they have been duly authorized by all requisite administrative action required to enter into and perform the terms of this Agreement.

IN WITNESS WHEREOF, the parties, acting through their duly authorized representatives, sign this Agreement as of the date indicated.

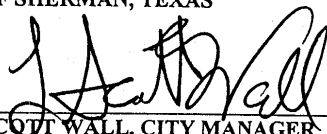
**TO BE COMPLETED BY THE COOPERATIVE:**

TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE, as acting on behalf of all other Cooperative Members

By:  Date: 7-15-02  
Gerald Brashears, Cooperative Administrator

**TO BE COMPLETED BY COOPERATIVE MEMBER:**

CITY OF SHERMAN, TEXAS

By:  Date: 5/28/2002  
L. SCOTT WALL, CITY MANAGER

Coordinator for the Cooperative Member is:

Name: MARYANN WINKLER  
Address: 405 N. RUSK STREET  
SHERMAN, TEXAS 75090  
Phone: (903) 892-7285  
Fax: (903) 891-0255  
Email: PURCH@TEXOMA.NET



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. D.1

**\* REQUEST TO ADVERTISE**

**Repairs to Shepherd Drive 1 Woodbine Water Well**

**Issue**

Consider a request to advertise for a bid to repair the Shepherd Drive 1 Woodbine Water Well.

**Background**

The pump on the Shepherd Drive 1 Woodbine Water Well is failing and needs to be pulled and inspected. The pump will be repaired or replaced as required.

**Origination**

Department of Utilities Administration

**Financial Consideration**

Funds for the well repair are available in the Water Production budget. Costs for advertising are expected to be less than \$200.00.

**Staff Recommendation**

It is recommended that the City Council approve this request to advertise for a bid to repair this well.

**Alternatives**

As may be directed by the City Council

**Attachments**

None

**Prepared by:**  
**Mark Gibson, Director of Utilities & Engineering**

**Approved by:**  
**George Olson, City Manager**



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. D.2

### **OTHER BUSINESS**

**Consider Request of St. Mary's Catholic School to Temporarily Close Certain Streets  
for the 2<sup>nd</sup> Annual "Run Run Rudolph 5K and Family Fun Run/Walk"  
on Saturday, December 8, 2012**

#### **Issue**

St. Mary's Catholic School is planning to hold the 2<sup>nd</sup> Annual "Run Run Rudolph 5K and Family Fun Run/Walk" on Saturday, December 8<sup>th</sup> as part of their fundraising campaign and is requesting the City of Sherman's assistance with traffic control along the route.

#### **Background**

Last year's event was a success for the school. The event helps raise funds to offset tuition costs so that all children may have the option of a Christian education. The event will begin at 8:45 a.m. and will follow the route outlined on the attached map. The event will require from the City of Sherman barricade placement and removal as well as police officers to maintain safety at certain points along the route.

#### **Origination**

Donnette Diehl, St. Mary's Run Run Rudolph 5K Chair 2012

#### **Financial Consideration**

Barricade placement and removal and police support will be provided by the City.

#### **Staff Recommendation**

It is recommended that the City Council approve this request and authorize the necessary assistance to accommodate the event.

#### **Alternatives**

As directed by the Council.

#### **Attachments**

Written request received August 27, 2012

Map of proposed route

**Prepared by:**  
**Don Keene, Director of Public Works**

**Approved by:**  
**George Olson, City Manager**





August 27, 2012

George Olsen  
City of Sherman  
220 West Mulberry Street  
Sherman, TX 75090-5832

Dear Mr. Olsen,

St. Mary's Catholic School is planning for our 2<sup>nd</sup> Annual Run Run Rudolph 5K and Family Fun Run/Walk. Last year was a huge success with approximately 250 participants. We hold events such as these to help offset tuition costs so that all children may have the option of a Christian Education.

We are expecting at least 250 runners to participate again this year and respectfully request traffic support as well as cones to be placed along the 5K route. We will begin the race at 8:45 a.m. on December 8, 2012. If we are unable to hold the race on this day due to unforeseen weather conditions, we will postpone the race until we can find another suitable day. Our route will begin and end at 713 South Travis at the St. Mary's Catholic School parking lot. Please see the attached route.

I sincerely appreciate your consideration of this event. If you have any questions, please feel free to contact me at (903)436-5502.

Sincerely,

Donnette Diehl  
Run Run Rudolph 5K Chair 2012  
ddiehl@stmarys-sch.org





# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. D.3

### **OTHER BUSINESS**

#### **Consider Request of the Sherman Chamber of Commerce to Temporarily Close Certain Streets for the Annual Sherman Christmas Parade on Friday, December 7, 2012**

#### **Issue**

To close certain streets in the downtown area for the annual Sherman Christmas Parade on Friday, December 7, 2012

#### **Background**

The Sherman Chamber of Commerce has requested that participants be allowed to line up for the parade behind the Sherman Public Library at Walnut and Mulberry Streets, as they have done in the past. In addition, it has been requested that Walnut and Montgomery Streets be barricaded at various intersections beginning at 5:30 p.m., where the floats will be lined up and judged by 6:30 p.m., with the parade beginning as close to 7:00 p.m. as possible. A copy of this requested barricading, as well as the proposed parade route, is attached.

The Snowflake Festival will begin at 3:00 p.m. on the day of the Christmas Parade. To accommodate the event, its vendors and a reviewing stand, the Chamber is requesting that the parking spaces be blocked on the north and east sides of the Grayson County Courthouse (Houston and Travis Streets).

The event will require traffic control assistance and barricades from the City of Sherman.

#### **Origination**

Eddie Brown, President, Sherman Chamber of Commerce

#### **Financial Consideration**

Labor and equipment to provide traffic control assistance and implement barricade placement and removal.

#### **Staff Recommendation**

It is recommended that the City Council approve this request and authorize the necessary traffic control support to accommodate the event.

#### **Alternatives**

As directed by the Council

#### **Attachments**

Request Letter and Christmas Parade Map

**Prepared by:**  
**Don Keene, Director of Public Works**

**Approved by:**  
**George Olson, City Manager**

Eddie Brown, President  
Lauren Roth, Events Coordinator  
307 W. Washington Street  
Sherman, Texas 75090  
October 26, 2012

Dear Sherman City Council:

The Sherman Christmas Parade is scheduled for Friday, December 7<sup>th</sup> with a rain/make up date for Friday, December 14<sup>th</sup>. Snowflake Festival will be a one day festival taking place on the same day.

Snowflake Festival vendors are scheduled to set up as early as noon and will begin selling around 3pm. The parade will begin at 7pm.

We are looking to have parade line up on Mulberry, Pecan and Wall Streets between Walnut and Montgomery as well as line up on Walnut and Montgomery between Mulberry and Houston Streets.

The Parade will begin by going west on Mulberry and turning south onto Travis. The Parade will continue south until turning west on Lamar and north on Crockett. The parade will conclude on the corner of Mulberry and Crockett where floats can exit either north or west.

The barricades we need for this route would be as follows:

Lamar, Laurel, Pecan and Mulberry west of Crockett  
Houston and Wall east of Travis  
Pecan and Mulberry east of Travis  
Pecan and Mulberry east of Montgomery  
Crockett, Travis and Walnut north of Mulberry  
Crockett and Travis south of Lamar  
Walnut on Houston and Lamar

The Snowflake vendors will be set up around the Courthouse Square and the Master of Ceremonies and Judges stage will be set up across from Kelly Square on the Courthouse Square.

Sincerely,

Eddie Brown, President

Lauren Roth, Events Coordinator

[illegible]

\*\*\*\* Drawing is not to scale.



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. D.4

### **\* OTHER BUSINESS**

#### **Approval of the 2012 Ad Valorem Tax Roll Value and Tax Levy**

#### **Issue**

To consider approval of the Ad Valorem Tax Roll Value and Tax Levy for fiscal year 2012-2013

#### **Background**

In accordance with Texas Property Tax Code Section 26.09(e), the Council must approve the final tax roll value and related tax levy. The 2012 tax year represents taxes that will be collected during the City's 2012-2013 fiscal year. The Grayson County Tax Assessor/Collector's office has provided the taxable value as \$2,285,921.264.00, which equates to a levy of \$7,285,017.63 based on the City's total tax rate of \$.32000/\$100.00 valuation.

#### **Origination**

Finance

#### **Financial Consideration**

There is no financial consideration to approving this tax levy.

#### **Staff Recommendation**

It is recommended that the Council approve the 2012 Tax Roll Value and 2012 Tax Levy at the amounts reflected above.

#### **Alternatives**

As this process is required by the Texas Property Tax Code, there are no alternatives.

#### **Attachments**

Letter of Value/Levy from Grayson County Tax Assessor/Collector dated October 17, 2012

**Prepared by:**  
**Robby Hefton, Assistant City Manager/CFO**

**Approved by:**  
**George Olson, City Manager**





OFFICE OF

**JOHN W. RAMSEY**

ASSESSOR AND COLLECTOR OF TAXES

GRAYSON COUNTY  
www.co.grayson.tx.us

COURTHOUSE  
100 W. HOUSTON • SUITE 11  
P.O. BOX 2107  
SHERMAN, TEXAS 75091-2107

(903) 892-TAXS (8297)  
(903) 893-VOTE (8683)  
(903) 813-4225 (AUTO)  
Fax: (903) 893-4973  
e-mail: ramseyj@co.grayson.tx.us

October 17, 2012

**VALUE/LEVY**

Mr. Robby Hefton,  
Chief Financial Officer  
City of Sherman  
P O Box 1106  
Sherman, Texas 75091

Dear Mr. Hefton:

**Re: Section 26.09(e) SPTC**

Please have your district approve your 2012 Tax Roll Values. Please sign as directed. Make a copy for your files and return the signed original to me as soon as possible. These figures are actual tax roll value and tax levy billed figures.

|                              |                  |
|------------------------------|------------------|
| 2012 Tax Roll Value          | \$ 2,285,921,264 |
| 2012 Tax Levy                | \$ 7,285,017.63  |
| 2012 Special Assessment Levy | \$ 5,341.53      |

If you have any questions, please contact me.

Very truly yours,

John Ramsey  
Assessor and Collector of Taxes

JR:kb

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
City Mayor



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. D.5

### **\* OTHER BUSINESS**

#### **Approve Quarterly Investment Reports for Period Ending September 30, 2012**

#### **Issue**

To approve the Investment Reports for the quarterly period ending September 30, 2012

#### **Background**

These reports are being presented in accordance with the state law that requires at least quarterly presentation to the Council. The report was given to the Investment Committee prior to submittal to the Council. Two portfolios will be addressed: Operating Portfolio and Debt Proceeds Portfolio.

As of September 30, 2012, both portfolios were in compliance with applicable state laws and the Investment Policy. The Operating Portfolio had a book value of about \$20.6 million. This portfolio is appropriately liquid; and its weighted-average maturity increased to about 308 days, down from 336 days last period, because of investment purchases during the quarter. The portfolio yield of 0.39% for the quarter is higher than the benchmark yield of 0.14%. The portfolio value on the City's books is essentially equal to the market value of the overall portfolio.

The Debt Proceeds Portfolio balance of about \$60,000 decreased about \$269,000. The portfolio remains adequately liquid, with all of the funds available within one day. Its yield of 0.14% for the quarter was the same as the benchmark yield. The portfolio value on the City's books is equal to the market value of the overall portfolio.

#### **Origination**

Finance

#### **Financial Consideration**

None

#### **Staff Recommendation**

It is recommended that the Council accept the report as presented.

#### **Alternatives**

The Council could offer suggestions for improvement or could request more frequent reporting.

#### **Attachments**

Memo to Investment Committee; Investment reports and related schedules

**Prepared by:**  
**Robby Hefton, Assistant City Manager/CFO**

**Approved by:**  
**George Olson, City Manager**





## memorandum

**DATE:** Wednesday, October 31, 2012

**TO:** The Investment Committee Members:  
Deputy Mayor Willie Steele  
Councilman Robert G. Softly  
George Olson, City Manager

**FROM:** Robby Hefton, Assistant City Manager/CFO 

**SUBJECT:** Investment Reports for Quarter Ended September 30, 2012

Enclosed is a copy of the quarterly investment reports for the quarter ended September 30, 2012. Reports are included for the two major portfolios - the operating portfolio and the CO Debt portfolio. As of that date, the City was in compliance with all applicable state laws and internal policies for both portfolios.

The total operating portfolio balance of about \$20.6 million decreased during the quarter as expected, and had a weighted-average maturity of about 308 days, down from 336 days last quarter because of maturing securities during the quarter. The portfolio yield of 0.39% was higher than our benchmark 180-day T-Bill yield, which was 0.14%; and book value closely approximated market value. Portfolio balances decline during this period each year because of slowing property tax collections.

Also, as of September 30, 2012, all of the CO Debt Proceeds was invested in pooled investments and bank demand deposits, together yielding 0.14%, equaling the yield of the benchmark 180-day T-Bill rate. The Debt Proceeds portfolio balance decreased by about \$269,000 during the quarter because of payments on construction projects and transfers out to apply residual funds to the outstanding debt.

This investment report will be on the November 5, 2012 City Council Agenda for their review and approval. Please call me if you have any questions about this item.

RH:pc  
attachments (as stated above)

**CITY OF SHERMAN, TX**  
**Investment Report Summary**  
**September 30, 2012**

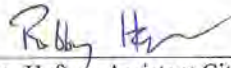
This report complies with the requirements of the public funds investment law and covers all the funds of the City of Sherman that are subject to that law. At September 30, 2012 investment book value was about \$20.6 million and had decreased as expected by approximately \$2.0 million from three months prior. The City's investment portfolio includes interest-bearing demand deposits, bank time deposits at our depository bank, a State of Texas Obligation, CDARS certificates of deposit, investment pools that strive to maintain a 100% net asset value, a U.S. Treasury Note and U.S. Agency securities.

The City was in compliance with all provisions of the investment policy and the Public Funds Investment Act as of September 30, 2012. The weighted-average maturity of the portfolio decreased to about 308 days at September 30, 2012 compared to about 336 days at June 30, 2012 due to investment maturities.

The market value of the portfolio was 100.13% of book value as of September 30, 2012. The portfolio yield of 0.39% at September 30, 2012 was higher than the benchmark yield on the 180-day T-Bill, which was 0.14%.

Two securities matured during the quarter with a par value of about \$2.0 million. Accrued interest of about \$5,000 was added to CD principal. All other transactions were routine.

The following schedules are also a part of this investment report.



Robby Hefton, Assistant City Manager/CFO  
and City of Sherman Investment Officer



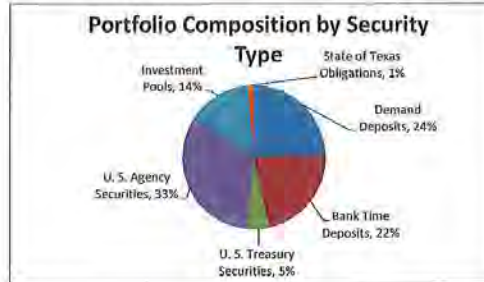
Mary Lawrence, Controller and City of  
Sherman Investment Officer

CITY OF SHERMAN, TX  
Detailed Investment Report  
As of September 30, 2012

| Investment                              | Par       | VALUES - JUNE 30, 2012 |              | Book Increase/(Decrease)    |                            | Market Increase/(Decrease)   |                           | VALUES - SEPTEMBER 30, 2012 |              |
|-----------------------------------------|-----------|------------------------|--------------|-----------------------------|----------------------------|------------------------------|---------------------------|-----------------------------|--------------|
|                                         |           | Book                   | Market       | Purchases/<br>(Withdrawals) | Accruals/<br>Amortizations | Purchases &<br>(Withdrawals) | Change In<br>Market Price | Book                        | Market       |
| DEMAND DEPOSITS                         |           |                        |              |                             |                            |                              |                           |                             |              |
| Depository Bank                         |           | \$ 3,995,095           | \$ 3,995,095 | \$ 292,660                  | \$ -                       | \$ 292,660                   | \$ -                      | \$ 4,287,955                | \$ 4,287,955 |
| Depository Bank-TIF Funds               |           | 1,042,312              | 1,042,312    | (299,535)                   | -                          | (299,535)                    | -                         | 742,776                     | 742,776      |
|                                         |           | 5,037,407              | 5,037,407    | (8,575)                     | -                          | (8,575)                      | -                         | 5,030,731                   | 5,030,731    |
| BANK TIME DEPOSITS                      |           |                        |              |                             |                            |                              |                           |                             |              |
| Certificate of Deposit 1.00% 9/16/2012  |           | 1,017,626              | 1,017,626    | (1,017,626)                 | -                          | (1,017,626)                  | -                         | -                           | -            |
| Certificate of Deposit 0.70% 7/11/2013  |           | 1,508,462              | 1,508,462    | 2,654                       | -                          | 2,654                        | -                         | 1,511,116                   | 1,511,116    |
| Certificate of Deposit 0.40% 12/08/2013 |           | 1,002,260              | 1,002,260    | 1,011                       | -                          | 1,011                        | -                         | 1,003,271                   | 1,003,271    |
| Certificate of Deposit 0.25% 5/9/2013   |           | 1,000,000              | 1,000,000    | 630                         | -                          | 630                          | -                         | 1,000,630                   | 1,000,630    |
| Certificate of Deposit 0.45% 4/3/14     |           | 1,001,073              | 1,001,073    | 1,135                       | -                          | 1,135                        | -                         | 1,002,209                   | 1,002,209    |
|                                         |           | 5,529,421              | 5,529,421    | (1,012,195)                 | -                          | (1,012,195)                  | -                         | 4,517,227                   | 4,517,227    |
| INVESTMENT POOLS                        |           |                        |              |                             |                            |                              |                           |                             |              |
| Tex-Pool                                |           | 1,556,041              | 1,556,072    | -                           | 545                        | -                            | 525                       | 1,556,589                   | 1,556,698    |
| TexStar                                 |           | 1,380,644              | 1,380,784    | -                           | 494                        | -                            | 535                       | 1,381,137                   | 1,381,319    |
|                                         |           | 2,936,684              | 2,936,856    | -                           | 1,042                      | -                            | 1,161                     | 2,937,726                   | 2,938,018    |
| SECURITY INVESTMENTS                    |           |                        |              |                             |                            |                              |                           |                             |              |
| FHLMC 1.13% 7/27/2012                   | 1,000,000 | 1,000,424              | 1,000,646    | (1,000,000)                 | (424)                      | (1,000,000)                  | (545)                     | -                           | -            |
| FNMA .75% 12/28/2012                    | 1,000,000 | 999,389                | 1,002,343    | -                           | 311                        | -                            | (1,218)                   | 999,699                     | 1,001,425    |
| FHLS 2.63% 9/13/2013                    | 400,000   | 409,557                | 411,110      | -                           | (1,598)                    | -                            | (1,528)                   | 407,558                     | 409,182      |
| FNMA 1.13% 9/30/2013                    | 1,000,000 | 1,006,540              | 1,010,233    | -                           | (1,317)                    | -                            | (1,125)                   | 1,005,224                   | 1,009,105    |
| FHLMC .65% 1/6/14                       | 1,000,000 | 1,000,000              | 1,000,934    | -                           | -                          | -                            | (115)                     | 1,000,000                   | 1,000,816    |
| FHLMC 4.60% 4/2/14                      | 1,250,000 | 1,342,955              | 1,340,975    | -                           | (13,343)                   | -                            | (10,658)                  | 1,329,622                   | 1,330,121    |
| AUS 0.711% 9/1/2014                     | 285,000   | 300,148                | 300,792      | -                           | (1,757)                    | -                            | (1,511)                   | 298,380                     | 299,281      |
| FNMA .375% 3/16/15                      | 1,000,000 | 994,024                | 997,082      | -                           | 555                        | -                            | 3,118                     | 994,579                     | 1,000,200    |
| US Treasury 1.875% 6/30/15              | 1,000,000 | 1,040,182              | 1,042,656    | -                           | (3,375)                    | -                            | 469                       | 1,036,806                   | 1,043,125    |
| FHLMC 0.65% 8/28/2015                   | 1,000,000 | 1,000,000              | 1,002,636    | -                           | -                          | -                            | 2,597                     | 1,000,000                   | 1,005,333    |
|                                         |           | 9,093,228              | 9,109,714    | (1,000,000)                 | (21,348)                   | (1,000,000)                  | (11,128)                  | 8,071,880                   | 8,098,688    |
|                                         |           | 22,596,740             | 22,613,398   | (2,018,870)                 | (20,308)                   | (\$2,018,870)                | (9,964)                   | 20,557,565                  | 20,584,564   |

**CITY OF SHERMAN, TX**  
**Comparison of Portfolio to Policy Limits**  
**As of September 30, 2012**

| <u>LIMITS ON TYPES OF SECURITIES</u> | <u>Target Investment Level</u> | <u>Portfolio Cap</u> | <u>Actual Percentage of Portfolio</u> | <u>% Variance Policy Limits</u> |
|--------------------------------------|--------------------------------|----------------------|---------------------------------------|---------------------------------|
| Demand Deposits                      | 100%                           | 100%                 | 24.47%                                | 75.63%                          |
| Bank Time Deposits                   | 25%                            | 30%                  | 21.97%                                | 8.63%                           |
| U. S. Treasury Securities            | 80%                            | 85%                  | 5.04%                                 | 79.96%                          |
| U. S. Agency Securities              | 45%                            | 50%                  | 32.77%                                | 17.23%                          |
| Investment Pools                     | 45%                            | 50%                  | 14.26%                                | 35.71%                          |
| State of Texas Obligations           | 45%                            | 50%                  | 1.45%                                 | 48.65%                          |



| <u>LIMITS ON MATURITIES</u> | <u>Minimum Allowable Percentage of Portfolio</u> | <u>Actual Percentage of Portfolio</u> | <u>% Variance Policy Limits</u> |
|-----------------------------|--------------------------------------------------|---------------------------------------|---------------------------------|
| Available within 1 month    | 25%                                              | 38.76%                                | 13.76%                          |
| Available within 3 months   | 33%                                              | 43.62%                                | 10.62%                          |
| Available within 6 months   | 45%                                              | 48.49%                                | 3.49%                           |
| Available within 1 year     | 60%                                              | 67.58%                                | 7.58%                           |
| Available within 2 years    | 70%                                              | 80.37%                                | 10.37%                          |
| Available within 3 years    | 80%                                              | 99.99%                                | 19.99%                          |
| Available within 4 years    | 90%                                              | 100.00%                               | 10.00%                          |
| Available within 5 years    | 100%                                             | 100.00%                               | 0.00%                           |

|                                   | <u>Maximum Allowable</u> | <u>Actual Average Maturity</u> | <u>Policy Limit Days Available</u> |
|-----------------------------------|--------------------------|--------------------------------|------------------------------------|
| Weighted Average Days to Maturity | 500                      | 307.36                         | 192.64                             |



# CITY OF SHERMAN, TX

## Calculation of Weighted Average Maturity and Yield

As of September 30, 2012

|                                        | S&P<br>Rating | Market<br>Value            | Book Value                 | # of Days<br>To Maturity | Original<br>Yield to<br>Maturity | Percent<br>of<br>Portfolio |
|----------------------------------------|---------------|----------------------------|----------------------------|--------------------------|----------------------------------|----------------------------|
| <b>Demand Deposits</b>                 |               |                            |                            |                          |                                  |                            |
| Depository Bank                        |               | \$4,287,955                | \$ 4,287,955               | 0                        | 0.15%                            | 20.86%                     |
| Depository Bank -TIF Funds             |               | <u>742,776</u>             | <u>742,776</u>             | 0                        | 0.15%                            | <u>3.61%</u>               |
|                                        |               | 5,030,731                  | 5,030,731                  |                          |                                  | 24.47%                     |
| <b>Bank Time Deposits</b>              |               |                            |                            |                          |                                  |                            |
| Certificate of Deposit 0.25% 5/9/2013  |               | 1,000,630                  | 1,000,630                  | 221                      | 0.25%                            | 4.87%                      |
| Certificate of Deposit 0.70% 8/11/2013 |               | 1,511,116                  | 1,511,116                  | 315                      | 0.70%                            | 7.35%                      |
| Certificate of Deposit 0.40% 12/8/2013 |               | 1,003,271                  | 1,003,271                  | 434                      | 0.40%                            | 4.88%                      |
| Certificate of Deposit 0.45% 4/03/2014 |               | <u>1,002,209</u>           | <u>1,002,209</u>           | 550                      | 0.45%                            | <u>4.88%</u>               |
|                                        |               | 4,517,227                  | 4,517,227                  |                          |                                  | 21.97%                     |
| <b>Investment Pools</b>                |               |                            |                            |                          |                                  |                            |
| Tex-Pool                               | AAAm          | 1,556,698                  | 1,556,589                  | 1                        | 0.14%                            | 7.57%                      |
| TexStar                                | AAAm          | <u>1,381,319</u>           | <u>1,381,137</u>           | 1                        | 0.14%                            | <u>6.72%</u>               |
|                                        |               | 2,938,018                  | 2,937,726                  |                          |                                  | 14.29%                     |
| <b>Federal Securities and Notes</b>    |               |                            |                            |                          |                                  |                            |
| FHLMC .75% 12/28/2012                  | AAA           | 1,001,425                  | 999,699                    | 89                       | 0.88%                            | 4.86%                      |
| FHLMC.55% 1/9/13                       | AAA           | 1,000,816                  | 1,000,000                  | 101                      | 0.55%                            | 4.86%                      |
| FHLB 2.63% 9/13/2013                   | AAA           | 409,182                    | 407,558                    | 348                      | 0.61%                            | 1.98%                      |
| FNMA 1.13% 9/30/2013                   | AAA           | 1,009,105                  | 1,005,224                  | 365                      | 0.60%                            | 4.89%                      |
| FHLMC4.60% 4/2/14                      | AAA           | 1,330,121                  | 1,329,622                  | 549                      | 0.36%                            | 6.47%                      |
| AUS 0.71% 9/01/2014                    | AAA           | 299,281                    | 298,390                    | 701                      | 0.71%                            | 1.45%                      |
| FNMA .375% 3/16/15                     | AAA           | 1,000,200                  | 994,579                    | 897                      | 0.60%                            | 4.84%                      |
| US TREA 1.875% 6/30/15                 | AAA           | 1,043,125                  | 1,036,806                  | 1,003                    | 0.52%                            | 5.04%                      |
| FHLMC 0.65% 8/28/15                    | AAA           | <u>1,005,333</u>           | <u>1,000,000</u>           | <u>1,062</u>             | <u>0.65%</u>                     | <u>4.86%</u>               |
|                                        |               | 8,098,588                  | 8,071,880                  |                          |                                  | 39.26%                     |
| <b>TOTAL</b>                           |               | <b><u>\$20,584,564</u></b> | <b><u>\$20,557,565</u></b> |                          |                                  | <b>100.00%</b>             |

### Weighted Average Maturity

|                                                                           | Actual | Maximum |
|---------------------------------------------------------------------------|--------|---------|
| Weighted Average Days to Maturity                                         | 307.36 | 500     |
| Weighted Average Days to Maturity-Operating (ex.depository bank-checking) | 406.95 | 500     |

### Weighted Average Yield

|                                                                         |       |
|-------------------------------------------------------------------------|-------|
| Weighted Average Yield                                                  | 0.39% |
| Weighted Average Yield - Operating (excluding depository bank-checking) | 0.47% |
| Target Yield to Maturity of 180 day T-Bill at September 30, 2012        | 0.14% |

**CITY OF SHERMAN, TX**  
**Market Value Analysis**  
**As of September 30, 2012**

---

|                                 |
|---------------------------------|
| <b>CHANGES IN MARKET VALUE:</b> |
|---------------------------------|

|                                                         |  |                 |                            |
|---------------------------------------------------------|--|-----------------|----------------------------|
| BEGINNING VALUE - June 30, 2012                         |  |                 | \$22,613,398               |
| <u>INVESTMENT ACTIVITY:</u>                             |  |                 |                            |
| Purchases                                               |  | 5,432           |                            |
| Maturities                                              |  | (2,017,626)     |                            |
| Net Changes in Market Price                             |  | <u>(11,126)</u> |                            |
|                                                         |  |                 | (2,023,320)                |
| Bank and Pooled Investment Deposits/(Withdrawals) - Net |  |                 | <u>(5,514)</u>             |
| ENDING VALUE - September 30, 2012                       |  |                 | <u><u>\$20,584,564</u></u> |

|                                                  |
|--------------------------------------------------|
| <b>COMPARISON OF BOOK VALUE TO MARKET VALUE:</b> |
|--------------------------------------------------|

|                                              |                                     |  |              |
|----------------------------------------------|-------------------------------------|--|--------------|
| <u>BEGINNING VALUE - June 30, 2012</u>       |                                     |  |              |
|                                              | Market Value                        |  | \$22,613,398 |
|                                              | Book Value                          |  | \$22,596,740 |
|                                              | Ratio of Market Value to Book Value |  | 100.07%      |
| <br><u>ENDING VALUE - September 30, 2012</u> |                                     |  |              |
|                                              | Market Value                        |  | \$20,584,564 |
|                                              | Book Value                          |  | \$20,557,565 |
|                                              | Ratio of Market Value to Book Value |  | 100.13%      |

---

**CITY OF SHERMAN, TX**  
**Quarter to Date Investment Transaction Report**  
**As of September 30, 2012**

**PURCHASES**

| <u>Date</u>            | <u>Type</u> | <u>Principal<br/>Purchase<br/>Price</u> | <u>Par<br/>Value</u> | <u>Yield/Int.<br/>Discount<br/>Rate</u> | <u>Maturity<br/>Date</u> |
|------------------------|-------------|-----------------------------------------|----------------------|-----------------------------------------|--------------------------|
| 07/31/2012             | CD .45%     | \$ 383                                  | \$ 383               | 0.45%                                   | 04/03/2014               |
| 08/09/2012             | CD .25%     | \$ 630                                  | \$ 630               | 0.25%                                   | 05/09/2013               |
| 08/11/2012             | CD .70%     | \$ 2,654                                | \$ 2,654             | 0.70%                                   | 07/22/2013               |
| 08/31/2012             | CD .45%     | \$ 383                                  | \$ 383               | 0.45%                                   | 04/03/2014               |
| 09/30/2012             | CD .40%     | \$ 1,011                                | \$ 1,011             | 0.40%                                   | 12/08/2013               |
| 09/30/2012             | CD .45%     | \$ 371                                  | \$ 371               | 0.45%                                   | 04/03/2014               |
| <b>Total Purchases</b> |             | <b>\$ 5,432</b>                         | <b>\$ 5,432</b>      |                                         |                          |

**MATURITIES**

| <u>Date</u>             | <u>Type</u>  | <u>Par<br/>Value</u> | <u>Yield/Int.<br/>Discount<br/>Rate</u> |
|-------------------------|--------------|----------------------|-----------------------------------------|
| 07/27/2012              | FHLMC 1.125% | \$ 1,000,000         | 0.55%                                   |
| 9/20/2012               | CD 1.00%     | \$ 1,017,626         | 1.01%                                   |
| <b>Total Maturities</b> |              | <b>\$ 2,017,626</b>  |                                         |



**CITY OF SHERMAN, TX**  
**Quarter to Date Investment Transaction Report**  
**As of September 30, 2012**

**PURCHASES**

| <u>Date</u>            | <u>Type</u> | <u>Principal<br/>Purchase<br/>Price</u> | <u>Par<br/>Value</u> | <u>Yield/Int.<br/>Discount<br/>Rate</u> | <u>Maturity<br/>Date</u> |
|------------------------|-------------|-----------------------------------------|----------------------|-----------------------------------------|--------------------------|
| 07/31/2012             | CD .45%     | \$ 383                                  | \$ 383               | 0.45%                                   | 04/03/2014               |
| 08/09/2012             | CD .25%     | \$ 630                                  | \$ 630               | 0.25%                                   | 05/09/2013               |
| 08/11/2012             | CD .70%     | \$ 2,654                                | \$ 2,654             | 0.70%                                   | 07/22/2013               |
| 08/31/2012             | CD .45%     | \$ 383                                  | \$ 383               | 0.45%                                   | 04/03/2014               |
| 09/30/2012             | CD .40%     | \$ 1,011                                | \$ 1,011             | 0.40%                                   | 12/08/2013               |
| 09/30/2012             | CD .45%     | \$ 371                                  | \$ 371               | 0.45%                                   | 04/03/2014               |
| <b>Total Purchases</b> |             | <b>\$ 5,432</b>                         | <b>\$ 5,432</b>      |                                         |                          |

**MATURITIES**

| <u>Date</u>             | <u>Type</u>  | <u>Par<br/>Value</u> | <u>Yield/Int.<br/>Discount<br/>Rate</u> |
|-------------------------|--------------|----------------------|-----------------------------------------|
| 07/27/2012              | FHLMC 1.125% | \$ 1,000,000         | 0.55%                                   |
| 9/20/2012               | CD 1.00%     | \$ 1,017,626         | 1.01%                                   |
| <b>Total Maturities</b> |              | <b>\$ 2,017,626</b>  |                                         |



**CITY OF SHERMAN, TX**  
**Interest Receivable and Earned Interest Income**  
**September 30, 2012**

| Investment                             | Original<br>Yield | Interest<br>Receivable<br>June 30, 2012 | Purchased<br>Interest | Interest<br>Received | Coupon<br>Interest | Interest<br>Receivable<br>September 30, 2012 | Amortization/<br>Accretion | Earned<br>Interest<br>Income |
|----------------------------------------|-------------------|-----------------------------------------|-----------------------|----------------------|--------------------|----------------------------------------------|----------------------------|------------------------------|
| <b>DEMAND DEPOSITS</b>                 |                   |                                         |                       |                      |                    |                                              |                            |                              |
| Depository Bank                        | 0.15%             | \$ -                                    | \$ -                  | \$ 1,743             | 1,743              | \$ -                                         | \$ -                       | 1,743                        |
| Depository Bank-TIF Funds              | 0.15%             | -                                       | -                     | 419                  | 419                | -                                            | -                          | 419                          |
|                                        |                   | -                                       | -                     | 2,161                | 2,161              | -                                            | -                          | 2,161                        |
| <b>TIME DEPOSITS</b>                   |                   |                                         |                       |                      |                    |                                              |                            |                              |
| Certificate of Deposit 1.00% 9/18/2012 | 1.00%             | 387                                     | -                     | 2,659                | 2,279              | -                                            | -                          | 2,279                        |
| Certificate of Deposit .70% 7/22/2013  | 0.70%             | 1,446                                   | -                     | 2,654                | 2,654              | 1,446                                        | -                          | 2,654                        |
| Certificate of Deposit .40% 12/8/2013  | 0.40%             | -                                       | -                     | 1,011                | 1,011              | (0)                                          | -                          | 1,011                        |
| Certificate of Deposit 0.25% 5/9/2013  | 0.25%             | 356                                     | -                     | 630                  | 630                | 356                                          | -                          | 630                          |
| Certificate of Deposit 0.45% 4/3/2014  | 0.45%             | -                                       | -                     | 1,136                | 1,136              | -                                            | -                          | 1,136                        |
|                                        |                   | 2,189                                   | -                     | 8,100                | 7,710              | 1,802                                        | -                          | 7,710                        |
| <b>INVESTMENT POOLS</b>                |                   |                                         |                       |                      |                    |                                              |                            |                              |
| Tex-Pool                               | 0.14%             | -                                       | -                     | 549                  | 549                | -                                            | -                          | 549                          |
| TexStar                                | 0.14%             | -                                       | -                     | 494                  | 494                | -                                            | -                          | 494                          |
|                                        |                   | -                                       | -                     | 1,042                | 1,042              | -                                            | -                          | 1,042                        |
| <b>SECURITY INVESTMENTS</b>            |                   |                                         |                       |                      |                    |                                              |                            |                              |
| FHLMC 1.13% 7/27/2012                  | 0.55%             | 4,817                                   | -                     | 5,625                | 812                | -                                            | (424)                      | 388                          |
| FHLMC .75% 12/28/2012                  | 0.88%             | 636                                     | -                     | -                    | 1,870              | 2,506                                        | 311                        | 2,181                        |
| FHLMC .55% 1/8/2014                    | 0.55%             | 2,592                                   | -                     | 2,750                | 1,409              | 1,251                                        | -                          | 1,409                        |
| FHLB 2.63% 9/13/2013                   | 0.61%             | 3,142                                   | -                     | 5,250                | 2,588              | 490                                          | (1,998)                    | 600                          |
| FNMA 1.13% 9/30/2013                   | 0.60%             | 3,767                                   | -                     | -                    | 1,827              | 5,594                                        | (1,317)                    | 510                          |
| AUS 7.1% 9/1/2014                      | 0.71%             | 2,810                                   | -                     | 4,275                | 2,143              | 678                                          | (1,757)                    | 386                          |
| FHLMC 4.60% 4/2/14                     | 0.36%             | 14,021                                  | -                     | -                    | 14,483             | 28,514                                       | (13,343)                   | 1,160                        |
| FNMA .375% 3/18/15                     | 0.60%             | 1,104                                   | -                     | 1,875                | 906                | 135                                          | 556                        | 1,462                        |
| US Treasury 1.875% 5/30/15             | 0.52%             | 9,259                                   | -                     | 9,375                | 4,700              | 4,624                                        | (3,375)                    | 1,324                        |
| FHLMC 0.65% 8/28/2015                  | 0.65%             | 2,203                                   | -                     | 3,250                | 1,635              | 588                                          | -                          | 1,635                        |
|                                        |                   | 44,381                                  | -                     | 32,400               | 32,393             | 44,380                                       | (21,348)                   | 11,044                       |
|                                        |                   | <b>\$46,580</b>                         | <b>\$0</b>            | <b>\$43,704</b>      | <b>\$43,306</b>    | <b>46,161</b>                                | <b>(\$21,348)</b>          | <b>\$21,958</b>              |

**CITY OF SHERMAN, TX**  
**CO Debt Proceeds**  
**Investment Report Summary**  
**September 30, 2012**

This report complies with the requirements of the public funds investment law and covers the Certificate of Obligation Debt Proceeds of the City of Sherman that is subject to that law. At September 30, 2012, investment book value was about \$64 thousand and had decreased by about \$269 thousand from the previous quarter due to payments for construction projects and a transfer of unused bond proceeds to the debt service fund. The City's investment portfolio includes an interest-bearing demand deposit and an investment pool that strives to maintain a 100% net asset value.

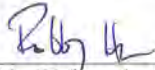
The City was in compliance with all provisions of the investment policy and the Public Funds Investment Act as of September 30, 2012. The weighted-average maturity of the portfolio was 1 day at September 30, 2012.

The market value of the portfolio was 100.0% of book value as of September 30, 2012.

The portfolio yield of 0.14% at September 30, 2012 was the same as the benchmark yield of .14% on the 180-day T-Bill.

All other transactions were routine.

The following schedules are also a part of this investment report.



Robby Hefton, Assistant City Manager/CFO  
and City of Sherman Investment Officer



Mary Lawrence, Controller and City of  
Sherman Investment Officer

CITY OF SHERMAN, TX  
CO Debt Proceeds  
Detailed Investment Report - Debt Proceeds  
As of September 30, 2012

| Investment              | VALUES - June 30, 2012 |                  | Book Increase/(Decrease)    |                            | Market Increase/(Decrease)   |                           | VALUES - September 30, 2012 |                 |
|-------------------------|------------------------|------------------|-----------------------------|----------------------------|------------------------------|---------------------------|-----------------------------|-----------------|
|                         | Book                   | Market           | Purchases/<br>(Withdrawals) | Accruals/<br>Amortizations | Purchases &<br>(Withdrawals) | Change in<br>Market Price | Book                        | Market          |
| <b>DEMAND DEPOSITS</b>  |                        |                  |                             |                            |                              |                           |                             |                 |
| Depository Bank-TIF     | \$ 264,169             | \$ 264,169       | \$ (264,169)                | \$ -                       | \$ (264,169)                 | \$ -                      | \$ -                        | \$ -            |
| <b>INVESTMENT POOLS</b> |                        |                  |                             |                            |                              |                           |                             |                 |
| TexStar-2009A Bonds     | 63,792                 | 63,799           | (4,964)                     | 21                         | (4,964)                      | 21                        | 58,849                      | 58,857          |
|                         | 63,792                 | 63,799           | (4,964)                     | 21                         | (4,964)                      | 21                        | 58,849                      | 58,857          |
|                         | <b>\$327,961</b>       | <b>\$327,968</b> | <b>(\$269,133)</b>          | <b>\$21</b>                | <b>(\$269,133)</b>           | <b>\$21</b>               | <b>\$58,849</b>             | <b>\$58,857</b> |

**CITY OF SHERMAN, TX**  
**CO Debt Proceeds**  
**Comparison of Portfolio to Policy Limits**  
**As of September 30, 2012**

| <u>LIMITS ON MATURITIES</u>  | <u>Minimum Allowable Percentage of Portfolio</u> | <u>Actual Percentage of Portfolio</u> | <u>% Variance Policy Limits</u> |
|------------------------------|--------------------------------------------------|---------------------------------------|---------------------------------|
| Cash Demands within 1 month  | 100.00%                                          | 100.00%                               | 0.00%                           |
| Cash Demands within 3 months | 100.00%                                          | 100.00%                               | 0.00%                           |
| Cash Demands within 6 months | 100.00%                                          | 100.00%                               | 0.00%                           |
| Cash Demands within 1 year   | 100.00%                                          | 100.00%                               | 0.00%                           |
| Cash Demands within 2 years  | 100.00%                                          | 100.00%                               | 0.00%                           |

|                                          | <u>Maximum Allowable</u> | <u>Actual Average Maturity</u> | <u>Policy Limit Days Available</u> |
|------------------------------------------|--------------------------|--------------------------------|------------------------------------|
| <u>Weighted Average Days to Maturity</u> | 500                      | 1.00                           | 499.00                             |

**CITY OF SHERMAN, TX**  
**CO Debt Proceeds**  
**Calculation of Weighted Average Maturity and Yield**  
**As of September 30, 2012**

| <b>Demand Deposits</b>  |                     |                   |                              |                                   |                             |  |
|-------------------------|---------------------|-------------------|------------------------------|-----------------------------------|-----------------------------|--|
|                         | <u>Market Value</u> | <u>Book Value</u> | <u># of Days To Maturity</u> | <u>Original Yield to Maturity</u> | <u>Percent of Portfolio</u> |  |
| Depository Bank         | \$ -                | \$ -              | 0                            | 0.15%                             | 0.00%                       |  |
| <b>Investment Pools</b> |                     |                   |                              |                                   |                             |  |
| Tex-Star-2009A Bonds    | 58,857              | 58,849            | 1                            | 0.14%                             | 100.00%                     |  |
| <b>TOTAL</b>            | <u>\$ 58,857</u>    | <u>\$ 58,849</u>  |                              |                                   | <u>100.00%</u>              |  |

| <b>Weighted Average Maturity</b>                                 |  |       |
|------------------------------------------------------------------|--|-------|
| Weighted Average Days to Maturity                                |  | 1     |
| Weighted Average Days to Maturity-Operating (ex.depository bank) |  | 1     |
| <b>Weighted Average Yield</b>                                    |  |       |
| Weighted Average Yield                                           |  | 0.14% |
| Weighted Average Yield-Operating (excluding depository bank)     |  | 0.14% |
| Yield to Maturity of 180 day T-Bill at September 30, 2012        |  | 0.14% |

**CITY OF SHERMAN, TX**  
**CO Debt Proceeds**  
**Market Value Analysis**  
**As of September 30, 2012**

**CHANGES IN MARKET VALUE:**

|                                                         |                 |
|---------------------------------------------------------|-----------------|
| BEGINNING VALUE - June 30, 2012                         | \$327,968       |
| <u>INVESTMENT ACTIVITY:</u>                             |                 |
| Purchases                                               | -               |
| Maturities                                              | -               |
| Net Changes in Market Price                             | -               |
| Bank and Pooled Investment Deposits/(Withdrawals) - Net | (\$269,111)     |
| ENDING VALUE - September 30, 2012                       | <u>\$58,857</u> |

**COMPARISON OF BOOK VALUE TO MARKET VALUE:**

|                                              |           |         |
|----------------------------------------------|-----------|---------|
| <u>BEGINNING VALUE - June 30, 2012</u>       |           |         |
| Market Value                                 | \$327,968 |         |
| Book Value                                   | \$327,961 |         |
| Ratio of Market Value to Book Value          |           | 100.00% |
| <br><u>ENDING VALUE - September 30, 2012</u> |           |         |
| Market Value                                 | \$58,857  |         |
| Book Value                                   | \$58,849  |         |
| Ratio of Market Value to Book Value          |           | 100.01% |

**CITY OF SHERMAN, TX**  
**CO Debt Proceeds**  
**Quarter To Date Investment Transaction Report**  
**As of September 30, 2012**

**PURCHASES**

There were no purchases during the period.

**MATURITIES**

There were no maturities during the period.

CITY OF SHERMAN, TX  
CO Debt Proceeds  
Interest Receivable and Earned Interest Income  
As of September 30, 2012

| Investment              | Original<br>Yield | Interest<br>Receivable<br>June 30, 2012 | Purchased<br>Interest | Interest<br>Received | Coupon<br>Interest | Interest<br>Receivable<br>December 31, 2011 | Amortization/<br>Accretion | Earned<br>Interest<br>Income |
|-------------------------|-------------------|-----------------------------------------|-----------------------|----------------------|--------------------|---------------------------------------------|----------------------------|------------------------------|
| <b>DEMAND DEPOSITS</b>  |                   |                                         |                       |                      |                    |                                             |                            |                              |
| Depository Bank-TIF     | 0.15%             | \$ -                                    | \$ -                  | \$ -                 | \$ -               | \$ -                                        | \$ -                       | \$ -                         |
| <b>INVESTMENT POOLS</b> |                   |                                         |                       |                      |                    |                                             |                            |                              |
| TexStar - 2009A Bonds   | 0.14%             | -                                       | -                     | 22                   | 22                 | -                                           | -                          | 22                           |
|                         |                   | -                                       | -                     | 22                   | 22                 | -                                           | -                          | 22                           |
|                         |                   | <u>\$ -</u>                             | <u>\$ -</u>           | <u>\$22</u>          | <u>\$22</u>        | <u>\$ -</u>                                 | <u>\$ -</u>                | <u>\$22</u>                  |





# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. D.6

### **\* OTHER BUSINESS**

**Final Plat Approval of West Canyon Creek Oaks Estates, Section 1, being 1.626 acres in the James H. Vaden Survey, Abstract No. 1288; Westfield Estates, LP, Owner; John Szabuniewicz, Representative; Roger Allred, General Contractor; and Harlan Land Surveying, Inc., Surveyors (200 Block of Shady Oaks Lane)**

### **Issue**

To consider Final Plat approval of West Canyon Creek Oaks Estates, Section 1, being 1.626 acres in the James H. Vaden Survey, Abstract No. 1288, located in the 200 block of Shady Oaks Lane

### **Background**

The property is located in the 200 block of Shady Oaks Lane off of West Lamberth Road; the property was formerly the County Farm, which was annexed into the City in 2003. This is an overall concept plan and preliminary and final plat dividing a portion of the tract into seven lots for residential development.

### **Origination**

Westfield Estates, LP (Owner), John Szabuniewicz (Representative), Roger Allred (General Contractor) and Harlan Land Surveying, Inc. (Surveyors)

### **Board Recommendation**

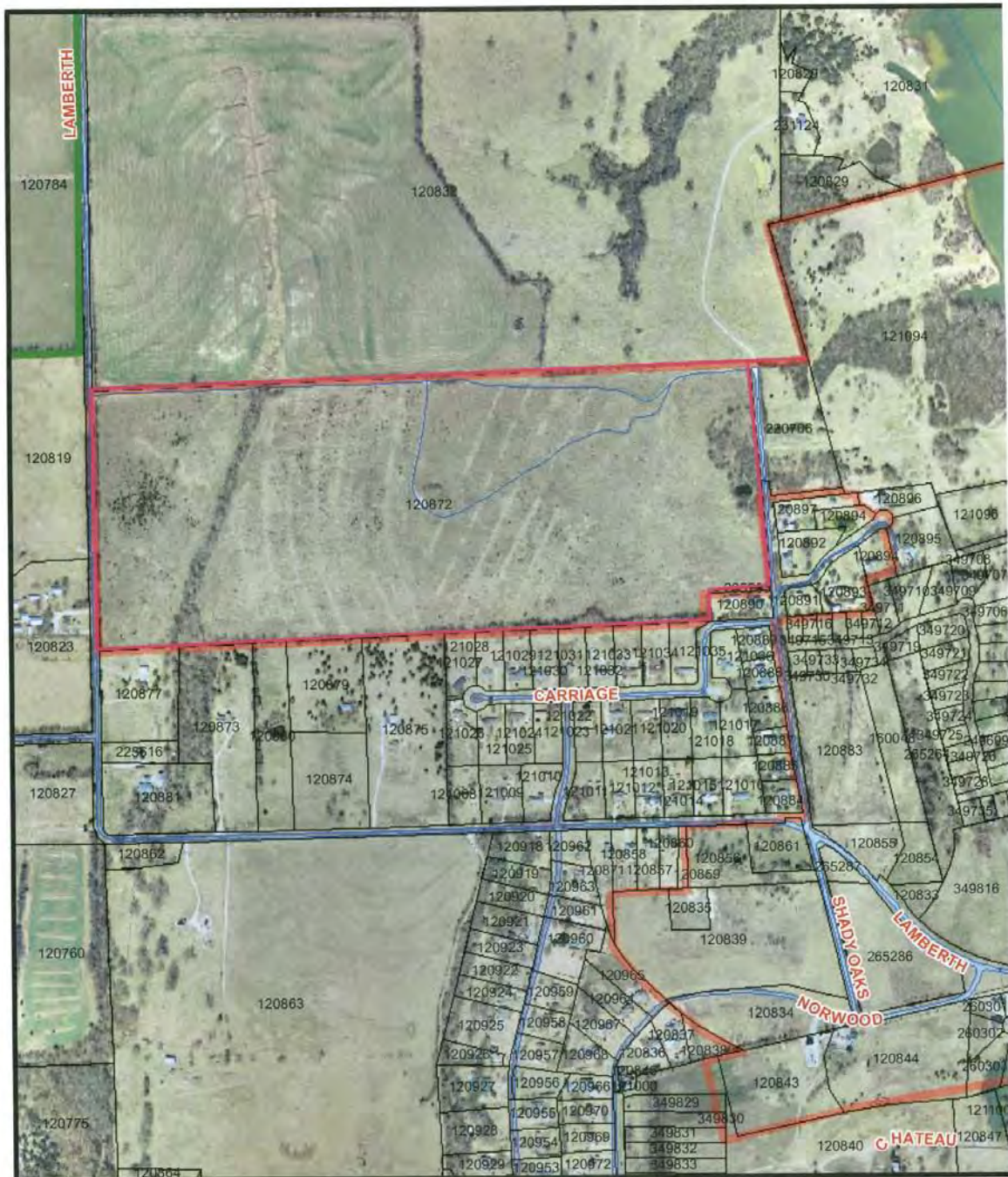
At the October 16, 2012 regular meeting, the Planning and Zoning Board voted unanimously to recommend to the City Council that the Final Plat be approved.

### **Attachments**

Location Map  
Photos  
Approval Temporary Turn-Around  
Plat  
P&Z Communication  
Staff Review Letter

**Prepared by:**  
**Scott Shadden, Development Services Director**

**Approved by:**  
**George Olson, City Manager**



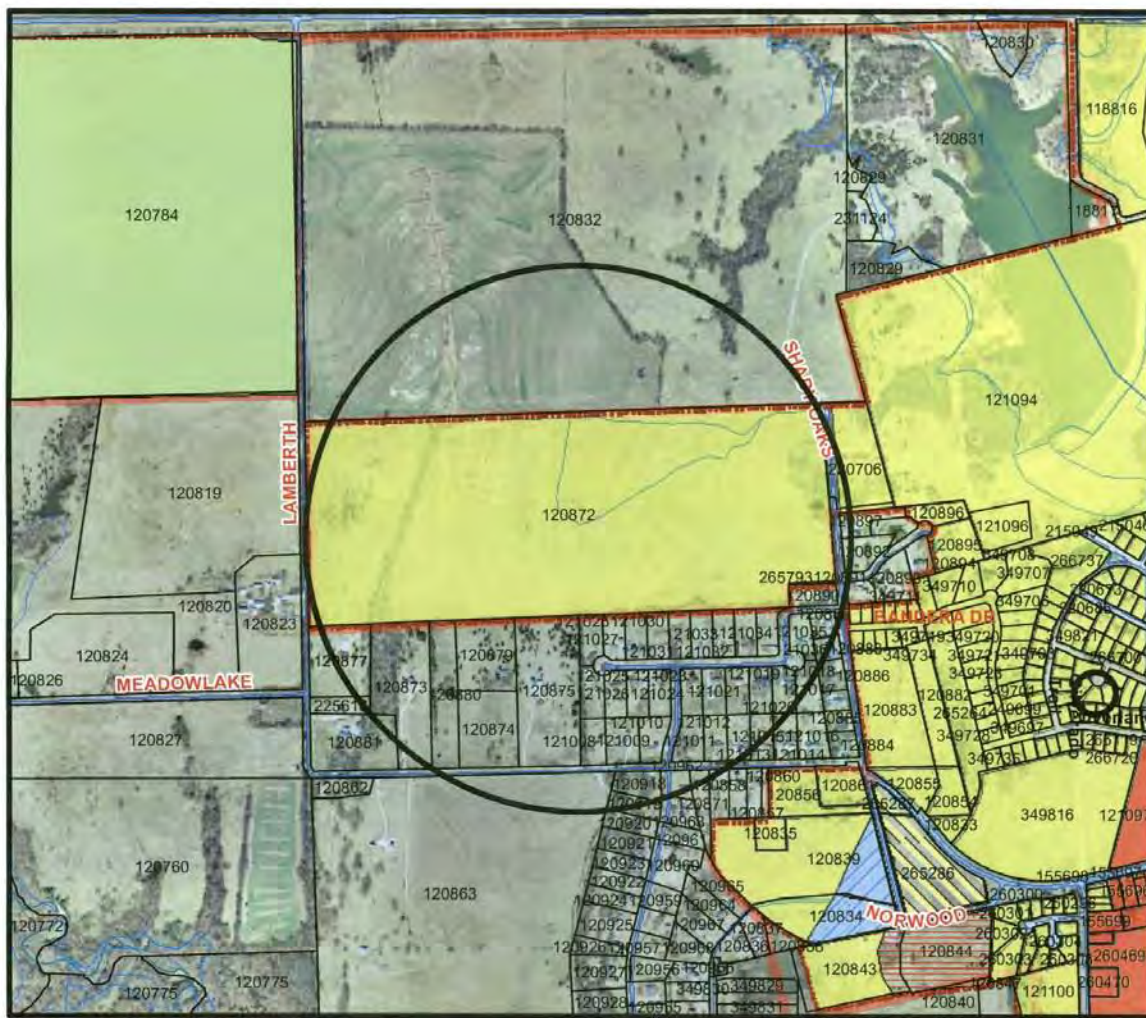
City of Sherman, Texas  
Developmental Services Department

200 Blk. Shady Oaks Lane



1 inch = 687 feet





## Zoning - 200 Blk. Shady Oaks Lane

### Legend

|                                            |                                         |
|--------------------------------------------|-----------------------------------------|
| O 1 HIGHWAY 75 & 82 OVERLAY DISTRICT       | C-2 General Commercial District         |
| O 1.1 FM 1417 OVERLAY DISTRICT             | M-1 Light Manufacturing District        |
| O 1.2 SAM RAYBURN FREEWAY OVERLAY DISTRICT | R-A Single Family Agricultural District |
| C B D DOWNTOWN BUSINESS DISTRICT           | SF-1 Single Family Residential District |
| C P O COLLEGE PARK OVERLAY DISTRICT        | M-1.5 Medium Manufacturing District     |
| A & C ARTS & CULTURAL OVERLAY DISTRICT     | M-2 Heavy Manufacturing District        |
| CO Office District                         | MH Manufacturing Housing District       |
| R-1 One Family Residential District        | Blalock Commercial District             |
| R-2 Multi-Family Residential District      | BIP Blalock Industrial Park             |
| C-1 Retail Business District               |                                         |

City of Sherman, Texas  
Developmental Services Department

*Sherman*  
CLASSIC TOWN. BROAD HORIZON.



1 inch = 1,000 feet

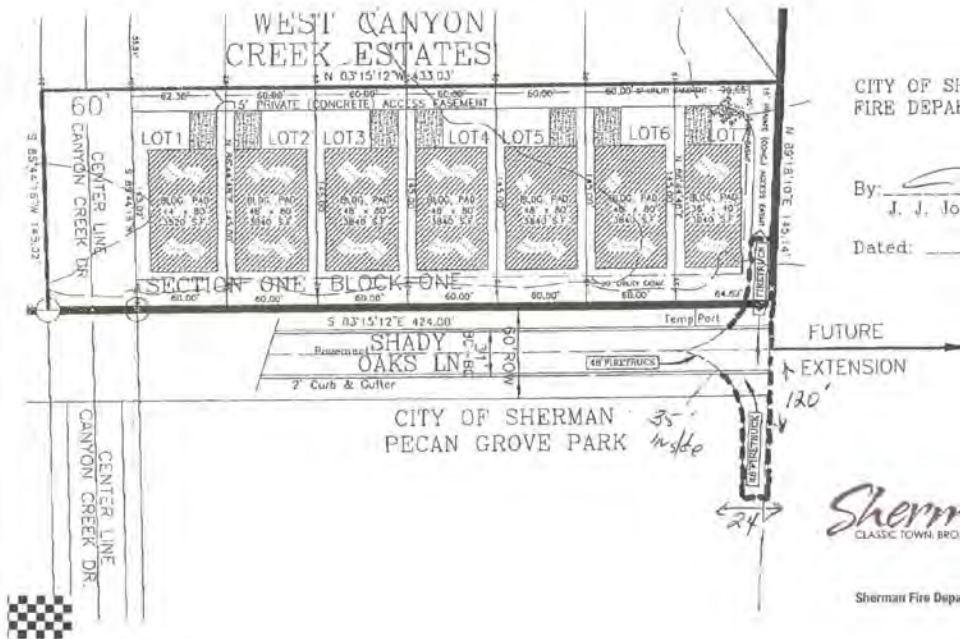
APPROVALS FOR TEMPORARY TURN-AROUND

AT THE NORTH END OF SHADY OAKS LANE

IN CONJUNCTION WITH PROPOSED

SECTION 1, WEST CANYON CREEK ESTATES ADDITION

CITY OF SHERMAN, GRAYSON COUNTY, TEXAS



CITY OF SHERMAN  
FIRE DEPARTMENT:

By: J. J. Jones, Fire Chief

Dated: 9-13-2012

J.J. Jones  
Fire Chief

219 S. Main  
Sherman, TX 76860

Ph 902-892-7263  
Ph 902-257-0367 / 4040  
Fx 902-813-0411  
jones@city.sherman.tx.us  
www.city.sherman.tx.us

*Sherman*  
CLASSIC TOWN. BROAD HORIZON.

Sherman Fire Department



*City of Sherman*  
**Planning and Zoning Commission**  
**Board of Adjustments**  
*Agenda Communication Form*  
*October 16, 2012*  
**Don Hicks, Chairman**

**Joe Gilbert, Vice-Chairman**  
**Brad Morgan, Commissioner**  
**Darren Tankersley, Commissioner**  
**Ron Barton, Commissioner**

**Richard Barber, Commissioner**  
**Ryan Michael Kreck, Commissioner**  
**Sam Thorpe, Commissioner**  
**Ronnie Dutton, Commissioner**

**200 Block of Shady Oaks Lane**  
**Being 111.56 acres in the James H. Vaden Survey, Abstract No. 1288**  
**Concept Plan, Preliminary & Final Plats**

**Requested Action/Proposed Use:**

***Planning and Zoning Commission***

Concept Plan of Canyon Creek Estates

Preliminary & Final Plats – West Canyon Creek Oaks Estates, Section 1, being 1.626 acres in the James H. Vaden Survey, Abstract No. 1288

**Background:**

The property is located in the 200 Block of Shady Oaks Lane off of West Lamberth Road; the property was formerly the County Farm, which was annexed into the City in 2003. This is an overall concept plan and preliminary and final plat dividing a portion of the tract into seven lots for residential development.

**Adjacent Zoning:**

R-1 (One Family Residential) District

**Origination:**

Westfield Estates, LP (Owner), John Szabuniewicz (Representatives), Roger Allred (General Contractor) and Harlan Land Surveying, Inc. (Surveyors)

**Master Plan Designation:**

Suburban Residential – Increased density and closer building setbacks separate Suburban Residential from Countryside and Estate, but more landscaping and open space distinguish Suburban Residential from Urban and Auto-Urban categories. New suburban subdivisions typically have curvilinear streets and sidewalks, as well as curb and gutter.

**Attachments:**

Location map, Photographs, Site Plan and Staff Review Letter

**Prepared by:**  
**Patsy Reeves,**  
**Developmental Services Secretary**

**Approved by:**  
**Scott Shadden,**  
**Director of Developmental Services**





## STAFF REVIEW LETTER

October 10, 2012

Westfield Estates, LP  
6750 Locke Ave., Ste 301  
Ft. Worth, TX 76116

John Szabuniewicz  
6750 Locke Ave., Ste 301  
Ft. Worth, TX 76116

Roger Allred  
120 W. Belden  
Sherman, TX 75092

Harlan Land Surveying, Inc.  
106 Eureka Street  
Weatherford, TX 76086

Dear Applicants,

The request for approval of the Plat of the West Canyon Creek Oaks Estates, Section 1 Addition for the property in the 200 Block of Shady Oaks Lane has been scheduled to be heard by the Planning and Zoning Board on the day of Tuesday, October 16, 2012 at 5:00 p.m., in the City Council Chambers, City Hall at 220 W. Mulberry.

City staff has reviewed your request with regards to engineering and development guidelines and finds the following items need to be addressed:

### **Conceptual Site Plan**

1. Platting of the property is required.
2. Site plan is conceptual is subject to revision to accommodate the stormwater detention and sanitary sewer service for the property.
3. Detention in accordance with City criteria is required.
4. A utility, drainage and grading plan shall be provided and approved by the City Engineering Department.
5. Existing utilities shall be verified by the developer to assure adequate capacity for the development.
6. The street drive approaches and sidewalks shall conform to the City of Sherman standards.
7. At the time of development, the developer shall build Canyon Creek Drive to the west property line of Lot 1, Block 1.
8. Escrow in the amount of \$50,188.00 to be paid for access onto Shady Oaks Lane at the time of development.
9. The conceptual site plan shall be changed to reflect the correct subdivision name.
10. All requirements of the site plan are to be met prior to filing the plat.

### **Preliminary Plat**

1. Platting of the property is required.
2. A utility, drainage and grading plan shall be provided to the City of Sherman Engineering Department for review and approval.
3. Existing utilities shall be verified by the developer to assure adequate capacity for the development.

4. Detention in accordance with City criteria shall be followed
5. The water and sewer to be extended to the north property line of Lot 7, Block 1.
6. At the time of development, the developer shall build Canyon Creek Drive to the west property line of Lot 1, Block 1.
7. Escrow in the amount of \$50,188.00 to be paid for access onto Shady Oaks Lane at the time of development.
8. All site plan and preliminary plat requirements are to be met prior to filing the final plat.
9. Any other changes made to the preliminary plat prior to the final fulfillment of the conditions of the staff review, must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

**Fire Department Requirements:**

1. The turnaround portions of the "T" must be a minimum of 24' wide and must be at least 120' long.
2. A fire hydrant will be required prior to any construction on Shady Oaks. The hydrant should be located on the north property line of Lot 6.

**Final Plat**

1. Letters from the various utility providers are required verifying availability of service and when service will be available.
2. Original tax certificates shall be furnished for the purpose of recording the plat.
3. A utility, drainage and grading plan shall be provided to the City of Sherman Engineering Department for review and approval.
4. Existing utilities shall be verified by the developer to assure adequate capacity for the development.
5. Detention in accordance with City criteria shall be followed
6. The water and sewer to be extended to the north property line of Lot 7, Block 1.
7. At the time of development, the developer shall build Canyon Creek Drive to the west property line of Lot 1, Block 1.
8. Escrow in the amount of \$50,188.00 to be paid for access onto Shady Oaks Lane at the time of development.
9. All site plan and preliminary plat requirements are to be met prior to filing the final plat.
10. The Preliminary Plat Signature Block shall be removed from the Final Plat.
11. Any other changes made to the final plat prior to the final fulfillment of the conditions of the staff review, must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

**Fire Department Requirements:**

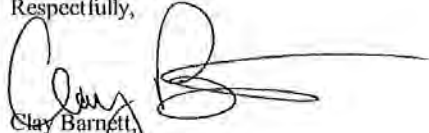
1. The turnaround portions of the "T" must be a minimum of 24' wide and must be at least 120' long.
2. A fire hydrant will be required prior to any construction on Shady Oaks. The hydrant should be located on the north property line of Lot 6.

The Board will not consider a request unless it has representation. You are hereby notified to be present, either in person or by a legally authorized representative to present your case on the date and time stated above.



If additional information or clarification is needed, do not hesitate to contact Lisa Whitfield, Engineering and Development Coordinator at 903-892-7212 prior to the meeting.

Respectfully,



Clay Barnett,  
City Engineer

cc: George Olson, City Manager  
Brandon Shelby, City Attorney  
Jamic D. Baggs, Fire Marshal  
Don Keene, Director of Public Works

Scott Shadden, Director of Development Services  
Mark Gibson, Director of Engineering & Utilities  
Lisa Whitfield, Engineering & Development Coordinator



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. D.7

### **\* OTHER BUSINESS**

**Site Plan Approval for Bill McCown, Owner, Donnie Snider, Hope Concrete Company, Applicant, and Sartin & Associates, Surveyor under Ordinance No. 2252, Article IV, Section 410(2)(b) to Allow a Temporary Concrete Batch Plant for a Period of One Year in the Blalock Industrial Park District at 320 Progress Drive**

### **Issue**

To consider the request of Bill McCown (Owner), Donnie Snider, Hope Concrete Company (Applicant), and Sartin & Associates, Inc. (Surveyor) concerning the property located at 320 Progress Drive, being Lot 4, Sherman Industrial Development Addition Replat and being in Tract 2 of Blalock Industrial Park, for a Site Plan for a Temporary Concrete Batch Plant for a period of one year in the Blalock Industrial Park

### **Background**

The property is located at 320 Progress Drive, the southwest corner of Progress Drive and Howe Drive. Power Lift Foundation Repair is located on the same lot in the Blalock Industrial Park. Hope Concrete Company is locally owned and operated; and they would like to locate a temporary concrete batch plant on the lot for a period of one year to supply materials to the Panda Energy project on Progress Drive that is currently under construction. The current demands exceed the limits of the concrete plant located at 5815 North Travis Street. The proposed temporary concrete batch plant would only subsidize the Panda Energy Plant. They expect to be finished with the concrete work by June or July of 2013. The majority of their big pours will be a couple of hundred trucks, so their intent is to reduce wear and tear on City streets and heavy truck traffic along the southern part of the City going to and from the existing batch plant in north Sherman.

### **Origination**

Bill McCown (Owner); Donnie Snider, Hope Concrete Company (Applicant); and Sartin & Associates, Inc. (Surveyor)

### **Board Recommendation**

At the regular meeting on October 16, 2012, the Planning and Zoning Board voted 5/0 to approve the site plan and to forward the request to the City Council.

### **Attachments**

Location Map  
Photographs  
Site Plan  
P&Z Communications Form  
Staff Review Letter

**Prepared by:**  
**Scott Shadden, Development Services Director**

**Approved by:**  
**George Olson, City Manager**



320 Progress Drive

City of Sherman, Texas  
Developmental Services Department

*Sherman*  
CLASSIC TOWN. BROAD HORIZON.



1 inch = 343 feet



## Zoning - 320 Progress Drive

### Legend

|                                            |                                         |
|--------------------------------------------|-----------------------------------------|
| ----- C L SHERMAN CITY LIMITS              | C-1 Retail Business District            |
| O 1 HIGHWAY 75 & 82 OVERLAY DISTRICT       | C-2 General Commercial District         |
| O 1.1 FM 1417 OVERLAY DISTRICT             | M-1 Light Manufacturing District        |
| O 1.2 SAM RAYBURN FREEWAY OVERLAY DISTRICT | R-A Single Family Agricultural District |
| C B D DOWNTOWN BUSINESS DISTRICT           | SF-1 Single Family Residential District |
| C P O COLLEGE PARK OVERLAY DISTRICT        | M-1.5 Medium Manufacturing District     |
| A & C ARTS & CULTURAL OVERLAY DISTRICT     | M-2 Heavy Manufacturing District        |
| CO Office District                         | MH Manufacturing Housing District       |
| R-1 One Family Residential District        | Blaylock Commercial District            |
| R-2 Multi-Family Residential District      | BIP Blalock Industrial Park             |

City of Sherman, Texas  
Developmental Services Department

*Sherman*  
CLASSIC TOWN. BROAD HORIZON.



1 inch = 309 feet



## 320 Progress Dr.



# SARTIN & ASSOCIATES, INC.

Registered Professional Land Surveyors

109 S. Travis, P. O. Box 1845 • Sherman, Texas 79091 • (843)  
PL: (903) 892-8921 • Fax: (903) 892-8920 • Email: msartin@sartinc.com

SURVEY FOR: BILL MCCOWN

I, Marshall Sartin, Registered Professional Land Surveyor, hereby certify that a survey of the property shown herein was made on the ground on the 26th day of July, 2010 of the following described property:

Being all of the REPLAT of LOT FOUR, SHERMAN INDUSTRIAL DEVELOPMENT ADDITION to the City of Sherman, Texas as shown by plat of record in Volume 13, Page 87 & 88, Plat Records, Grayson County, Texas.

That the improvements on said property are known as 306 PROGRESS DRIVE, SHERMAN, TEXAS and that this survey substantially complies with the current Minimum Standards for Professional Land Surveyors as adopted by the Texas Board of Professional Land Surveying, and is subject to all easements of record or as shown on recorded plat that may affect said property.

THIS SURVEY PLAT WAS PREPARED FROM A SURVEY PERFORMED ON THE DATE SHOWN HEREON FOR THE CLIENT NAMED HEREINABOVE AND FOR THE TRANSACTION TAKING PLACE AT THE TIME OF THIS SURVEY. THIS SURVEY PLAT IS NOT TO BE USED IN CONNECTION WITH ANY FUTURE TRANSACTIONS WITHOUT THE EXPRESSED WRITTEN CONSENT OF THE UNDERSIGNED SURVEYOR AND THE UNDERSIGNED SURVEYOR ACCEPTS NO LIABILITY FOR ANY FUTURE UNAUTHORIZED USE OF THIS SURVEY PLAT.

Marshall Sartin R.P.L.S. # 3694



POW-LIT.pcs

*City of Sherman*  
**Planning and Zoning Commission**  
**Board of Adjustments**  
*Agenda Communication Form*  
*October 16, 2012*  
**Don Hicks, Chairman**

**Joe Gilbert, Vice-Chairman**  
**Brad Morgan, Commissioner**  
**Darren Tankersley, Commissioner**  
**Ron Barton, Commissioner**

**Richard Barber, Commissioner**  
**Ryan Michael Kreck, Commissioner**  
**Sam Thorpe, Commissioner**  
**Ronnie Dutton, Commissioner**

**320 Progress Drive**  
**Being Lot 4, Sherman Industrial Development Addition Replat and**  
**being in Tract 2 of Blalock Industrial Park**  
**Site Plan**

**Requested Action/Proposed Use:**

***Planning and Zoning Commission***

Site plan approval to allow a Temporary Concrete Batch Plant for a period of one year in the Blalock Industrial Park District.

**Background:**

The property is located at 320 Progress Drive, the southwest corner of Progress Drive and Howe Drive; Power Lift Foundation Repair is located on the same lot. The property is located in the Blalock Industrial Park. Hope Concrete Company would like to locate a temporary concrete batch plant on the lot for a period of one year to supply materials to the Panda Energy project that is currently under construction. The intent is to reduce heavy truck traffic along the southern part of the City going to and from the existing batch plant in north Sherman.

**Adjacent Zoning:**

Blalock Industrial Park

**Origination:**

Bill McCown (Owner), Donnie Snider, Hope Concrete Company (Applicant) and Sartin & Associates, Inc. (Surveyor)

**Master Plan Designation:**

Business Park and Research

**Number of notices mailed:**

36

**Objections received:**

0

**Attachments:**

Location map

Photographs

Site Plan

Staff Review Letter

**Prepared by:**

**Patsy Reeves,**

**Developmental Services Secretary**

**Approved by:**

**Scott Shadden,**

**Director of Developmental Services**



**SHERMAN**



**STAFF REVIEW LETTER**

October 11, 2012

Bill McCown  
304 Progress Dr.  
Sherman, TX 75092

Donnie Snider  
PO Box 489  
Bonham, TX 75418

Dear Applicants,

Your request for site plan approval to allow a Temporary Concrete Batch Plant for a period of one year in the Blalock Industrial Park District located at 320 Progress Drive has been scheduled to be heard by the Planning and Zoning Board on the day of Tuesday, October 16, 2012 at 5:00 p.m., in the City Council Chambers, City Hall at 220 W. Mulberry.

City staff has reviewed your request with regards to zoning, engineering and development guidelines and finds the following items need to be addressed:

Zoning:

1. All aspects of the Blalock Industrial Park Ordinance must be followed.
2. Fire lanes and codes shall be coordinated with the Fire Marshal (903.892.7267).
3. All materials shall be removed after one year of the approval date; upon termination of occupancy, the lot shall be returned to same conditions prior to occupancy.
4. Site plan approval is valid for a period of one year, if progress has not been made within that time period; resubmission to the Planning & Zoning Commission is required.

Engineering

5. Operators must conform to all federal and state statutes for storm water management.

Any other changes made to the site plan prior to the final fulfillment of the conditions of the staff review, must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

You are hereby notified to be present, either in person or by your authorized representative to present your request on the date and time stated above.

If additional information or clarification is needed, do not hesitate to contact Scott Shadden at 903-892-7229 prior to the meeting.

Respectfully,

Scott Shadden,  
Secretary, Planning and Zoning Board and Board of Adjustment

CC: George Olson, City Manager  
Mark Gibson, Director Utilities & Engineering Services  
Clay Barnett, City Engineer

Jamie Baggs, Fire Marshal  
Brandon Shelby, City Attorney  
Lisa Whitfield, Engineering & Development Coordinator



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. D.8

### CITIZEN REQUESTS

The Honorable Bill Magers, Mayor



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. D.9

### MEDIA QUESTIONS

The Honorable Bill Magers, Mayor



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. D.10

### COUNCIL COMMENTS

The Honorable Bill Magers, Mayor



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. D.11

### RECOGNITION OF OUTGOING COUNCIL MEMBERS



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. D.12

### ADJOURNMENT

The Honorable Bill Magers, Mayor



# SHERMAN CITY COUNCIL

## Agenda Communication Form

**From:** The Office of the City Manager

**Date:** 11-5-2012

**Subject:** Agenda Item No. N/A

### COUNCIL CALENDAR

2012

#### CITY COUNCIL MEETINGS

##### JANUARY

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
| 1   | 2   | 3   | 4   | 5   | 6   | 7   |
| 8   | 9   | 10  | 11  | 12  | 13  | 14  |
| 15  | 16  | 17  | 18  | 19  | 20  | 21  |
| 22  | 23  | 24  | 25  | 26  | 27  | 28  |
| 29  | 30  | 31  |     |     |     |     |

##### FEBRUARY

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
|     |     |     | 1   | 2   | 3   | 4   |
| 5   | 6   | 7   | 8   | 9   | 10  | 11  |
| 12  | 13  | 14  | 15  | 16  | 17  | 18  |
| 19  | 20  | 21  | 22  | 23  | 24  | 25  |
| 26  | 27  | 28  | 29  |     |     |     |

##### MARCH

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
|     |     |     |     | 1   | 2   | 3   |
| 4   | 5   | 6   | 7   | 8   | 9   | 10  |
| 11  | 12  | 13  | 14  | 15  | 16  | 17  |
| 18  | 19  | 20  | 21  | 22  | 23  | 24  |
| 25  | 26  | 27  | 28  | 29  | 30  | 31  |

##### APRIL

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
| 1   | 2   | 3   | 4   | 5   | 6   | 7   |
| 8   | 9   | 10  | 11  | 12  | 13  | 14  |
| 15  | 16  | 17  | 18  | 19  | 20  | 21  |
| 22  | 23  | 24  | 25  | 26  | 27  | 28  |
| 29  | 30  |     |     |     |     |     |

##### MAY

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
|     |     | 1   | 2   | 3   | 4   | 5   |
| 6   | 7   | 8   | 9   | 10  | 11  | 12  |
| 13  | 14  | 15  | 16  | 17  | 18  | 19  |
| 20  | 21  | 22  | 23  | 24  | 25  | 26  |
| 27  | 28  | 29  | 30  | 31  |     |     |

##### JUNE

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
|     |     |     |     |     | 1   | 2   |
| 3   | 4   | 5   | 6   | 7   | 8   | 9   |
| 10  | 11  | 12  | 13  | 14  | 15  | 16  |
| 17  | 18  | 19  | 20  | 21  | 22  | 23  |
| 24  | 25  | 26  | 27  | 28  | 29  | 30  |

##### JULY

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
| 1   | 2   | 3   | 4   | 5   | 6   | 7   |
| 8   | 9   | 10  | 11  | 12  | 13  | 14  |
| 15  | 16  | 17  | 18  | 19  | 20  | 21  |
| 22  | 23  | 24  | 25  | 26  | 27  | 28  |
| 29  | 30  | 31  |     |     |     |     |

##### AUGUST

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
|     |     |     | 1   | 2   | 3   | 4   |
| 5   | 6   | 7   | 8   | 9   | 10  | 11  |
| 12  | 13  | 14  | 15  | 16  | 17  | 18  |
| 19  | 20  | 21  | 22  | 23  | 24  | 25  |
| 26  | 27  | 28  | 29  | 30  | 31  |     |

##### SEPTEMBER

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
|     |     |     |     |     |     | 1   |
| 2   | 3   | 4   | 5   | 6   | 7   | 8   |
| 9   | 10  | 11  | 12  | 13  | 14  | 15  |
| 16  | 17  | 18  | 19  | 20  | 21  | 22  |
| 23  | 24  | 25  | 26  | 27  | 28  | 29  |
| 30  |     |     |     |     |     |     |

##### OCTOBER

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
|     | 1   | 2   | 3   | 4   | 5   | 6   |
| 7   | 8   | 9   | 10  | 11  | 12  | 13  |
| 14  | 15  | 16  | 17  | 18  | 19  | 20  |
| 21  | 22  | 23  | 24  | 25  | 26  | 27  |
| 28  | 29  | 30  | 31  |     |     |     |

##### NOVEMBER

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
|     |     |     |     | 1   | 2   | 3   |
| 4   | 5   | 6   | 7   | 8   | 9   | 10  |
| 11  | 12  | 13  | 14  | 15  | 16  | 17  |
| 18  | 19  | 20  | 21  | 22  | 23  | 24  |
| 25  | 26  | 27  | 28  | 29  | 30  |     |

##### DECEMBER

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
|     |     |     |     |     |     | 1   |
| 2   | 3   | 4   | 5   | 6   | 7   | 8   |
| 9   | 10  | 11  | 12  | 13  | 14  | 15  |
| 16  | 17  | 18  | 19  | 20  | 21  | 22  |
| 23  | 24  | 25  | 26  | 27  | 28  | 29  |
| 30  | 31  |     |     |     |     |     |

01/02/12 - January 2nd Council meeting cancelled  
 01/16/12 - M.L.K., Jr. Birthday / Regular Council Meeting  
 02/20/12 - Washington's Birthday / Regular Council Meeting  
 04/02/12 - April 2nd Council meeting cancelled  
 04/20/12 - 12 Noon Budget Planning Meeting in Council Chambers  
 06/21-22/12 - Budget Workshop in Council Chambers  
 (06/22/12 Budget Workshop date unnecessary)  
 06/25/12 - 12 Noon Called Meeting for Annexation Ordinance  
 (71.671 acres on Washington Street)  
 07/02/12 - July 2nd Council meeting cancelled

09/03/12 - Labor Day / Called Council Meeting on 09/04/12  
 09/21/12 - 12 Noon Called Joint Meeting with SEDCO Board  
 11/06/12 - City Council Election  
 11/14/12 - 12 Noon Called Meeting to Canvass Election Results