

**CITY OF SHERMAN
CITY COUNCIL REGULAR MEETING AGENDA
COUNCIL CHAMBERS OF THE CITY HALL
220 WEST MULBERRY STREET
SHERMAN, TEXAS
TUESDAY, JANUARY 16, 2024
5:00 PM**

- A.1. CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN**
- A.2. PLEDGE OF ALLEGIANCE AND INVOCATION LED BY COUNCIL MEMBER JUSTON DOBBS**
- A.3. APPROVE MINUTES OF THE REGULAR CITY COUNCIL MEETING OF JANUARY 2, 2024**

Citizen Comments

B.1. CITIZEN COMMENTS

During this meeting, the City Council welcomes public comment only on agenda items listed under the Open Meeting portion of the agenda, in accordance with Texas Government Code Section 551.007. For items not listed on the agenda, those matters may be discussed with City staff during regular business hours, or with the Mayor or any Council member by contacting them at times other than at City Council meetings.

Special Presentations

C.1. SPECIAL PRESENTATION

Recognizing Tasheena Taylor's Accomplishments in Achieving her Texas Registered Municipal Clerk Certification through Texas Municipal Clerks Association and the University of North Texas

Public Hearing

D.1. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6683

Amending Sherman's Zoning Ordinance/Code of Ordinances Chapter 14, to Rezone a Tract of Land Consisting of 1.673 acres in the J.B. McAnair Survey, Abstract No. 763, City of Sherman, Grayson County, Texas, Located at 2505 North Hickory Street, Heretofore Zoned MF-30 (Multi Family Residential) District; Rezoning and Placing the Tract in the MF-15 (Multi Family Residential) District Zoning Classification, Sarika Mandavilli (Owner), Vamsi Krishna Chitluri (Representative) and Burns Surveying (Surveyor); Providing for a Penalty not to Exceed \$2,000.00; Providing A Repealing/Savings Clause, Severability Clause And An Effective Date

D.2. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6684

Amending Sherman's Zoning Ordinance/Code of Ordinances Chapter 14, and Granting a Specific Use Permit to Allow Schools; Elementary, High, College and Universities, Public, Private, or Denominational in the C-1 (Retail Business) District/F.M. 1417 Overlay District, Located at 2276 South FM 1417 (Heritage Parkway), consisting of 10.0030 acres in the E. Jones Survey, Abstract No. 625, City of Sherman, Grayson County, Texas; Sherman Developers, LLC (Owner), Michael Carlisle, P.E. (Applicant) and Kimley-Horn and Associates, Inc. (Engineer/Surveyor); Prescribing Conditions to the Specific Use Permit; Providing A Penalty Not to Exceed \$2,000.00; Providing A Repealing/Savings Clause, Severability Clause And An Effective Date

D.3. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6685

Amending Sherman's Zoning Ordinance/Code of Ordinances Chapter 14, and Granting a Specific Use Permit to Allow a Junk, Salvage Yard, or Wrecking Service in the M-2 (Heavy Manufacturing) District, Located at 415

Any item on this posted agenda may be discussed in Executive Session provided it is within one of the permitted categories under Chapter 551 of the Texas Government Code

East Houston Street, Consisting of 1.526 acres being a Part of the J.B. McAnair Survey, Abstract No. 763 and being all of Tract One, Tract Two and Tract Three, City of Sherman, Grayson County, Texas Justin Ellis, Ellis Truck and Auto, Inc. (Owner) and Underwood Drafting & Surveying (Surveyor); Prescribing Conditions to the Specific Use Permit; Providing A Penalty Not to Exceed \$2,000.00; Providing A Repealing/Savings Clause, Severability Clause And An Effective Date

D.4. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6686

Amending Sherman's Zoning Ordinance/Code of Ordinances Chapter 14, and Granting a Specific Use Permit to Allow a Travel Trailer Park in the C-1 (Retail Business) District/75 & 82 Overlay District, Located at 3551 East Highway 82, consisting of 10.586 acres in the Samuel M. McGlothlin Survey, Abstract No. 811, City of Sherman, Grayson County, Texas, Wendy Ferguson, KWL Assets, LLC (Owner), Todd Evans, Lanterra Group, LLC (Applicant) and North Texas Surveying, LLC (Surveyor); Prescribing Conditions to the Specific Use Permit; Providing A Penalty Not to Exceed \$2,000.00; Providing A Repealing/Savings Clause, Severability Clause And An Effective Date

D.5. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6687

Amending Sherman's Zoning Ordinance/Code of Ordinances Chapter 14, to Rezone a Tract of Land Consisting of 0.115 acres in the G.B. Pilant Survey, Abstract No. 963, City of Sherman, Grayson County, Texas, Located at 413 South Willow Street, Heretofore Zoned R-6 (Single Family Residential) District; Rezoning and Placing the Tract in the R-5 (Single Family Residential) District Zoning Classification, Gladiator Build (Owner) and Barton Chapa Surveying (Surveyor); Providing for a Penalty not to Exceed \$2,000.00; Providing A Repealing/Savings Clause, Severability Clause And An Effective Date

D.6. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6688

Amending Sherman's Zoning Ordinance/Code of Ordinances Chapter 14, and Granting a Specific Use Permit to Allow An Automobile Repair, Body Work, or Painting in the C-2 (General Commercial) District, Located at 3314 and 3318 Texoma Parkway, Tract One Consisting of 5.34 acres being a part of Lots 12, 13, 14, all of Lots 15 and 16, 17, Block 1 of the Redick Addition and Tract Two, Consisting of 2.927 acres being a part of the Reuben Hendrix Survey, Abstract No. 504, City of Sherman, Grayson County, Texas, Thomas Hardin II (Owner); Prescribing Conditions to the Specific Use Permit; Providing A Penalty Not to Exceed \$2,000.00; Providing A Repealing/Savings Clause, Severability Clause And An Effective Date

Close Public Hearing and Consider Adoption of Ordinances

E.1. ADOPTION OF ORDINANCES

Consider Adoption of Ordinance Numbers 6683, 6684, 6685, 6686, 6687 & 6688.

Resolutions

F.1. RESOLUTION NO. 7242

Authorizing Execution of a Standard Short Form of Agreement Between Owner (City of Sherman) and Architect (Hidell and Associates Architects, Inc.) for Professional Services Relating to the Renovation for the Sherman City Hall

F.2. RESOLUTION NO. 7243

Approving the Greater Texoma Utility Authority's Intention to Award Amendment 5.00 - Bid Package 5.00 to Garney Companies, Inc. for the 36-Inch West Sherman Water Main

F.3. RESOLUTION NO. 7244

Authorizing Execution of Amendment No. 2 to the Professional Services Agreement with Plummer Associates, Inc. for Engineering Services for Design of the Wastewater Treatment and Water Reuse Master Plan

F.4. RESOLUTION NO. 7245

Authorizing Execution of a Development Agreement between the City of Sherman and Three Oaks Development and Construction Company for the Construction of Infrastructure Improvements and the conveyance to Sherman of a 22.48 acre tract of land in the Preston Kitchen Survey, Abstract No. 67, City of Sherman, Grayson County, Texas, Generally Located in the 2400-2500 blocks of South East Street

F.5. RESOLUTION NO. 7246

Awarding a Bid to Three Oaks Development and Construction Company for the conveyance of approximately 12 Acres of City-owned Land in the Preston Kitchen Survey, Abstract No. 667, City of Sherman, Grayson County, Texas, Generally Located in the 2400-2500 Blocks of South East Street; Authorizing Execution of Necessary Transaction Documents Related Thereto

Other Business

G.1. OTHER BUSINESS

Consider Approval of the Annexation Scheduling Plan for the Proposed Annexation of Approximately 220.18 acres of land located West of F.M. 1417 (Heritage Parkway) and North of OB Groner Road adjacent to the Sherman City Limits and in the City of Sherman's Extraterritorial Jurisdiction; and Directing the Department of Engineering Services to Develop a Service Plan for the Area to be Annexed Upon Approval of the Annexation Scheduling Plan

G.2. OTHER BUSINESS

Presentation from Development Services Director on Amending Chapter 3 of the Code of Ordinances, entitled "Building Regulations"

G.3. OTHER BUSINESS

Receive Quarterly Progress Report from Sherman Economic Development Corporation President Kent Sharp

G.4. OTHER BUSINESS

Approve Investment Report for Quarter Ended December 31, 2023

COUNCIL COMMENTS

EXECUTIVE SESSION

In accordance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, the City Council may hold an Executive Session if the discussion of any of the items identified in this agenda, or any of the items identified below, concern one or more of the following:

I.1. TEX. GOV'T CODE § 551.071

Seeking the advice of its attorney about pending or contemplated litigation, settlement offers or any matter in which the duty of the attorney to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act.

I.2. TEX. GOV.'T CODE § 551.072

Deliberating the purchase, exchange, lease or value of real property if deliberation in an Open Meeting would have a detrimental effect on the position of the City in negotiations with a third person.

I.3. TEX. GOV'T CODE § 551.073

Deliberating a negotiated contract for a prospective gift or donation to the City if deliberation in an Open

Any item on this posted agenda may be discussed in Executive Session provided it is within one of the permitted categories under Chapter 551 of the Texas Government Code

Meeting would have a detrimental effect on the position of the City in negotiations with a third person.

I.4. TEX. GOV'T CODE § 551.074

Deliberating the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing

Greater Texoma Utility Authority Board of Directors (2)

I.5. TEX. GOV'T CODE § 551.076

Deliberating the deployment, or specific occasions for implementation, of security personnel or devices or a security audit.

I.6. TEX. GOV'T CODE § 551.089

Deliberating security assessments or deployments relating to information resources technology, network security information, or the deployment or specific occasions for implementation of security personnel, critical infrastructure or security devices.

I.7. TEX. GOV'T CODE § 551.087

Discussing or deliberating commercial or financial information that the City has received from a business prospect that the City seeks to have locate, stay or expand in or near the City and with which the City is conducting economic development negotiations; or deliberating the offer of a financial or other incentive to a business prospect.

Sherman Junction Development

The Council reconvenes into General Session

COUNCIL CALENDAR

K.1. COUNCIL CALENDAR

2024 Council Calendar

CERTIFICATION

I, the undersigned authority, do hereby certify that the above Notice of Regular Meeting of the City Council of the City of Sherman is a true and correct copy of said Notice and that I posted a true and correct copy of said Notice on the bulletin board at City Hall of said City of Sherman, Texas, a place convenient to the public, and said notice was posted on Friday, January 12, 2024 at 5:00 p.m., and said time of posting was 72 hours before said meeting was convened or called to order.

Dated this 12th day of January 2024. City of Sherman, Texas

City Clerk

The above agenda schedule represents an estimate of the order for the indicated items and is subject to change at any time. All agenda items are subject to final action by the City Council.

Any item on this posted agenda may be discussed in Executive Session provided it is within one of the permitted categories under Chapter 551 of the Texas Government Code

An unscheduled closed executive session may be held if the discussion of any of the above agenda items concerns the purchase, exchange, lease or value of real property; the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee; the deployment or use of security personnel or equipment; or requires consultations with the City Attorney.

At the discretion of the City Council, non-agenda items under the headings of “Citizens Requests”, “Media Questions”, and “Council Concerns” may be presented to the Council for informational purposes; however, by law, the Council shall not discuss, deliberate, or vote upon such matters except that a statement of specific factual information, a recitation of existing policy, and deliberations concerning the placing of the subject on a subsequent agenda may take place.

The City Attorney has approved the Executive Session items on this agenda

PERSONS WITH DISABILITIES, WHO PLAN TO ATTEND THIS MEETING AND WHO MAY NEED ASSISTANCE, ARE REQUESTED TO CONTACT LINDA ASHBY AT (903) 892-7204, TWO (2) WORKING DAYS PRIOR TO THE MEETING SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.

Mayor

David Plyler

Deputy Mayor

Shawn C. Teamann

Council Members

Henry Marroquin, Council-At-Large, PL #1
Juston Dobbs, Council-At-Large, PL #2
Shawn C. Teamann, Council – District #1

Josh Stevenson, Council – District #2
Pamela L. Howeth, Council – District #3
Daron Holland, Council – District #4

STATE OF TEXAS §

January 2, 2024

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 January 2, 2024.

MEMBERS ABSENT: COUNCIL MEMBER DOBBS.

CALL TO ORDER

APPROVE MINUTES

**The Council reviewed the Minutes of the Regular City Council Meeting of December 18, 2023. Council Member Howeth moved to approve the Minutes, as presented; Second by Council Member Holland; All present voted AYE.
MOTION CARRIED.**

**AIRPORT
IMPROVEMENT
GRANT**

Peter Tracy, 705 S. Valentine, asked about the grant for Municipal Airport improvements. He referenced previous improvements at the Airport that he said were never completed. He asked what the new improvements would entail.

HOMELESS PEOPLE

**ORD 6682
ABANDON EASEMENT
(TEAGUE INDUSTRIAL
PARK, UNIT NO. 2)**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ABANDONING ONE (1) TWENTY-FOOT (20') WIDE EASEMENT LOCATED IN THE PLAT OF TEAGUE INDUSTRIAL PARK, UNIT NO. 2, AND BEING MORE PARTICULARLY DESCRIBED IN THE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF FOR ALL PURPOSES, WHICH EASEMENT IS ESTABLISHED IN VOLUME 3, PAGE 14 OF THE PLAT RECORDS OF GRAYSON COUNTY, TEXAS.

No citizens appeared before the City Council to discuss Ordinance No. 6682.

The Public Hearing was closed.

Ordinance 6682

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ABANDONING ONE (1) TWENTY-FOOT (20') WIDE EASEMENT LOCATED IN THE PLAT OF TEAGUE INDUSTRIAL PARK, UNIT NO. 2, AND BEING MORE PARTICULARLY DESCRIBED IN THE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF FOR ALL PURPOSES, WHICH EASEMENT IS ESTABLISHED IN VOLUME 3, PAGE 14 OF THE PLAT RECORDS OF GRAYSON COUNTY, TEXAS.

ORD 6682
ABANDON EASEMENT
(TEAGUE INDUSTRIAL
PARK, UNIT NO. 2)

ACTION TAKEN.

Motion by Deputy Mayor Teamann to approve Ordinance No. 6682, as presented. Second by Council Member Stevenson.
VOTING AYE: Holland, Howeth, Marroquin, Stevenson, Teamann.
VOTING NAY: None.
MOTION CARRIED.

RESOLUTION NO. 7240 -- RESOLUTION REQUESTING FINANCIAL ASSISTANCE FROM THE TEXAS DEPARTMENT OF TRANSPORTATION FOR IMPROVEMENTS AT THE SHERMAN MUNICIPAL AIRPORT

RES 7240
MUNICIPAL AIRPORT
IMPROVEMENTS

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, REQUESTING FINANCIAL ASSISTANCE FROM THE TEXAS DEPARTMENT OF TRANSPORTATION FOR IMPROVEMENTS AT THE SHERMAN MUNICIPAL AIRPORT.

Mary Lawrence, Director of Finance, briefed the Council on the request by the Texas Department of Transportation to get the City's approval on the grant match for proposed improvements at the Municipal Airport. TxDOT will fund 90% of the project.

ACTION TAKEN.

Motion by Council Member Stevenson to approve Resolution No. 7240, as presented. Second by Deputy Mayor Teamann.
VOTING AYE: Holland, Howeth, Marroquin, Stevenson, Teamann.
VOTING NAY: None.
MOTION CARRIED.

RESOLUTION NO. 7241 -- AUTHORIZING EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH TEAGUE NALL AND PERKINS, INC. FOR DESIGN OF THE HERITAGE RANCH PUBLIC IMPROVEMENTS

RES 7241
HERITAGE RANCH
PUBLIC
IMPROVEMENTS

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH TEAGUE NALL AND PERKINS, INC. FOR DESIGN OF THE HERITAGE RANCH PUBLIC IMPROVEMENTS.

Mr. Lee said the agreement is for the design of roadways and water lines at the Heritage Ranch Development. The Sherman Independent School District will locate a new elementary school in this development.

ACTION TAKEN.

Motion by Council Member Stevenson to approve Resolution No. 7241, as presented. Second by Council Member Howeth.
VOTING AYE: Holland, Howeth, Marroquin, Stevenson, Teamann.
VOTING NAY: None.
MOTION CARRIED.

OTHER BUSINESS

APPROVAL OF THE 2023 AD VALOREM TAX ROLL VALUE AND TAX LEVY

Ms. Lawrence said this approval of the 2023 Ad Valorem Tax Roll Value and Tax Levy is in compliance with the Tax Code. The value on the tax roll for 2023 is approximately \$5.8 billion, which is about 17% more than the previous year.

**AD VALOREM TAX
ROLL VALUE &
TAX LEVY**

ACTION TAKEN.

Motion by Council Member Howeth to approve the 2023 Ad Valorem Tax Roll Value and Tax Levy, as presented. Second by Council Member Stevenson.
VOTING AYE: Holland, Howeth, Marroquin, Stevenson, Teamann.
VOTING NAY: None.
MOTION CARRIED.

COUNCIL COMMENTS

- Commended the Water Department staff for their work on repairing a large water main break over the Christmas holidays. (Council Member Marroquin)

COUNCIL COMMENTS

ANNOUNCEMENTS

Mayor Plyler announced the following:

- Coffee with the Mayor will be held at Simmons Bank, on January 5, 2024, at 8 am.
- The Chamber of Commerce Annual Awards Luncheon will be held on January 26, 2024, at 11 am, at Austin College.
- Habitat for Humanity will host their Annual Habi-Taters Fundraiser, on January 27, 2024, at the Municipal Ballroom.

ANNOUNCEMENTS

EXECUTIVE SESSION – IN ACCORDANCE WITH CHAPTER 551, GOVT. CODE, V.T.C.S., (OPEN MEETINGS LAW)

THE CITY COUNCIL WILL NOW HOLD AN EXECUTIVE SESSION PURSUANT TO THE PROVISIONS OF THE OPEN MEETINGS LAW, CHAPTER 551, GOVERNMENT CODE, VERNONS TEXAS CODES ANNOTATED, IN ACCORDANCE WITH THE AUTHORITY CONTAINED IN THE FOLLOWING SECTIONS.

EXECUTIVE SESSION

TEX. GOV'T CODE § 551.071 --

SEEKING THE ADVICE OF ITS ATTORNEY ABOUT PENDING OR CONTEMPLATED LITIGATION, SETTLEMENT OFFERS OR ANY MATTER IN WHICH THE DUTY OF THE ATTORNEY TO THE CITY COUNCIL UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH THE TEXAS OPEN MEETINGS ACT

TEX. GOV'T CODE § 551.072 --

DELIBERATING THE PURCHASE, EXCHANGE, LEASE OR VALUE OF REAL PROPERTY IF DELIBERATION IN AN OPEN MEETING WOULD HAVE A DETRIMENTAL EFFECT ON THE POSITION OF THE CITY IN NEGOTIATIONS WITH A THIRD PERSON

TEX. GOV'T CODE § 551.073 --

DELIBERATING A NEGOTIATED CONTRACT FOR A PROSPECTIVE GIFT OR DONATION TO THE CITY IF DELIBERATION IN AN OPEN MEETING WOULD HAVE A DETRIMENTAL EFFECT ON THE POSITION OF THE CITY IN NEGOTIATIONS WITH A THIRD PERSON

TEX. GOV'T CODE § 551.074 --

DELIBERATING THE APPOINTMENT, EMPLOYMENT, EVALUATION, REASSIGNMENT, DUTIES, DISCIPLINE OR DISMISSAL OF A PUBLIC OFFICER OR EMPLOYEE; OR TO HEAR A COMPLAINT OR CHARGE AGAINST AN OFFICER OR EMPLOYEE UNLESS THE OFFICER OR EMPLOYEE WHO IS THE SUBJECT OF THE DELIBERATION OR HEARING REQUESTS A PUBLIC HEARING

TEX. GOV'T CODE § 551.076 –

DELIBERATING THE DEPLOYMENT, OR SPECIFIC OCCASIONS FOR IMPLEMENTATION, OF SECURITY PERSONNEL OR DEVICES OR A SECURITY AUDIT

TEX. GOV'T CODE § 551.087 –

DISCUSSING OR DELIBERATING COMMERCIAL OR FINANCIAL INFORMATION THAT THE CITY HAS RECEIVED FROM A BUSINESS PROSPECT THAT THE CITY SEEKS TO HAVE LOCATE, STAY OR EXPAND IN OR NEAR THE CITY AND WITH WHICH THE CITY IS CONDUCTING ECONOMIC DEVELOPMENT NEGOTIATIONS; OR DELIBERATING THE OFFER OF A FINANCIAL OR OTHER INCENTIVE TO A BUSINESS PROSPECT

(A) Greenway Planned Development

TEXAS GOV'T CODE § 551.089 --

DELIBERATING SECURITY ASSESSMENTS OR DEPLOYMENTS RELATING TO INFORMATION RESOURCES TECHNOLOGY, NETWORK SECURITY INFORMATION, OR THE DEPLOYMENT OR SPECIFIC OCCASIONS FOR IMPLEMENTATION OF SECURITY PERSONNEL, CRITICAL INFRASTRUCTURE OR SECURITY DEVICES

On Motion duly made and carried, the Open Meeting recessed and reconvened in Executive Session at 5:15 p.m.

On Motion duly made and carried, the Executive Session recessed at 5:54 p.m. and reconvened in Open Meeting.

OPEN MEETING

Reconvene into Open Meeting and take action, if any, on items discussed in Executive Session.

OPEN MEETING

COUNCIL MINUTES – JANUARY 2, 2024

ADJOURNMENT

On Motion duly made and carried, the meeting adjourned at 5:55 p.m.

ADJOURNMENT

MAYOR

CITY CLERK



City Council Regular Meeting

Agenda Item No. C.1.

Meeting Date: 1/16/2024

Prepared By: Teri Fine, Assistant to the City Manager

Approved By: Robby Hefton, City Manager

Caption:

SPECIAL PRESENTATION

Recognizing Tasheena Taylor's Accomplishments in Achieving her Texas Registered Municipal Clerk Certification through Texas Municipal Clerks Association and the University of North Texas

Issue:

Recognizing Tasheena Taylor's accomplishments in achieving her Texas Registered Municipal Clerk Certification through Texas Municipal Clerks Association and the University of North Texas

Background:

Graduates complete approximately 200 hours of individual study over a four-course curriculum and attend eight two-day seminars for an additional 100 hours of classroom study. The curriculum includes selected texts and a number of special readings on the topics of public administration, election law, budgeting and finance, municipal law, and personnel management. To date, 1,101 individuals have earned the Texas Registered Municipal Clerk designation.

The Texas Municipal Clerks Certification Program, located at the University of North Texas in Denton, Texas, is a university-level professional education program for city clerks and city secretaries in Texas. The program is the third oldest of forty-seven programs around the world. The Certification Program is recognized and endorsed by Section 22.074 of the Local Government Code, Vernon's Texas Codes Annotated.

Texas Registered Municipal Clerks are recognized for their achievements and contributions to effective, efficient local government by their mayors, city administrators, city councils, and the citizens of their communities.

Origination:

City Clerk's Office

Financial Consideration:

Staff Recommendation:

Alternatives:

Attachments:

None



City Council Regular Meeting

Agenda Item No. D.1.

Meeting Date: 1/16/2024

Prepared By: Lauren Marlow, Development Service Coordinator

Approved By: Robby Hefton, City Manager

Caption:

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6683

Amending Sherman's Zoning Ordinance/Code of Ordinances Chapter 14, to Rezone a Tract of Land Consisting of 1.673 acres in the J.B. McAnair Survey, Abstract No. 763, City of Sherman, Grayson County, Texas, Located at 2505 North Hickory Street, Heretofore Zoned MF-30 (Multi Family Residential) District; Rezoning and Placing the Tract in the MF-15 (Multi Family Residential) District Zoning Classification, Sarika Mandavilli (Owner), Vamsi Krishna Chitluri (Representative) and Burns Surveying (Surveyor); Providing for a Penalty not to Exceed \$2,000.00; Providing A Repealing/Savings Clause, Severability Clause And An Effective Date

Issue:

Consideration of a Zone Change for 1.673 acres of land located at 2505 North Hickory Street from an MF-30 (Multi Family Residential) District to a MF-15 (Multi Family Residential) District.

Background:

The property is located at 2505 North Hickory Street between West Lamberth Road and West Peyton Street. The owner is requesting a Zone Change from MF-30 (Multi Family Residential) District to an MF-15 (Multi Family Residential) District for The Fab Townhomes with 18 units.

The following has been approved for this location:

- December 12, 2023 - Variance to allow a lot area of 1.673 acres in lieu of the required 2 acres in an MF-15 (Multi-Family Residential) District.
- August 14, 1979 - Specific Use Permit to convert an existing church building to day care center for children
- November 10, 1981 - Zone Change from an R-1 (One Family Residential) District to R-2 (Multi-Family Residential) District
- February 9, 1982 - Exception requiring a screening device adjacent to R-1 (One Family Residential) District and other zoning districts and allow to place such device adjacent to developed residential only.

Origination:

Sarika Mandavilli (Owner)
Vamsi Krishna Chitluri (Representative)
Burns Surveying (Surveyor)

Financial Consideration:

None

Staff Recommendation:

At the December 12, 2023 regular meeting, the Planning and Zoning Commission voted 7/0 to recommend to City Council that the Zoned Change be approved. **The proposed use is compatible with the City of Sherman Comprehensive Plan. Staff recommends that Council approve this item.**

Alternatives:

The City Council could deny the request.

Attachments:

1. Ordinance No. 6683
2. Exhibit A - Survey
3. Location Map
4. Zoning Map
5. Future Land Use Map
6. Property Notification Sign
7. Project Narrative
8. Site Plan
9. Floor Plan
10. Elevations
11. Staff Review Letter

ORDINANCE NO. 6683

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SHERMAN'S ZONING ORDINANCE/CODE OF ORDINANCES CHAPTER 14, TO REZONE A TRACT OF LAND CONSISTING OF 1.673 ACRES IN THE J.B. MCANAIR SURVEY, ABSTRACT NO. 763, CITY OF SHERMAN, GRAYSON COUNTY, TEXAS, LOCATED AT 2505 NORTH HICKORY STREET, HERETOFORE ZONED MF-30 (MULTI FAMILY RESIDENTIAL) DISTRICT; REZONING AND PLACING THE TRACT IN THE MF-15 (MULTI FAMILY RESIDENTIAL) DISTRICT ZONING CLASSIFICATION, SARIKA MANDAVILLI (OWNER), VAMSI KRISHNA CHITLURI (REPRESENTATIVE) AND BURNS SURVEYING (SURVEYOR) PROVIDING FOR A PENALTY NOT TO EXCEED \$2,000.00; PROVIDING A REPEALING/SAVINGS CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with the state law and the ordinances of the City of Sherman, have given the required notices and have held the required public hearings regarding this proposed rezoning case; and

WHEREAS, the City Council finds that rezoning the property as described in this Ordinance is in accordance with the Comprehensive Plan and will complement or be compatible with the surrounding uses and community facilities; contribute to, enhance, or promote the welfare of the area of request and adjacent properties; not be detrimental to the public health, safety, or general welfare; and conform in all other respects to all applicable zoning regulations and standards; and

WHEREAS, the City Council finds that it is in the public interest to rezone the property as described in this Ordinance.

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

SECTION 1. That, from and after the effective date of this Ordinance, the property described in **Exhibit A – Survey and Legal Description**, attached hereto, located at 2505 North Hickory Street and all streets, roads and alleyways contiguous and/or adjacent thereto, shall be rezoned and placed in the MF-15 (Multi Family Residential) District and that Sherman's Zoning Ordinance/Code of Ordinances, Chapter 14, is hereby amended so as to hereafter include such property.

SECTION 2. That this Ordinance shall be entered upon the Official Zoning Map as provided in Sherman's Zoning Ordinance/Code of Ordinances, Chapter 14, Section 14.01.002.

SECTION 3. That no person shall acquire any vested interest in this Ordinance or in any other specific regulations contained herein. Any portion of this Ordinance may be repealed or amended by the City Council in the manner provided for by law.

SECTION 4. That it shall be unlawful for any person to make use of the Property in some manner other than as authorized by this Ordinance, and it shall be unlawful for any person to construct on the Property any building that is not in conformity with the permissible uses under this Ordinance. Any person violating any provision of this Ordinance or the General Zoning Ordinance, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in an amount not exceeding TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). A violation of any provision of this Ordinance shall constitute a separate violation for each calendar day in which it occurs. The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 5. That the Zoning Ordinance shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the Ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 6. That in the event any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

SECTION 7. 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.

SECTION 8. That this Ordinance shall become effective from and after its adoption and publication as required by law and the City Charter.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS.

INTRODUCED on this the 16th day of January 2024.

ADOPTED on this the 16th day of January 2024.

EFFECTIVE DATE on this the 16th day of January 2024.

CITY OF SHERMAN, TEXAS

BY: _____
DAVID PLYLER, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM:
THE LAW FIRM OF ABERNATHY,
ROEDER, BOYD & HULLETT, P.C.

BY: _____
RYAN D. PITTMAN, CITY ATTORNEY

EXHIBIT A

Legal Description

Situated in the City of Sherman, County of Grayson, State of Texas, being a part of the J.B. McAnair Survey, Abstract No. 753, and being a 1.6678 acre tract of land conveyed to Sarika Mandavilli by deed of record in Document No. 2022-24544, Official Property Records, Grayson County, Texas and being more particularly described by metes and bounds as follows:

Beginning at 1/2" steel rod found maintaining the northwest corner of said 1.6678 acre tract, the southwest corner of a 0.137 acre tract of land conveyed to Long Creek Investments, LLC by deed of record in Document No. 2021-38702 of said Official Public Records, and being in the east line of Hickory Street;

Thence **North 74°45'46" East**, along the north line of said 1.6678 acre tract, the south line of said 0.137 acre tract, a distance of **119.70 feet** to a 2" steel fence post corner maintaining an ell corner in the north line of said 1.6678 acre tract, and the southeast corner of said 0.137 acre tract;

Thence **North 15°11'41" West**, along the north line of said 1.6678 acre tract, the east line of said 0.137 acre tract, a distance of **50.05 feet** to a point in a 20" tree maintaining an angle point in the north line of said 1.6678 acre tract, the northeast corner of said 0.137 acre tract, the southeast corner of a tract of land conveyed to the City of Sherman by deed of record in Volume 1731, Page 58, Deed Records, Grayson County, Texas, and the southwest corner of Lot 1, Block 2, Lamberth Business Park, an addition to the City of Sherman, Texas as shown by plat of record in Volume 9, Page 14, Plat Records, Grayson County, Texas;

Thence **North 74°46'25" East**, along the north line of said 1.6678 acre tract, and the south line of said Block 2, Lamberth Business Park, a distance of **196.66 feet** to a 1/2" steel rod found maintaining the northeast corner of said 1.6678 acre tract, the southeast corner of Lot 2, Block 2 of said Lamberth Business Park, and in the west line of Lot 2, Shawn MacDonald Addition, an addition to the City of Sherman, Texas as shown by plat of record in Document No. 2022-176 of said Plat Records;

Thence **South 14°16'22" East**, along the east line of said 1.6678 acre tract, and the west line of said Lot 2, Shawn MacDonald Addition, a distance of **249.09 feet** to an 8" wood fence post corner maintaining the southeast corner of said 1.6678 acre tract, and the northeast corner of Lot 1, Menjivar's Addition, recorded in Document No. 2019-92 of said Plat Records;

Thence **South 74°36'02" West**, along the south line of said 1.6678 acre tract, and the north line of said Lot 1, Menjivar's Addition, a distance of **316.67 feet** to a 1/2" steel rod with a cap marked RPLS 6585 maintaining the southwest corner of said 1.6678 acre tract, the northwest corner of said Lot 1, Menjivar's Addition, and in the east line of said Hickory Street;

Thence **North 13°57'29" West**, along the west line of said 1.6678 acre tract, and the east line of said Hickory Street, passing a 1" pipe found, at a distance of 5.94 feet, continuing for a total distance of **199.99 feet** to the **Point-of-Beginning** and containing **1.673 acres** of land.

KNOWN ALL MEN BY THESE PRESENTS:

That I, John C. Copley, Registered Professional Land Surveyor, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments thereon where properly placed, under my personal supervision, in accordance with the subdivision regulations of the City of Sherman, Texas.

Preliminary

John C. Copley
Registered Professional
Land Surveyor No. 6720
Firm No. 10194429

AVIGATION RELEASE

WHEREAS, SARIKA MANDAVILLI, hereinafter called OWNER (whether one or more), is the owner of a certain parcel of land situated in the City of Sherman, Grayson County, Texas, being more particularly described as The Fab Townhomes, an addition to the City of Sherman, Grayson County, Texas.

OWNER does hereby waive, release, remise, quit claim and forever hold harmless the City of Sherman, Texas, a municipal corporation, hereinafter called CITY, and Sherman Municipal Airport, hereinafter called AIRPORT, from any and all claims for damages of any kind that OWNER may now have or may hereinafter have in the future by reason of the passage of all aircraft (aircraft being defined for the purposes of this instrument as any contrivance now known or hereinafter invented, used or designed or navigation of or flight in the air) by whomsoever owned and operated, in the airspace above OWNER'S property. Such release shall include, but not be limited to, any damages to the OWNER'S described property, such as noise, vibration, fumes, dust, fuel and lubricant particles, and all other effects that may be caused by the operation of aircraft landing at or taking off from or operating at or on the Sherman Municipal Airport, whether such claim be for injury or death to person or persons damages to or taking off of property; and OWNER does hereby fully remiss and release any right or cause of action which it may now have or which it may in the future have against the CITY or AIRPORT, whether such claims be for injury or death to persons or damage to property due to noises, vibration, fumes, dust, fuel and lubricant particles, and all the other effects that may be caused or may have been caused by the operation and/or maintenance of aircraft or aircraft engines at or on said Sherman Municipal Airport.

It is agreed that this Release shall be binding upon OWNER, his successors, heirs, executors, administrators and assigns, in interest with regard to said property located at The Fab Townhomes, an addition to the City of Sherman, Texas, and it is further agreed that this instrument shall be a covenant running with the land, and shall be recorded in the Deed Records of Grayson County, Texas.

Executed this ____ day of ____, 2023.

By: Sarika Mandavilli

By: Sarika Mandavilli

GENERAL NOTES

- Water Supply to be provided by the City of Sherman.
- Sewer service to be provided by the City of Sherman.
- Electrical service is provided by Onco Electrical Delivery.
- Blocking the flow of water or construction of improvements in drainage easements, and filling or obstruction of the floodway is prohibited.
- Any existing creeks or drainage channels traversing along or across the addition will remain as open channels and will be maintained by the individual owners of the lot or lots that are traversed by or adjacent to the drainage courses along or across said lots.
- The City of Sherman will not be responsible for the maintenance and operation of said drainage ways or for the control of erosion.
- Neither the City of Sherman nor the undersigned surveyor will be responsible for any damage, personal injury, or loss of life or property occasioned by flooding or flooding conditions.
- The owners and builders must comply with all other local, state and federal regulations regarding developments of this type.
- Bearings are based on the City of Sherman Control Monument Network.
- The City of Sherman reserves the right to require submission of Development Plat based on proposed use of each lot.

Purpose:
The purpose of this is to Plat this 1.673 acre tract.

Owners Certificate & Dedication

NOW THEREFORE KNOWN ALL MEN BY THESE PRESENTS:

That I, SARIKA MANDAVILLI, Owner and Developer, do hereby adopt this plat designating the hereinabove property as the Final Plat of THE FAB TOWNHOMES, an addition to the City of Sherman, and do hereby dedicate to the public use forever the streets and easements shown on this plat for the mutual use and accommodation of all public and private utilities desiring to use or using same. Any public or private utility shall have the right to remove and keep removed all or part or any buildings, fences, trees, shrubs or other improvements or growths which in anyway endanger or interfere with the construction, maintenance, or efficiency of its respective systems on any of these easements strips and any public or private utility shall, at all times, have a right of ingress and egress to and from and upon the said easement strips for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of its respective system without the permission of anyone. This plat approved subject to all ordinances, rules regulations and resolutions of the City of Sherman, Texas.

WITNESS MY HAND this ____ day of ____, 2023.

SARIKA MANDAVILLI

STATE OF TEXAS
COUNTY OF GRAYSON

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared SARIKA MANDAVILLI 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 purpose and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ____ day of ____, 2023.

Notary Public in and for
the State of Texas

Acceptance of Dedication

The Undersigned, the City Clerk of the City of Sherman, hereby certifies that the foregoing, the Final Plat of THE FAB TOWNHOMES, an addition to the City of Sherman, Texas, was submitted to the City Council on the ____ day of ____, 2023, and the City Council by formal action then and there accepted the dedication of streets, alleys, easements and public places, as shown and set forth in and upon said map or plat, and said City Council further authorized the Mayor to note the acceptance thereof by signing his name as herein above subscribed.

Witness my hand this ____ day of ____, 2023.

Clerk, City of Sherman, Texas

Approved this ____ day of ____, 2023, by the City Planning Commission to the City of Sherman, Texas.

Chairman

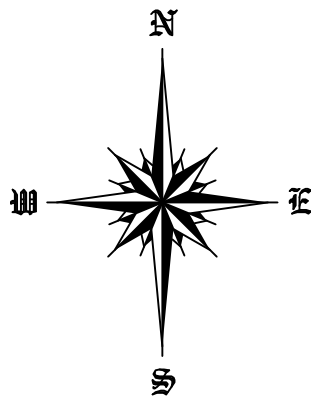
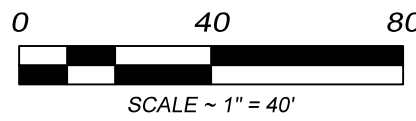
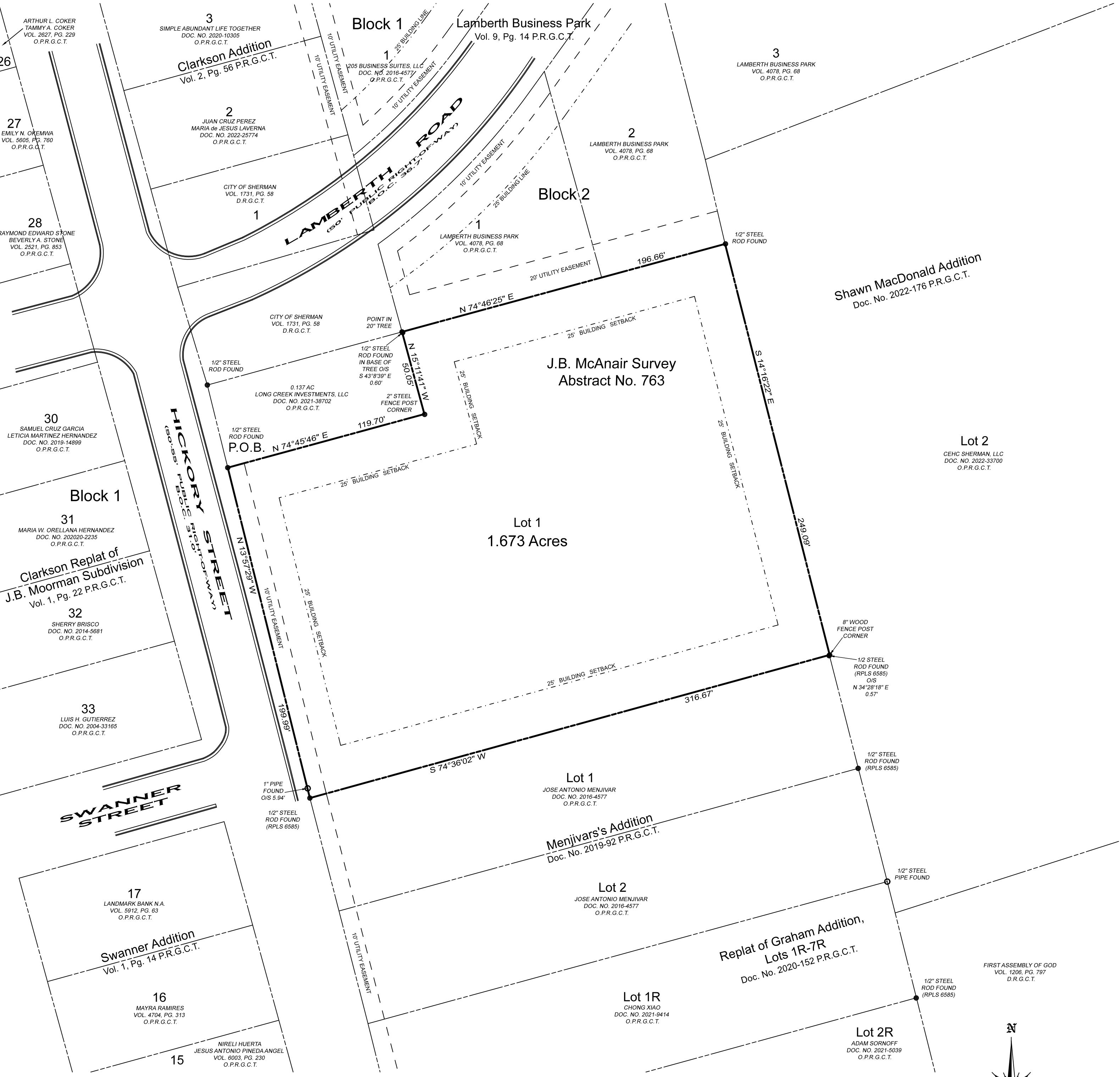
Secretary

Accepted by the City Council of the City Sherman.

Mayor, City of Sherman, Texas

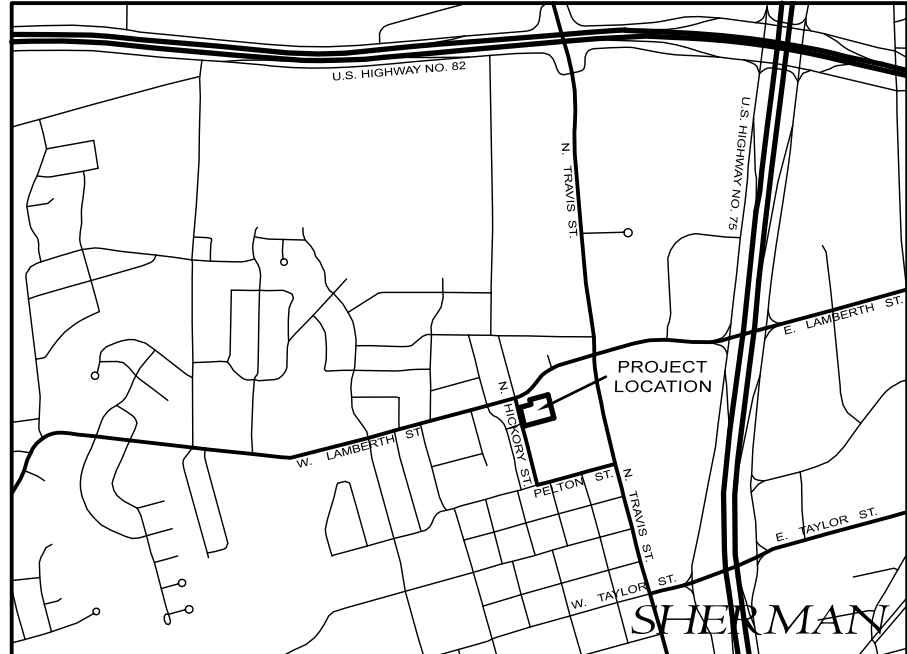
Date

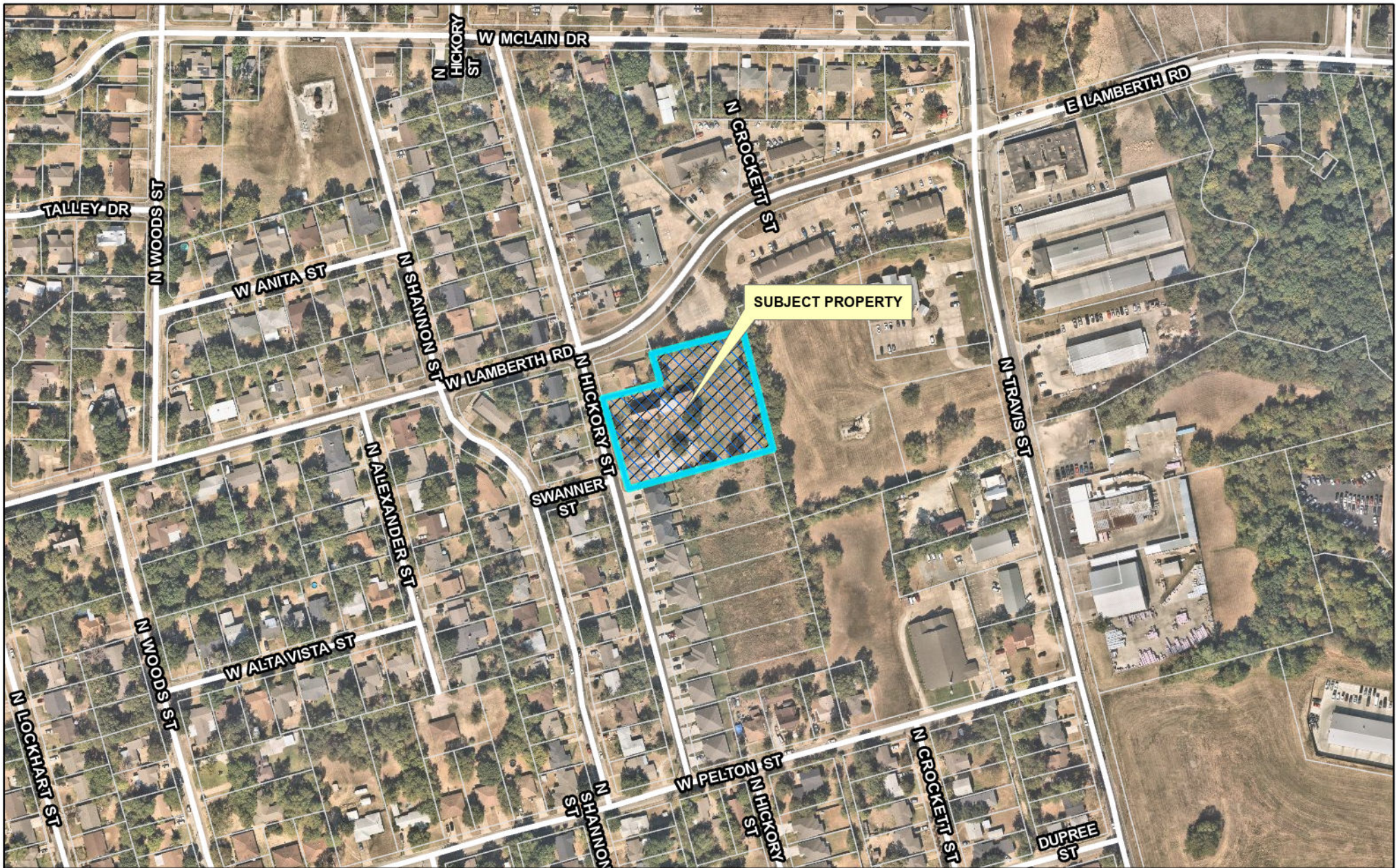
Preliminary Plat of
The Fab
Townhomes
an addition to
the City of Sherman
Grayson County, Texas



~ BASIS OF BEARINGS ~
GRID NORTH, NAD 83
TEXAS STATE PLANE COORDINATE SYSTEM
NORTH CENTRAL ZONE (4202)

Vicinity Map

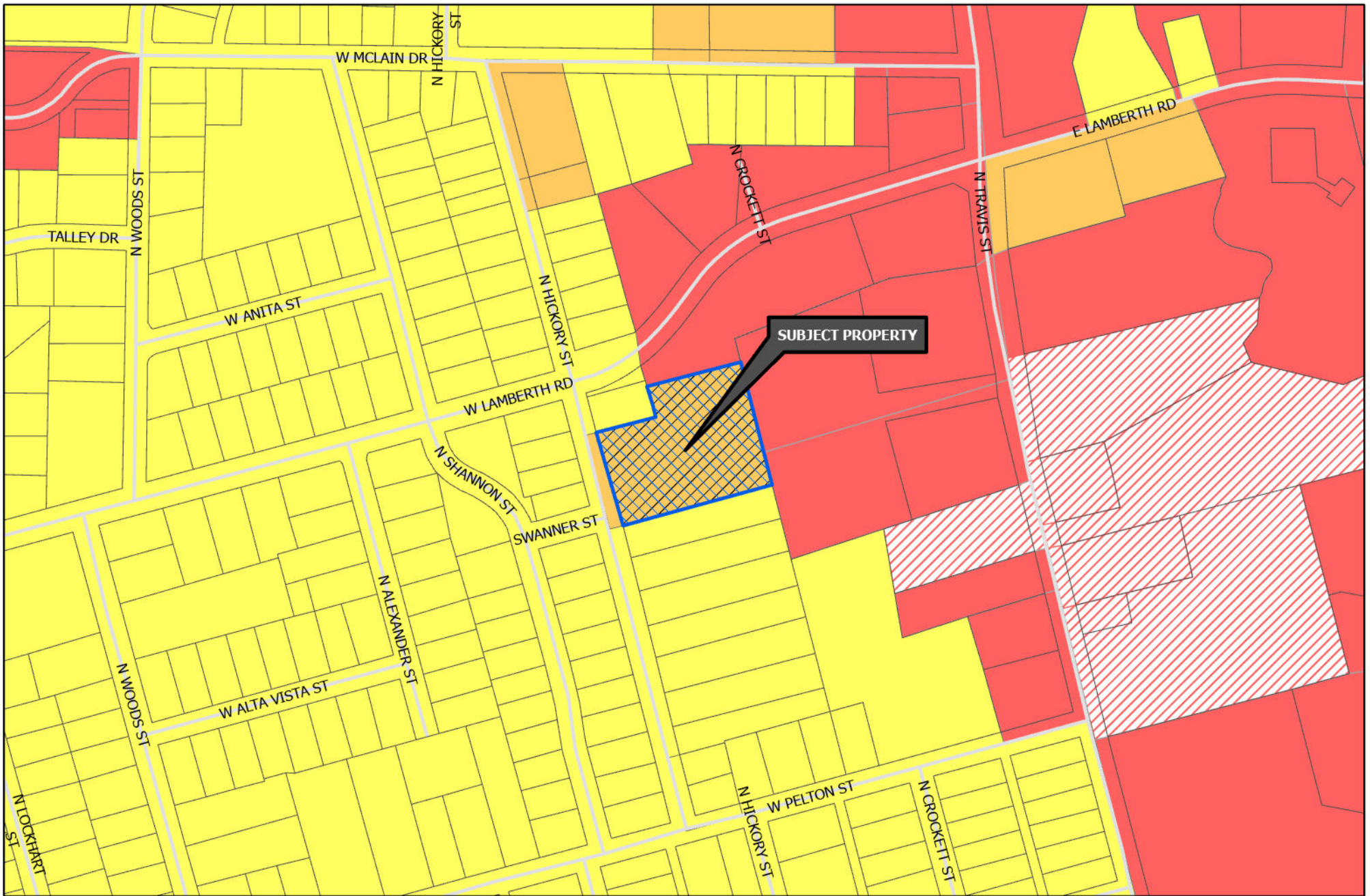




City of Sherman, Texas
Development Services Department

CITY OF SHERMAN
LOCATION MAP
2505 N HICKORY ST





Sherman
CLASSIC TOWN. BROAD HORIZON.

Development Services
Department

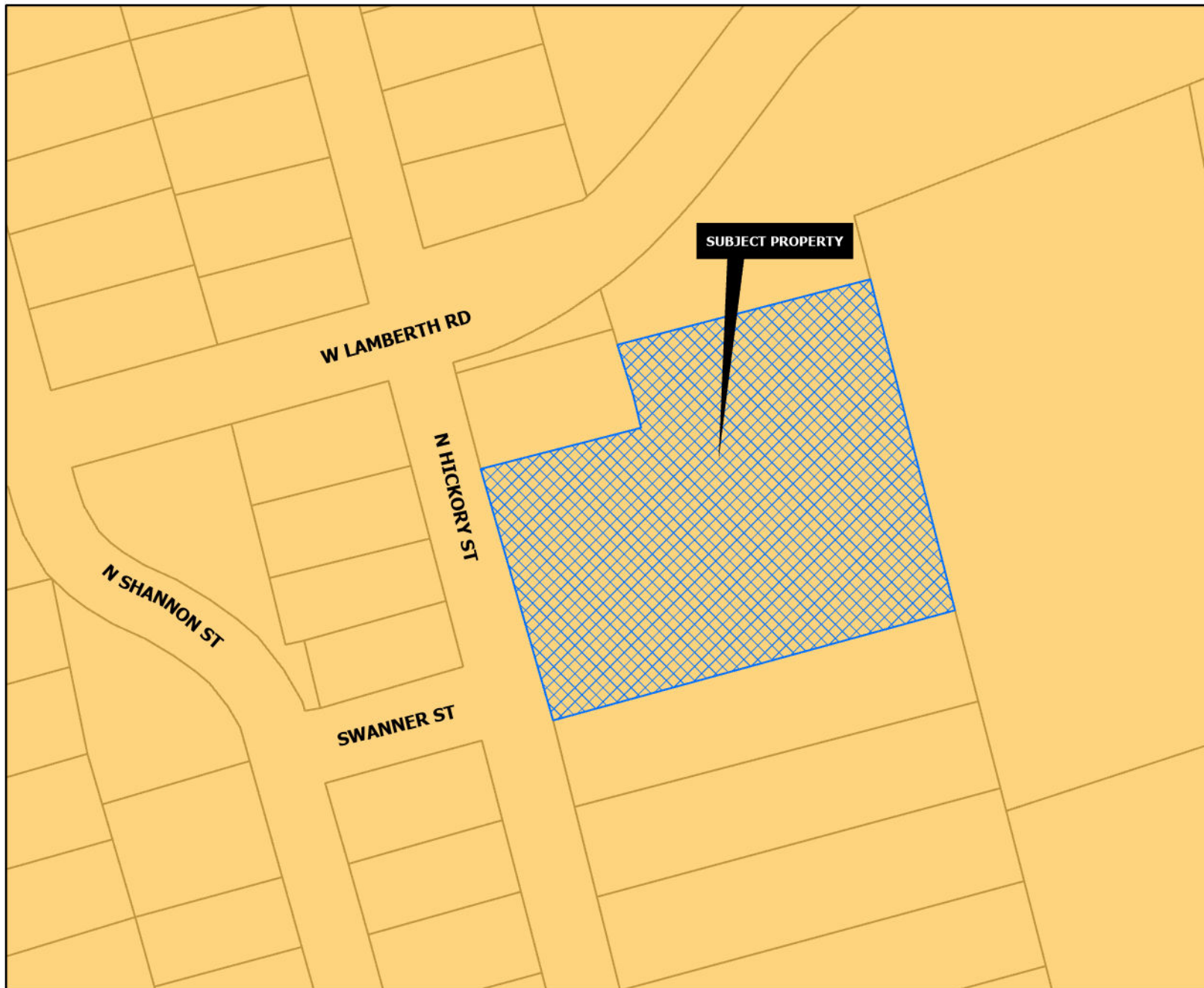
- R-A Residential Agricultural
- R-E Estate Residential
- R-12 Single Family Residential
- R-6 Single Family Residential
- R-5 Single Family Residential
- R-4 Patio Home Residential
- R-2F Duplex Residential

- R-TH Townhome Residential
- MF-15 Multi-Family Residential
- MF-30 Multi-Family Residential
- MH Manufactured Housing
- C-N Neighborhood Commercial
- C-O Office
- C-1 Retail Business

- C-2 General Commercial
- M-1 Light Manufacturing
- M-1.5 Medium Manufacturing
- M-2 Heavy Manufacturing
- PD Planned Development
- Subject Locations

CITY OF SHERMAN
ZONING MAP
2505 N HICKORY ST





CORE NEIGHBORHOOD

Intent & Character

The Core Neighborhood category is intended to protect and enhance the existing residential areas of Sherman. This area is generally located in the center of the city, east and west of US-75. A majority of the Core Neighborhood category encompasses what is known as east Sherman. This category encourages infill development that maintains the existing character, while increasing the aesthetic appeal of the community. In certain areas, an increase in density can be appropriate through the development of single-family attached products, like townhomes or quad-plexes.

Appropriate Land Use Types

- Single-family detached
- Single-family attached
- Local/neighborhood commercial and office
- Parks and open space
- Schools and civic uses

Compatible Zoning Districts

- Single-Family Residential (R-5, R-4, R-2F, and R-TH)
- Multi-Family Residential (MF-15 and MF-30)
- Manufactured Housing
- Retail Business
- Neighborhood Commercial

Considerations

- Infill that increases density should match the character of the surrounding structures.
- Small-scale commercial uses are appropriate along larger streets and should be compatible with the surrounding residential development.

Sherman
CLASSIC TOWN. BROAD HORIZON.

Development Services
Department



CITY OF SHERMAN
FUTURE LAND USE MAP
3314 & 3318 TEXOMA PKWY







October 04, 2023

**Regarding: 2505 N Hickory St,
Sherman, Texas 75092**

This 1.67-acre site currently is in the zoning MF-30 and in December 2022 the ordinance was revised to have 5-acre minimum requirement for development. Site is not surrounded by additional land to have 5 acres available. So, we are proposing to change the zoning to MF-15 with a variance on 2-acres minimum requirement.

With that we designed site plan to develop an 18-unit two-storied townhome development called “**The Fab Townhomes**”. That matches new constructions happening in the area like single-family or duplexes. Preliminary plat is also being submitted along with these with necessary setbacks. This new project should help improve the neighborhood’s aesthetics as well. Even going to help support the exponential growth City is going through.

Respectfully,

Vamsi Krishna Ch

Vamsi Krishna Chitluri, Manager

Sarika Mandavilli

Sarika Mandavilli, Manager



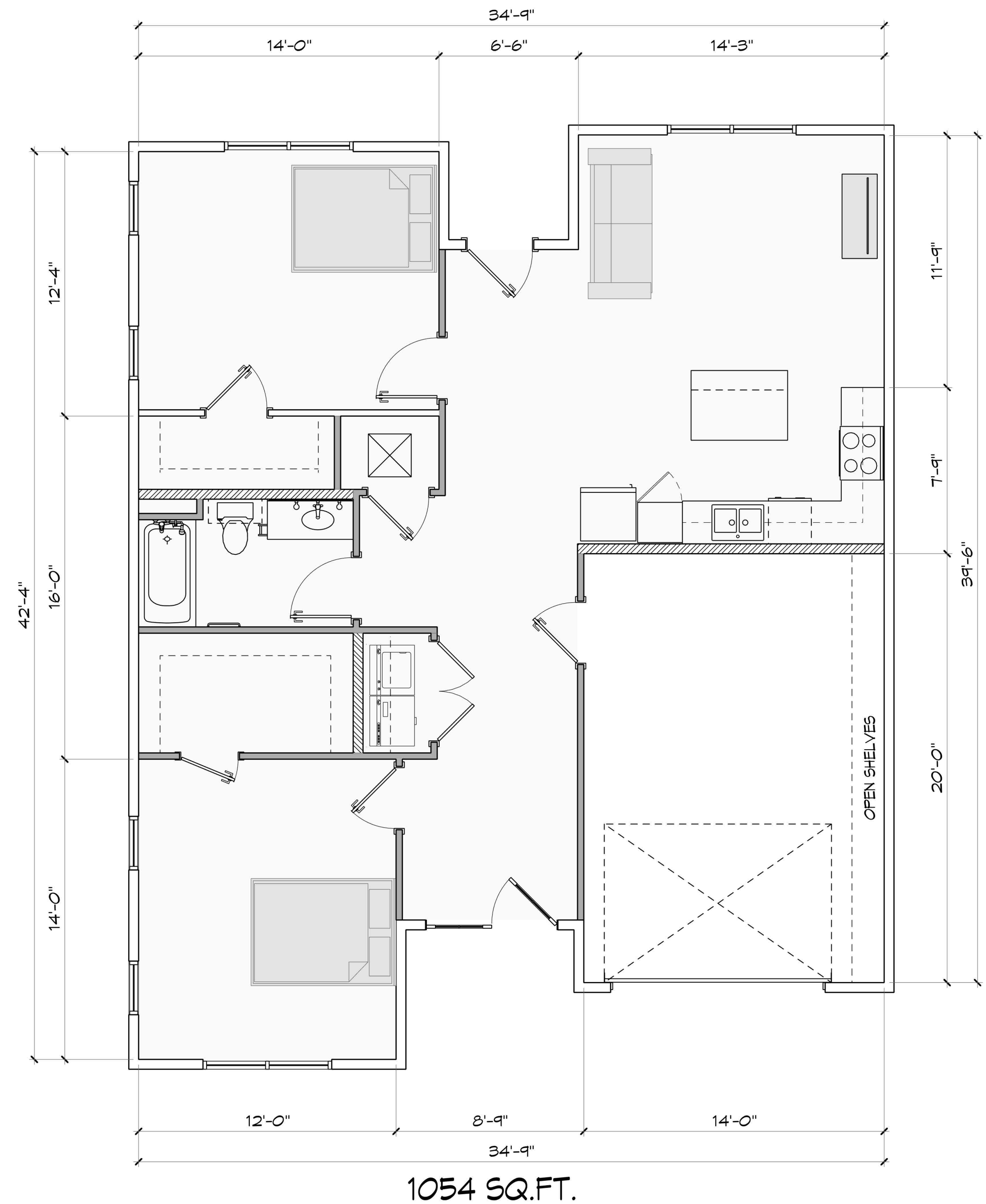
1 OVERALL SITE PLAN
SCALE: 1/16"=1'-0"

BUILDING UNIT TABLE			
UNIT TYPE	CONDITIONED AREA	GARAGE AREA	UNITS ON SITE
ONE STORY	1040 SQ.FT.	294 SQ.FT.	2
TWO STORY	1220 SQ.FT.	294 SQ.FT.	16
TOTAL UNITS			18

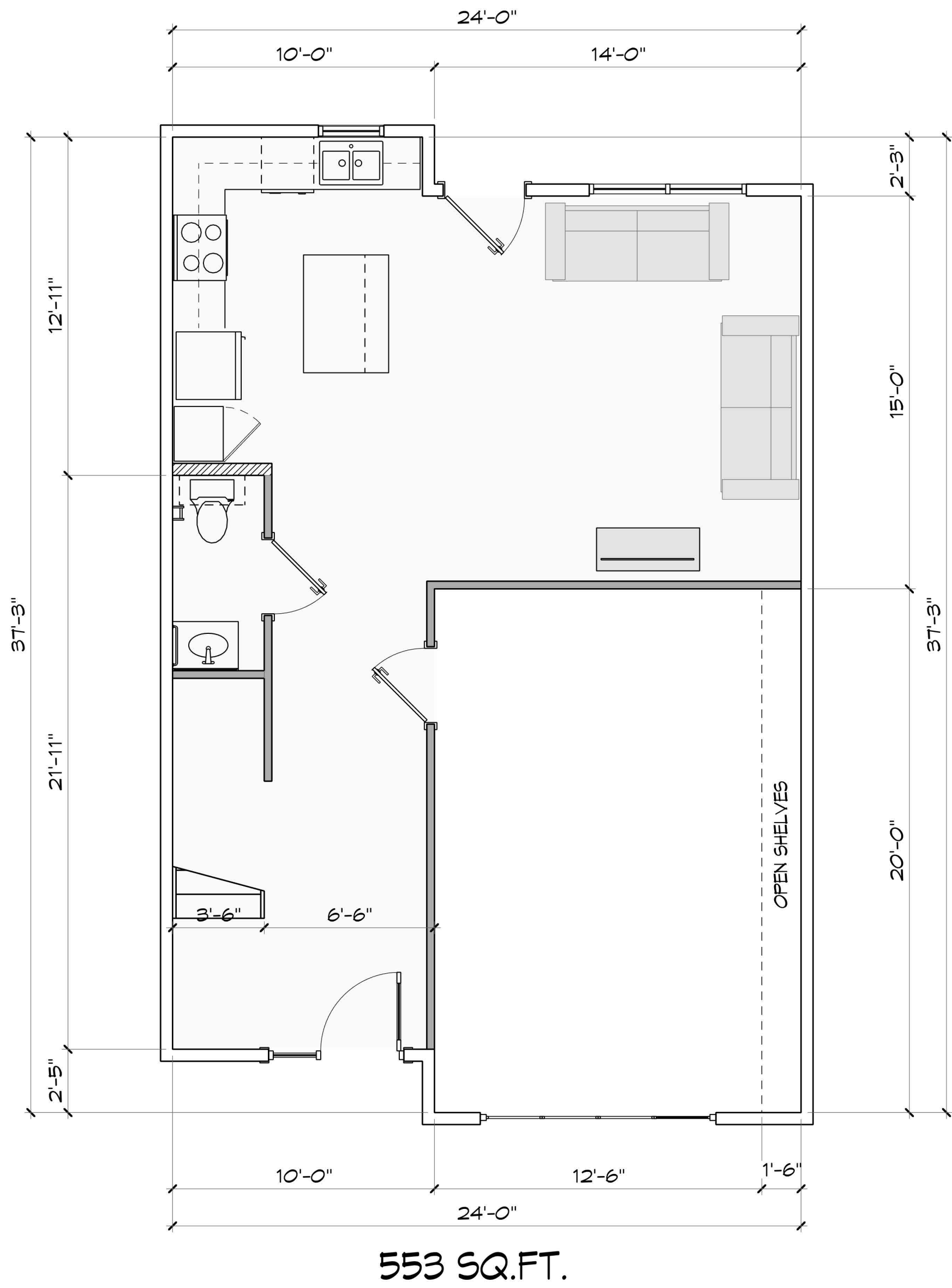
SITE TABULATION	
PROPERTY SQ.FT.	72880 SQ.FT.
PARKING REQ'D	36
PARKING PROVIDED	60
CURRENT ZONING	MF-30
PROPOSED ZONING	MF-15
EXISTING HARD SURFACE	12700 SQ.FT.
HARD SURFACE AREA	37632 SQ.FT.
LANDSCAPED AREA	35204 SQ.FT.
FLOOR-TO-AREA RATIO	---

PARKING CALCULATIONS			
UNIT TYPE	UNITS ON SITE	PARKING REQUIREMENTS	
TWO BED	18	2 PER UNIT	36
TOTAL PARKING REQUIRED			36
GARAGE PARKING PROVIDED			18
DRIVEWAY PARKING PROVIDED			36
ADDITIONAL PARKING PROVIDED			6
TOTAL PARKING PROVIDED			60

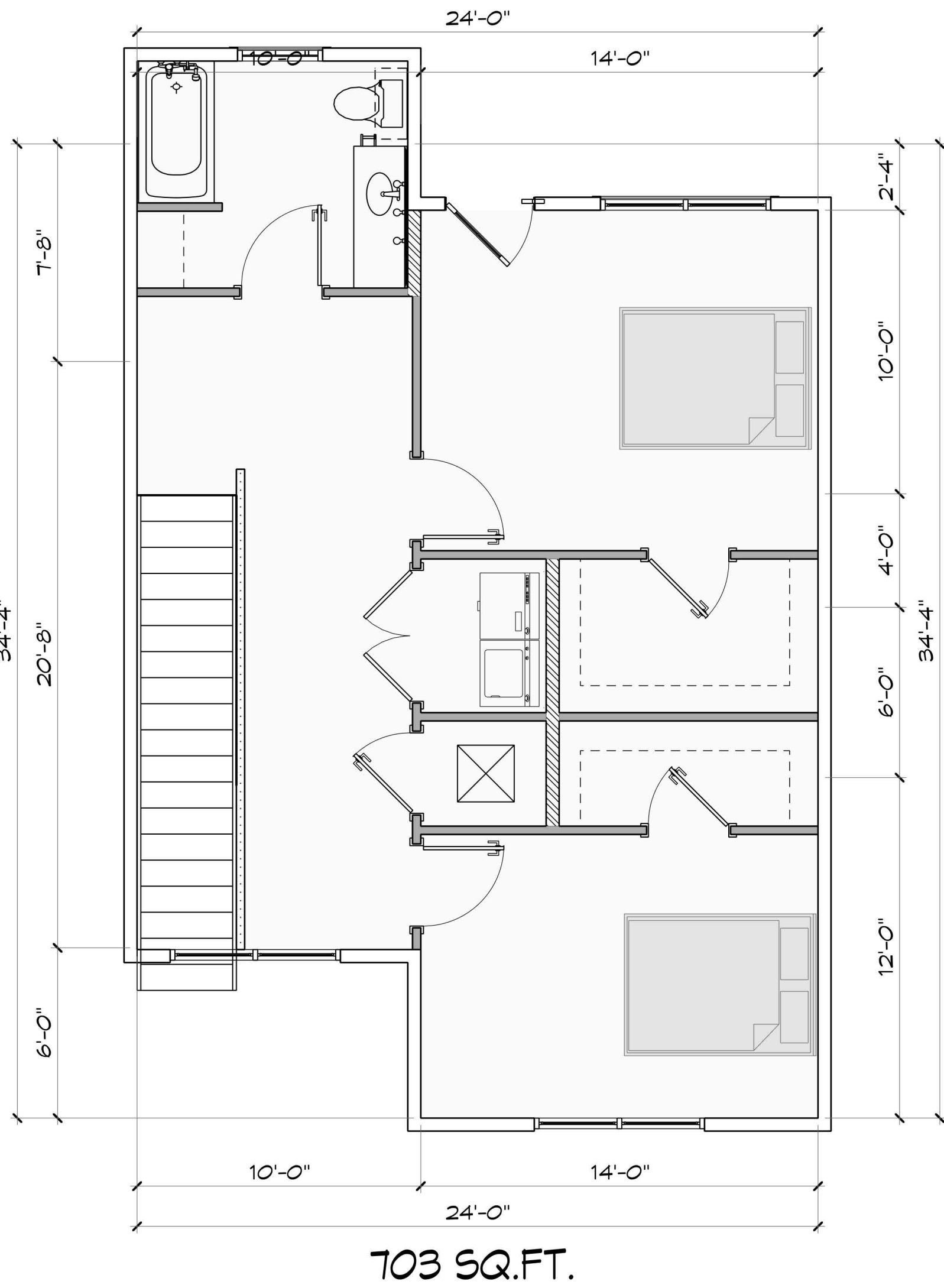
The Fab Townhomes
2505 North Hickory Street
Sherman, Texas
75092



1 ENLARGED ONE STORY UNIT
SCALE: 1/4"=1'-0"



2 ENLARGED TWO STORY-FIRST FLOOR
SCALE: 1/4"=1'-0"



3 ENLARGED TWO STORY-SECOND FLOOR
SCALE: 1/4"=1'-0"

The Fab Townhomes
2505 North Hickory Street
Sherman, Texas
75092

JOB NO. A2242
DATE: 2023-11-29

SHEET NO.
A-204



1 EXTERIOR ELEVATION OPTION 01
SCALE: 1/8"=1'-0"



2 EXTERIOR RENDERING OPTION 01
SCALE: N.T.S.

The Fab Townhomes
2505 North Hickory Street
Sherman, Texas
75092

JOB NO. A2242
DATE: 2023-11-29

SHEET NO.
A-401

STAFF REVIEW LETTER

December 5, 2023

Sent via Email

Vamsi Krishna Chitluri
Sarika Mandavilli
14668 Blakehill Drive
Frisco, TX 75035

Dear Applicants,

The request of a Public Hearing and Variance under Section 14.02.012 to allow a lot area of 1.673 acres in lieu of the required 2 acres in an MF-15 (Multi-Family Residential) District; a Public Hearing and Zone Change from MF-30 (Multi Family Residential) District to an MF-15 (Multi Family Residential) District; and a Site Plan for The Fab Townhomes located at 2505 North Hickory Street has been scheduled to be heard by the Planning and Zoning Commission on Tuesday, December 12, 2023, at 5:00 P.M., in the City Council Chambers, City Hall at 220 W. Mulberry.

City staff has reviewed your request, and the following items need to be noted/addressed:

Zoning:

1. Compliance with applicable City ordinances, regulations, standards and rules and other laws, as they exist or may be amended, including but not limited to the City's Zoning Ordinance/Code of Ordinance Chapter 14.
2. Fire access, lanes and codes shall be coordinated with the Fire Marshal (903.892.7267). (*Code of Ordinances Chapter 3.02(c)*)
3. Fence Permits shall be permitted separately from the building permit and must adhere to the City's Zoning Ordinance/Code of Ordinance Chapter 14. (*Sec. 14.04.004*)
4. Sign Permits shall be permitted separately from the building permit and must adhere to the City's Zoning Ordinance/Code of Ordinance Chapter 14. (*Article 14.07*)
5. Impact fees will be required at the time of building permit application. (*Chapter 13, Article. 13.11*)
6. The approval of a Site Plan shall be effective for a period of two (2) years from the date of approval, at the end of which time the Site Plan shall expire unless the applicant demonstrates to the Director of Development Services that progress has been made toward completion of the project for which the Site Plan was approved.
7. Any changes made to the site plan prior to the final fulfillment of the conditions of the staff review letter must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

Engineering

8. Platting of the property is required. *Code of Ordinances Chapter 10.02.002(a)(1); Texas Local Government Code Title 1, Sec. 212.004*
9. Privately owned and maintained detention in accordance with City criteria may be required. Engineering documentation shall be provided to the City of Sherman Engineering Department for review and approval. If detention is required, Ownership and Maintenance information to be shown on plat. *Code of Ordinances Chapter 10.03.003(i)*
10. Drive approaches and sidewalks must conform to City of Sherman standards and a permit with drawing showing dimensions is required from City of Sherman Engineering Department for

review and approval prior to any work being done within public right of way. *Code of Ordinances Chapter 3, Division 5, Sec. 3.10.154; 10.03.003.(f)*

11. Internal water and wastewater lines will be privately owned and maintained.
12. Civil Engineering plans shall be provided to the Engineering Department for review and approval. Plat to reflect changes upon Engineering review. Civil Plan submittal requirements can be found in the Development Guide on the City of Sherman website. *Code of Ordinances Chapter 10.03.006(b)*

Fire Services

Building is equipped throughout with an approved automatic sprinkler system.

13. [] 503.1.1 - The fire apparatus access road shall comply with the requirements of this section and shall extend to within 200' of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.
14. [] 507.5.1 - Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 600' from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official.
15. [] 507.5.1.1 - Buildings equipped with a FDC installed in accordance shall have a fire hydrant within 100' of the fire department connections.

Building is NOT over 3 stories or 30' in height or 62,000 square feet in gross area.

16. [] 503.2.1 - Fire apparatus access roads shall have an unobstructed width of not less than 24', exclusive of shoulders and an unobstructed vertical clearance of not less than 14'. (City Ordinances Amendments 3.01.002)
17. [] 503.2.4 - The minimum turning radius shall be at least 25' unless fire lane exceeds minimum requirement of 24'. (City Ordinances Amendments 3.01.002)

Building is over 3 stories or 30' in height or 62,000 square feet in gross area.

18. [] D105.2 - Aerial fire apparatus access roads shall have a minimum unobstructed width of 26', exclusive of shoulders, in the immediate vicinity of the building or portion thereof. and an unobstructed vertical clearance of not less than 14'. (City Ordinances Amendments 3.01.002)
19. [] D105.3 - One or more of the required access routes meeting this condition shall be located not less than 15' and not greater than 30' from the building and shall be positioned parallel to one entire side of the building. The side of the building on which the aerial fire apparatus access road is positioned shall be approved by the fire code official.
20. [] 503.2.4 - The minimum turning radius shall be at least 25' unless the fire lane exceeds minimum requirement of 26'. (City Ordinances Amendments 3.01.002)

It is the policy of Planning and Zoning Commission and Board of Adjustment not to consider a request unless the applicant or its representative attends the meeting at which the request is considered. You are hereby notified to present your case on the date and time stated above.

If additional information or clarification is needed, do not hesitate to contact Development Services at 903-892-7229 prior to the meeting.

Respectfully,



Rob Rae

Acting Secretary, Planning and Zoning Board and Board of Adjustment

CC: Robby Hefton, City Manager
Clint Philpott, Asst. City Manager
Wayne Lee, P.E., Director of Engineering
Tom Pruitt, Utility Engineer
The Law Firm of Abernathy, Roeder, Boyd, & Hullett, P.C., City Attorney

Billy Hartsfield, Fire Chief
Amber Doan, Engineering Coordinator
Christopher Armstrong, Asst. City Engineer



City Council Regular Meeting

Agenda Item No. D.2.

Meeting Date: 1/16/2024

Prepared By: Lauren Marlow, Development Service Coordinator

Approved By: Robby Hefton, City Manager

Caption:

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6684

Amending Sherman's Zoning Ordinance/Code of Ordinances Chapter 14, and Granting a Specific Use Permit to Allow Schools; Elementary, High, College and Universities, Public, Private, or Denominational in the C-1 (Retail Business) District/F.M. 1417 Overlay District, Located at 2276 South FM 1417 (Heritage Parkway), consisting of 10.0030 acres in the E. Jones Survey, Abstract No. 625, City of Sherman, Grayson County, Texas; Sherman Developers, LLC (Owner), Michael Carlisle, P.E. (Applicant) and Kimley-Horn and Associates, Inc. (Engineer/Surveyor); Prescribing Conditions to the Specific Use Permit; Providing A Penalty Not to Exceed \$2,000.00; Providing A Repealing/Savings Clause, Severability Clause And An Effective Date

Issue:

Consideration of a Specific Use Permit for 10.0030 acres of land located at 2276 South FM 1417 (Heritage Parkway) to Allow a Charter School in the C-1 (Retail Business) District/F.M. 1417 Overlay District

Background:

The property is located at 2276 South FM 1417 (Heritage Parkway) between Quail Run Road and West OB Groner Road. The owner is requesting a Specific Use Permit and Site Plan for a Charter School that would be able to accommodate approximately 600 students ranging from grades Kindergarten to Grade 12. The proposed building would be 100,000 square feet for the Sherman Inspire Academy.

Origination:

Sherman Developers, LLC (Owner)
Michael Carlisle, P.E. (Applicant)
Kimley-Horn and Associates, Inc. (Engineer/Surveyor)

Financial Consideration:

None

Staff Recommendation:

At the December 12, 2023 regular meeting, the Planning and Zoning Commission voted 7/0 to recommend to the City Council that the Specific Use Permit be approved subject to the Staff Review Letter and being tied to Sherman Inspire Academy. **The proposed use is compatible with the City of Sherman Comprehensive Plan. Staff recommends that Council approve this item.**

Alternatives:

The City Council could deny the request.

Attachments:

1. Ordinance No 6684
2. Location Map
3. Zoning Map
4. Future Land Use Map
5. Property Notification Sign
6. Exhibit A - Survey
7. Exhibit B - Site Plan
8. Exhibit C - Landscape Plan
9. Exterior Elevations
10. Staff Review Letter

ORDINANCE NO. 6684

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SHERMAN'S ZONING ORDINANCE/CODE OF ORDINANCES CHAPTER 14, AND GRANTING A SPECIFIC USE PERMIT TO ALLOW A SCHOOLS; ELEMENTARY, HIGH, COLLEGE AND UNIVERSITIES, PUBLIC, PRIVATE, OR DENOMINATIONAL IN THE C-1 (RETAIL BUSINESS) DISTRICT/F.M. 1417 OVERLAY DISTRICT, LOCATED AT 2276 SOUTH FM 1417 (HERITAGE PARKWAY), CONSISTING OF 10.0030 ACRES IN THE E. JONES SURVEY, ABSTRACT NO. 625, CITY OF SHERMAN, GRAYSON COUNTY, TEXAS SHERMAN DEVELOPERS, LLC (OWNER), MICHAEL CARLISLE, P.E. (APPLICANT) AND KIMLEY-HORN AND ASSOCIATES, INC. (ENGINEER/SURVEYOR); PRESCRIBING CONDITIONS TO THE SPECIFIC USE PERMIT; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00; PROVIDING A REPEALING/SAVINGS CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with the state law and the ordinances of the City of Sherman, have given the required notices and have held the required public hearings regarding this Specific Use Permit; and

WHEREAS, the City Council finds that this use will complement or be compatible with the surrounding uses and community facilities; contribute to, enhance, or promote the welfare of the area of request and adjacent properties; not be detrimental to the public health, safety, or general welfare; and conform in all other respects to all applicable zoning regulations and standards; and

WHEREAS, the City Council finds that it is in the public interest to grant this Specific Use Permit, subject to certain conditions.

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

SECTION 1. That, from and after the effective date of this Ordinance, the property located at 2276 South FM 1417 (Heritage Parkway), City of Sherman, Grayson County, Texas is/are granted a Specific Use Permit to a Charter School, subject to the conditions described in this Ordinance and that Sherman's Zoning Ordinance/Code of Ordinances, Chapter 14 is hereby amended so as to hereafter include property on **Exhibit A – Survey**.

SECTION 2. That this Specific Use Permit is granted on the following conditions:

Zoning:

1. Compliance with applicable City ordinances, regulations, standards and rules and other laws, as they exist or may be amended, including but not limited to the City's Zoning Ordinance/Code of Ordinance Chapter 14.
2. Fire access, lanes and codes shall be coordinated with the Fire Marshal (903.892.7267). *(Code of Ordinances Chapter 3.02(c))*
3. There shall be a minimum of 10 stacking spaces in 1 pick-up/drop-off lane. *(Section 14.04.005(5)(a))*
4. Fence Permits shall be permitted separately from the building permit and must adhere to the City's Zoning Ordinance/Code of Ordinance Chapter 14. *(Sec. 14.04.004) (Sec. 14.03.002)*
5. Sign Permits shall be permitted separately from the building permit and must adhere to the City's Zoning Ordinance/Code of Ordinance Chapter 14. *(Sec. 14.03.002)*
6. Impact fees will be required at the time of building permit application. *(Chapter 13, Article. 13.11)*
7. The approval of a Site Plan shall be effective for a period of two (2) years from the date of approval, at the end of which time the Site Plan shall expire unless the applicant demonstrates to the Director of Development Services that progress has been made toward completion of the project for which the Site Plan was approved.
8. Any changes made to the site plan prior to the final fulfillment of the conditions of the staff review letter must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

Engineering

9. Right-in/Right-out only driveway access will be required unless the proposed driveway is aligned with the existing driveway on the east side of FM 1417, across from the subject property.
10. Platting of the property is required. *Code of Ordinances Chapter 10.02.002(a)(1); Texas Local Government Code Title 1, Sec. 212.004*
11. Title of civil engineering plans shall match proposed Plat title.
12. Civil Engineering plans shall be provided to the Engineering Department for review and approval. Plat to reflect changes upon Engineering review. Civil Plan submittal requirements can be found in the Development Guide on the City of Sherman website. *Code of Ordinances Chapter 10.03.006(b)*

Fire Services

13. [] 507.5.1 - Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 600' from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official.
14. [] 507.5.1.1 - Buildings equipped with a FDC installed in accordance shall have a fire hydrant within 100' of the fire department connections.
15. Fences attached to building shall have gates with Knox access to maintain hose lay application around buildings.
16. If building exceeds 30' all fire code aerial apparatus access roads shall apply.

Solid Waste Services

17. Dumpster Enclosure shall be a minimum of 10' by 10'.
18. Dumpster Enclosure shall be constructed of masonry or similar durable material. *(Sec. 14.04.004(d)(4)(C))*

Additional Conditions: as applicable

19. The property shall be developed and used in accordance with all City Ordinances and the Site Plan shown in **Exhibit B**.
20. Notwithstanding anything to the contrary herein, the Specific Use Permit granted in this Ordinance shall automatically expire, terminate and be rescinded in the event that a person or entity other than Sherman Inspire Academy is the lessee of the Property.
21. The property shall be developed and used in accordance with the Landscape Plan shown in **Exhibit C**.

SECTION 3. That this Ordinance shall be entered upon the official zoning map as provided in Sherman's Zoning Ordinance/Code of Ordinances, Chapter 14, Section 14.01.002.

SECTION 4. That after holding a properly noticed public hearing, the City Council may amend, change, or rescind the Specific Use Permit if any of the conditions set forth in Zoning Ordinance/Code of Ordinances Chapter 14, Section 14.06.009(1)(g), apply or exist.

SECTION 5. That the Specific Use Permit shall be effective from and after the effective date of this Ordinance. Upon termination of the Specific Use Permit, the property shall cease to be used as provided herein unless another Specific Use Permit or appropriate zoning has been obtained.

SECTION 6. That it shall be unlawful for any person to make use of the property in some manner other than as authorized by this Ordinance, and it shall be unlawful for any person to construct on the property any building that is not in conformity with the permissible uses under this Ordinance. Any person violating any provision of this Ordinance or the Zoning Ordinance, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in an amount not exceeding TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). A violation of any provision of this Ordinance shall constitute a separate violation for each calendar day in which it occurs. The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 7. That the Zoning Ordinance shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 8. That in the event any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

SECTION 9. 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.

SECTION 10. That this Ordinance shall become effective from and after its adoption and publication as required by law and the City Charter.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS.

INTRODUCED on this the 16th day of January 2024.

ADOPTED on this the 16th day of January 2024.

EFFECTIVE DATE on this the 16th day of January 2024.

CITY OF SHERMAN, TEXAS

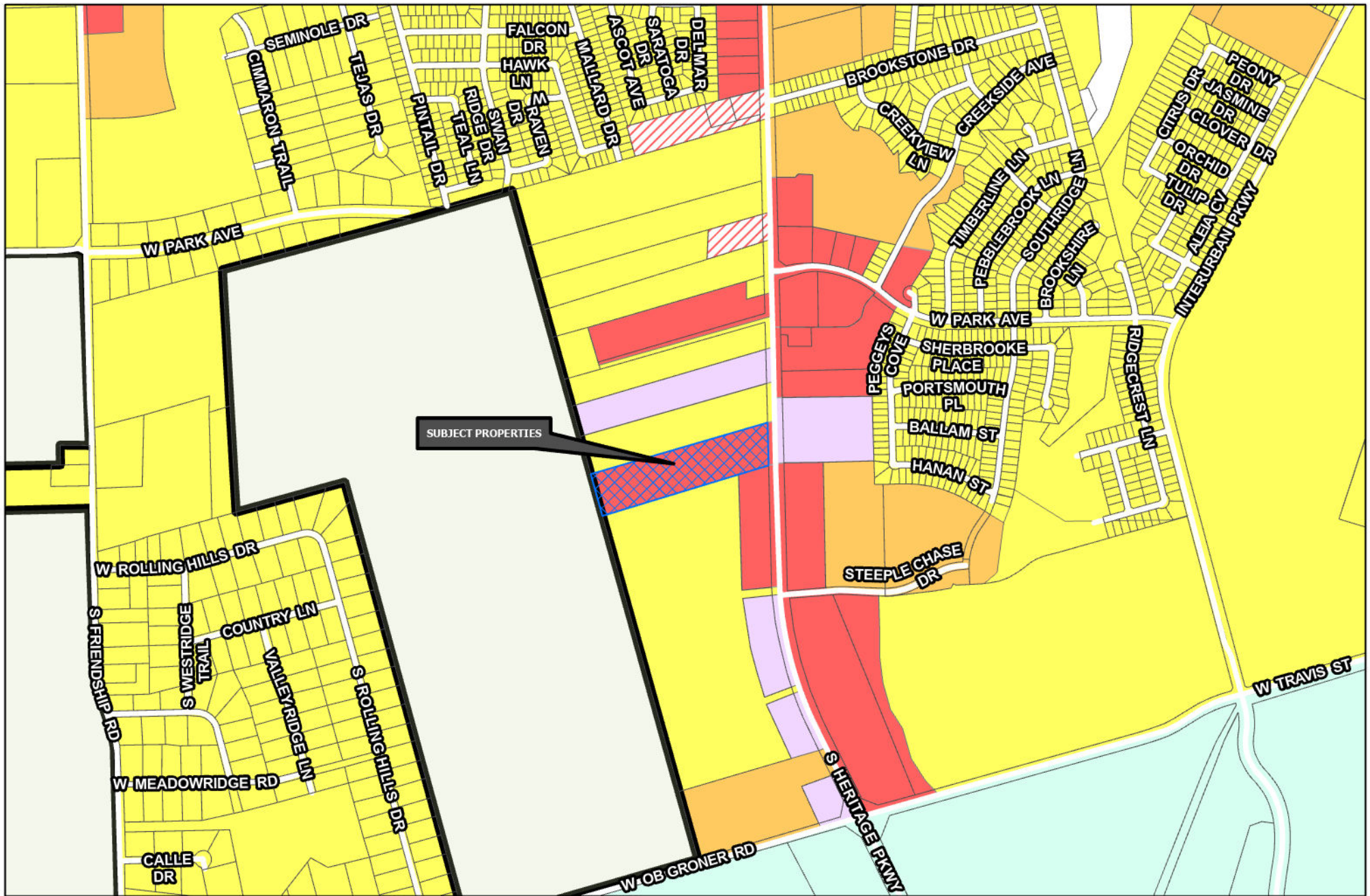
BY: _____
DAVID PLYLER, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM:
THE LAW FIRM OF ABERNATHY,
ROEDER, BOYD & HULLETT, P.C.

BY: _____
RYAN D. PITTMAN, CITY ATTORNEY

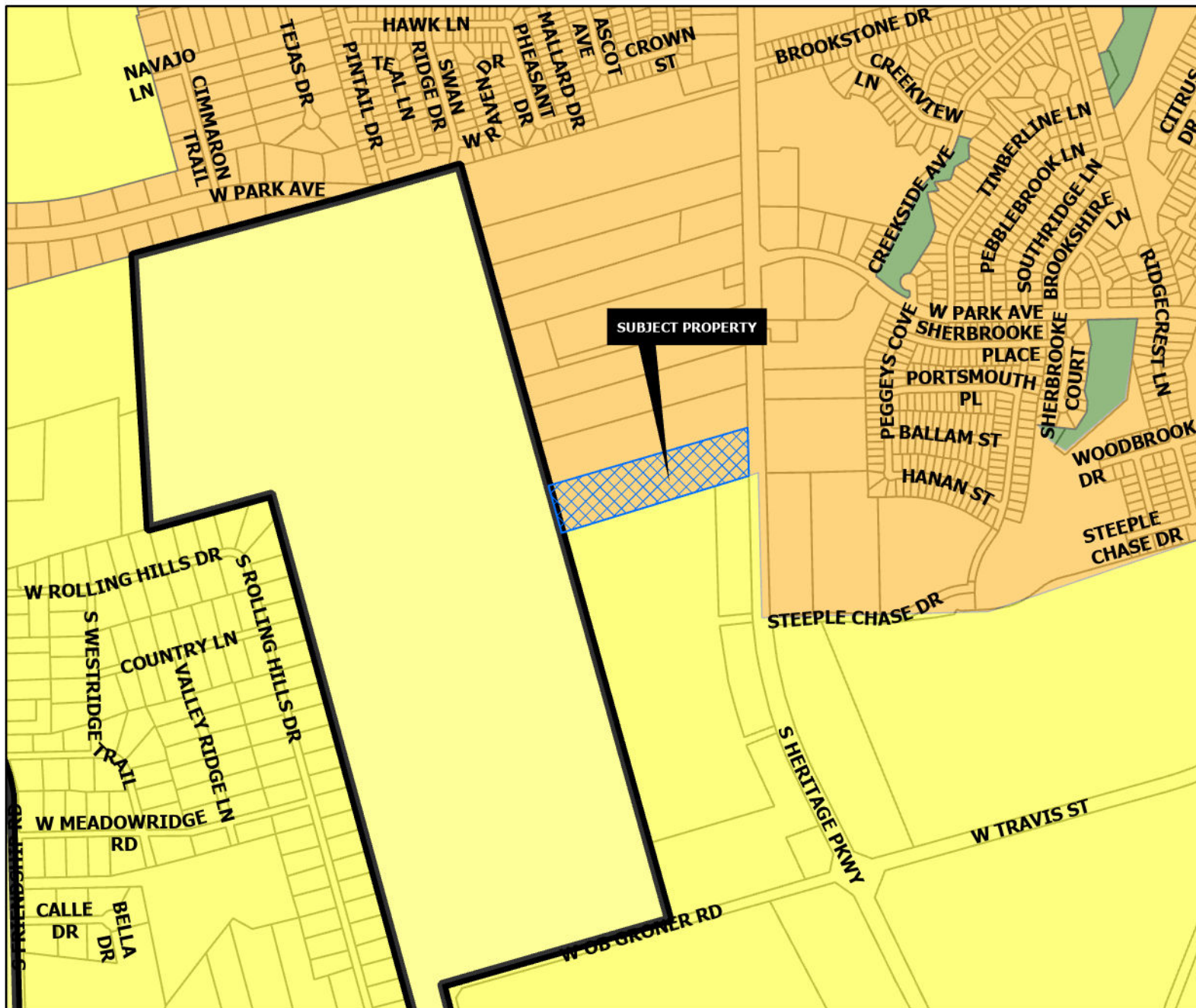


Development Services
Department

R-A Residential Agricultural	MF-15 Multi-Family Residential	M-1.5 Medium Manufacturing
R-E Estate Residential	MF-30 Multi-Family Residential	M-2 Heavy Manufacturing
R-12 Single Family Residential	MH Manufactured Housing	PD Planned Development
R-6 Single Family Residential	C-N Neighborhood Commercial	Road Names All
R-5 Single Family Residential	C-O Office	Planning & Zoning
R-4 Patio Home Residential	C-1 Retail Business	
R-2F Duplex Residential	C-2 General Commercial	
R-TH Townhome Residential	M-1 Light Manufacturing	

CITY OF SHERMAN
ZONING MAP
2276 S FM 1417 (HERITAGE PKWY)





CORE NEIGHBORHOOD

Intent & Character

The Core Neighborhood category is intended to protect and enhance the existing residential areas of Sherman. This area is generally located in the center of the city, east and west of US-75. A majority of the Core Neighborhood category encompasses what is known as east Sherman. This category encourages infill development that maintains the existing character, while increasing the aesthetic appeal of the community. In certain areas, an increase in density can be appropriate through the development of single-family attached products, like townhomes or quad-plexes.

Appropriate Land Use Types

- Single-family detached
- Single-family attached
- Local/neighborhood commercial and office
- Parks and open space
- Schools and civic uses

Compatible Zoning Districts

- Single-Family Residential (R-5, R-4, R-2F, and R-TH)
- Multi-Family Residential (MF-15 and MF-30)
- Manufactured Housing
- Retail Business
- Neighborhood Commercial

Considerations

- Infill that increases density should match the character of the surrounding structures.
- Small-scale commercial uses are appropriate along larger streets and should be compatible with the surrounding residential development.

Sherman
CLASSIC TOWN. BROAD HORIZON.

Development Services
Department

	Agriculture/Rural		Core Neighborhood		Technology Hub
	Airport		Downtown		Planning & Zoning
	City Parkland		Regional Commercial		
	Community Commercial		Suburban Neighborhood		

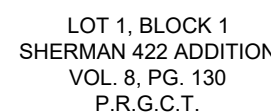
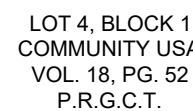
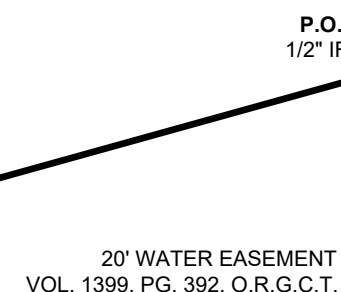
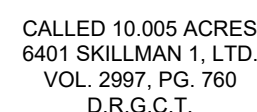
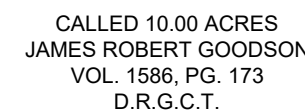
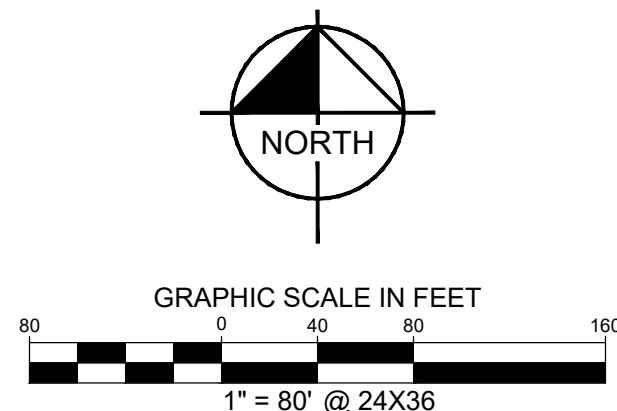
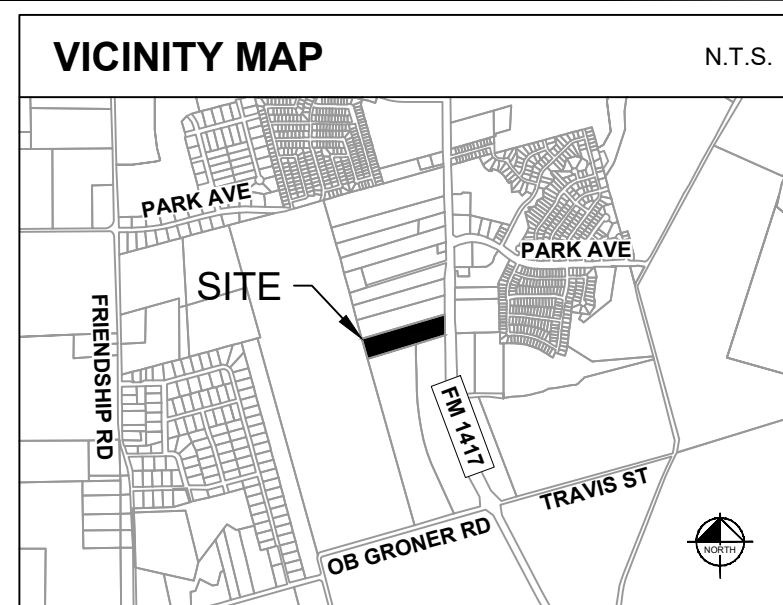
CITY OF SHERMAN
FUTURE LAND USE MAP
2276 S FM 1417 (HERITAGE PKWY)





Nov 28, 2023 12:59:51 PM
2303 South Farm to Market Road 1417
Sherman
Grayson County
Texas

EXHIBIT A

**PROPERTY DESCRIPTION:**

BEING a tract of land situated in the E. Jones Survey, Abstract No. 625, City of Sherman, Grayson County, Texas, and being all of a called 10.0038-acre tract of land described in a deed to Sherman Developers, LLC, recorded in Instrument No. 2022-9891, Official Records, Grayson County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod found for the northeast corner of said 10.0038-acre tract, common to the southeast corner of a called 10.005-acre tract of land described in a deed to 6401 Skillman 1, Ltd., recorded in Volume 2997, Page 760, Deed Records, Grayson County, Texas, same being on the westerly right-of-way line of Farm-to-Market Road No. 1417 (Volume 927, Page 251);

THENCE South 01°22'13" East, along the common line of said 10.0038-acre tract and said FM 1417, a distance of 333.81 feet to a 1/2-inch iron rod found for the southeast corner of said 10.0038-acre tract;

THENCE South 74°27'02" West, departing the westerly right-of-way line of said FM 1417 and along the southerly line of said 10,003.8-acre tract, passing at a distance of 237.14 feet the northeast corner of a called 43,727-acre tract of land described in a deed to LGE Homes-Texas, LLC, recorded in Instrument No. 2022-14139, for Official Records, and continuing along the same corner and along the northerly line of said 43,727-acre tract, for a total distance of 1,304.45 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for the southwest corner of said 10,003.8-acre tract, common to the northwest corner of said 43,727-acre tract, same being on the easterly line of a called 220.14-acre tract of land described in a deed to Huy Quach and Charles Shao Wu, recorded in Volume 3260, Page 62, said Deed Records;

THENCE North 15°44'58" West, along the common line of said 10.0038-acre tract and said 220.14-acre tract, a distance of 323.85 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for the northwest corner of said 10.0038-acre tract, common to the southwest corner of the aforementioned 10.005-acre tract;

THENCE North 74°27'33" East, departing the easterly line of said 220.141-acre tract and along the common line of said 10.0038-acre tract and said 10.005-acre tract, a distance of 1,387.35 feet to the **POINT OF BEGINNING** and containing 435.730 square feet or 10.0030 acres of land, more or less.

SURVEYORS CERTIFICATION

I hereby certify that this survey substantially complies with the current Texas Society of Professional Land Surveyors Standards and Specifications for a Category 1B Condition II Survey.

The field work was completed on 10-10-2023.

 10/26/23

Michael B. Marx
Registered Professional Land Surveyor No. 518
Kimley-Horn and Associates, Inc.
6160 Warren Pkwy., Suite 210
Frisco, Texas 75034
Ph. 972-335-3580
michael.marx@kimley-horn.com



LEGEND

	ROOF DRAIN		MAIL BOX
	CABLE TV BY BOX		SANITARY SEWER CLEAN OUT
	CABLE TV HANDHOLE		SANITARY SEWER MANHOLE
	CABLE TV VAULT		SANITARY SEWER MARKER FLAG
	CABLE TV MARKER SIGN		SANITARY SEWER SEPTIC TANK
	COMMUNICATIONS BOX		SANITARY SEWER VAULT
	COMMUNICATIONS HANDHOLE		STORM SEWER BOX
	COMMUNICATIONS MANHOLE		STORM SEWER DRAIN
	COMMUNICATIONS MARKER FLAG		STORM SEWER MANHOLE
	COMMUNICATIONS MARKER SIGN		STORM SEWER VAULT
	ELECTRIC ON BENCHMARK		TRAFFIC BARRIER
	FIBER OPTIC BOX		TRAFFIC BOLLARD
	FIBER OPTIC HANDHOLE		TRAFFIC MANHOLE
	FIBER OPTIC MARKER FLAG		TRAFFIC MARKER SIGN
	FIBER OPTIC MARKER SIGN		TRAFFIC SIGNAL
	MONITORING WELL		UNIDENTIFIED BOX
	GAS HANDHOLE		UNIDENTIFIED HANDHOLE
	GAS MARKER FLAG		UNIDENTIFIED MANHOLE
	GAS MARKER SIGN		UNIDENTIFIED MARKER FLAG
	GAS TANK		UNIDENTIFIED MARKER SIGN
	GAS VAULT		UNIDENTIFIED POLE
	GUY ANCHOR		UNIDENTIFIED TANK
	TELEPHONE BOX		UNIDENTIFIED VAULT
	TELEPHONE HANDHOLE		TREE
	TELEPHONE MANHOLE		WATER BOX
	TELEPHONE MARKER FLAG		WATER FIRE CONNECTION
	TELEPHONE MARKER SIGN		WATER HAND HOLE
	TELEPHONE VAULT		WATER HYDRANT
	ELECTRIC BOX		WATER MANHOLE
	ELECTRIC HANDHOLE		WATER MARKER SIGN
	ELECTRIC MARKER FLAG		WATER MARKER SIGN
	ELECTRIC MARKER SIGN		WATER RELEASE VALVE
	ELECTRIC METER		WATER WELL
	ELECTRIC MANHOLE		RISC IRON ROD W/ "KHA" CAP SET
	ELECTRIC MARKER FLAG		PK NAIL STEEL
	ELECTRIC MARKER SIGN		PK NAIL STEEL
	ELECTRIC VAULT		PKF IRON ROD
	HANDICAPPED PARKING		PKF IRON ROD
	MARQUEE/BILLBOARD		PKF IRON ROD
	BORE LOCATION		PKF IRON ROD
	FLAG POLE		PKF IRON ROD
	GREATEST		PKF IRON ROD
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LINE TYPE LEGEND

	BOUNDARY LINE
	ADJACENT PROPERTY LINE
	EASEMENT LINE
	BUILDING LINE
	WATER LINE
	SANITARY SEWER LINE
	STORM SEWER LINE
	UNDERGROUND GAS LINE
	OVERHEAD UTILITY LINE
	UNDERGROUND ELECTRIC LINE
	UNDERGROUND TELEPHONE LINE
	FENCE
	CONCRETE PAVEMENT
	ASPHALT PAVEMENT

NOTES:

All bearings shown are based on grid north of the Texas Coordinate System of 1983, North Central Zone (4202), North American Datum of 1983. All dimensions shown are ground distances.

No visible evidence of current earth moving work, building construction or building additions were observed at the time of survey.

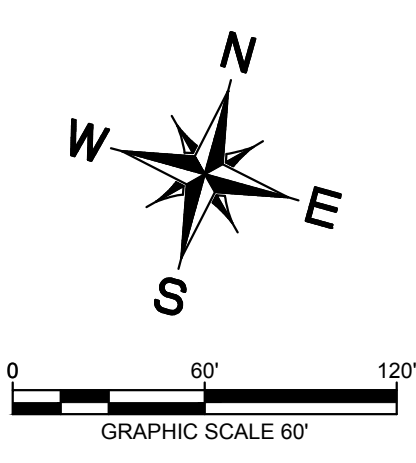
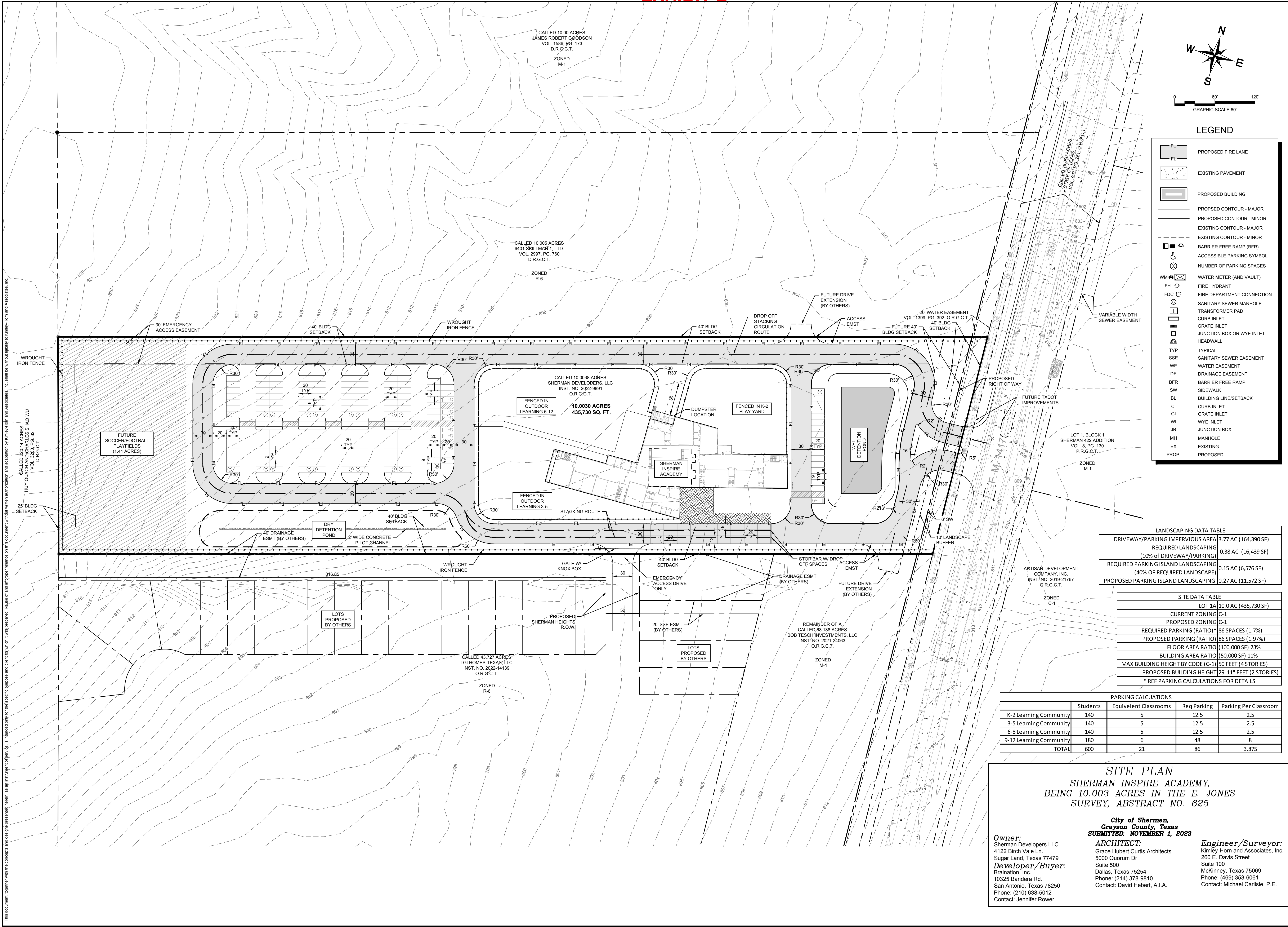
According to Federal Emergency Management Agency's Flood Insurance Rate Map No. 48181C0400G, for Grayson County, Texas and incorporated areas, dated September 1, 2022, this property is located within:

Zone X (unshaded) defined as "Areas determined to be outside the 0.2% annual chance floodplain"

If this site is not within an identified special flood hazard area, this flood statement does not imply that the property and/or the structures thereon will be free from flooding or flood damage. On rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This flood statement shall not create liability on the part of the surveyor.

[illegible]

NOTES:
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LEGEND

- FL PROPOSED FIRE LANE
- FL EXISTING PAVEMENT
- PROPOSED BUILDING
- PROPOSED CONTOUR - MAJOR
- PROPOSED CONTOUR - MINOR
- EXISTING CONTOUR - MAJOR
- EXISTING CONTOUR - MINOR
- BARRIER FREE RAMP (BFR)
- ACCESSIBLE PARKING SYMBOL
- NUMBER OF PARKING SPACES
- WATER METER (AND VAULT)
- FIRE HYDRANT
- FIRE DEPARTMENT CONNECTION
- SANITARY SEWER MANHOLE
- TRANSFORMER PAD
- CURB INLET
- GRATE INLET
- JUNCTION BOX OR WYE INLET
- HEADWALL
- TYPICAL
- SSE
- WE
- DE
- BFR
- SW
- CI
- GI
- WI
- JB
- MH
- EX
- PROP.

LANDSCAPING DATA TABLE	
DRIVEWAY/PARKING IMPERVIOUS AREA	3.77 AC (164,390 SF)
REQUIRED LANDSCAPING (10% OF DRIVEWAY/PARKING)	0.38 AC (16,439 SF)
REQUIRED PARKING ISLAND LANDSCAPING (40% OF REQUIRED LANDSCAPE)	0.15 AC (6,576 SF)
PROPOSED PARKING ISLAND LANDSCAPING	0.27 AC (11,572 SF)

SITE DATA TABLE	
LOT 1A	10.0 AC (435,730 SF)
CURRENT ZONING	C-1
PROPOSED ZONING	C-1
REQUIRED PARKING (RATIO)	86 SPACES (1.7%)
PROPOSED PARKING (RATIO)	86 SPACES (1.97%)
FLOOR AREA RATIO (100,000 SF)	23%
BUILDING AREA RATIO (50,000 SF)	11%
MAX BUILDING HEIGHT BY CODE (C-1)	50 FEET (4 STORIES)
PROPOSED BUILDING HEIGHT	29' 11" FEET (2 STORIES)
* REF PARKING CALCULATIONS FOR DETAILS	

PARKING CALCULATIONS				
	Students	Equivalent Classrooms	Req Parking	Parking Per Classroom
K-2 Learning Community	140	5	12.5	2.5
3-5 Learning Community	140	5	12.5	2.5
6-8 Learning Community	140	5	12.5	2.5
9-12 Learning Community	180	6	48	8
TOTAL	600	21	86	3.875

SITE PLAN
SHERMAN INSPIRE ACADEMY,
BEING 10.003 ACRES IN THE E. JONES
SURVEY, ABSTRACT NO. 625

Owner:
Sherman Developers LLC
4122 Birch Vale Ln.
Sugar Land, Texas 77479

Developer/Buyer:
Braination, Inc.
10325 Bandera Rd.
San Antonio, Texas 78250
Phone: (210) 638-5012
Contact: Jennifer Rower

**City of Sherman,
Grayson County, Texas
SUBMITTED: NOVEMBER 1, 2023**

ARCHITECT:
Grace Hubert Curtis Architects
5000 Quorum Dr
Suite 500
Dallas, Texas 75254
Phone: (214) 378-9810
Contact: David Hebert, A.I.A.

Engineer/Surveyor:
Kimley-Horn and Associates, Inc.
260 E. Davis Street
Suite 100
McKinney, Texas 75069
Phone: (469) 353-6061
Contact: Michael Carlisle, P.E.

BY

DATE

No.

REVISIONS

Kimley»Horn

© 2023 KIMLEY-HORN AND ASSOCIATES, INC.
260 EAST DAVIS STREET, SUITE 100, MCKINNEY, TX 75069
PHONE: 469-301-2580 FAX: 972-239-3820
WWW.KIMLEY-HORN.COM TX F-628

PRELIMINARY

FOR REVIEW ONLY
Not for construction or permit purposes.

Kimley»Horn

Engineer: MICHAEL J. CARLISLE, P.E.
P.E. No. 132972 Date 11/29/2023

KHA PROJECT
084634001

DATE
NOVEMBER 2023

SCALE
AS SHOWN

DESIGNED BY
MJC

DRAWN BY
MDC

CHECKED BY
MJC

SHERMAN CHARTER
SCHOOL

SHERMAN, TEXAS

SITE PLAN

SHEET NUMBER
C-1

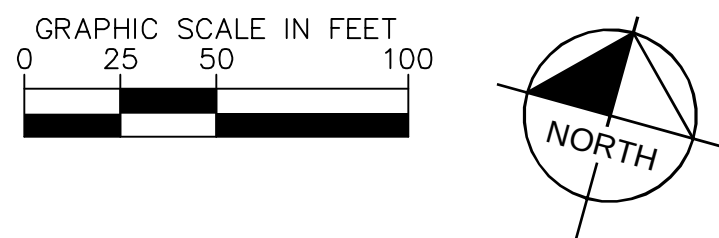
PLANTING NOTES:

1. LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE LOCATION OF ALL UNDERGROUND UTILITIES, PIPES, STRUCTURES, AND LINE RUNS IN THE FIELD PRIOR TO THE INSTALLATION OF ANY PLANT MATERIAL.
2. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO ADVISE THE LANDSCAPE ARCHITECT OF ANY CONDITION FOUND ON THE SITE WHICH PROHIBITS INSTALLATION AS SHOWN ON THESE DRAWINGS.
3. ALL PLANT MATERIAL SHALL BE MAINTAINED IN A HEALTHY AND GROWING CONDITION AND MUST BE REPLACED WITH PLANT MATERIAL OF SAME VARIETY AND SIZE IF DAMAGED, DESTROYED, OR REMOVED.
4. LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR FINE GRADING AND REMOVAL OF DEBRIS PRIOR TO PLANTING IN ALL AREAS.
5. FINAL FINISH GRADING SHALL BE REVIEWED BY THE LANDSCAPE ARCHITECT. LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY ADDITIONAL TOPSOIL REQUIRED TO CREATE A SMOOTH CONDITION PRIOR TO PLANTING.
6. ALL PLANT QUANTITIES LISTED ARE FOR INFORMATION ONLY. IT IS THE CONTRACTOR'S RESPONSIBILITY TO PROVIDE FULL COVERAGE IN ALL PLANTING AREAS AS SPECIFIED IN THE PLANT SCHEDULE AND VERIFY ALL QUANTITIES.
7. LANDSCAPE CONTRACTOR TO PROVIDE STEEL EDGING (REFER TO MATERIALS PAGE) BETWEEN ALL PLANTING BEDS AND LAWN AREAS.
8. ALL PLANT MATERIAL SHALL CONFORM TO THE SPECIFICATIONS AND SIZES GIVEN IN THE PLANT LIST AND SHALL BE NURSERY GROWN IN ACCORDANCE WITH THE AMERICAN STANDARD FOR NURSERY STOCK. LATEST EDITION TRADE ASSOCIATION OF NURSERYMEN STANDARDS. ANY PLANT SUBSTITUTION SHALL BE APPROVED BY LANDSCAPE ARCHITECT PRIOR TO PURCHASE.
9. LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR ANY COORDINATION WITH OTHER CONTRACTORS ON SITE AS REQUIRED TO ACCOMPLISH ALL PLANTING OPERATIONS.
10. ALL NEW PLANTING AREAS TO BE AMENDED PER SPECIFICATIONS.
11. ANY PLANT MATERIAL THAT DOES NOT SURVIVE SHALL BE REPLACED WITH AN EQUIVALENT SIZE AND SPECIES WITHIN THIRTY (30) DAYS.
12. PLANT MATERIAL SHALL BE PRUNED AS NECESSARY TO CONTROL SIZE BUT NOT TO DISRUPT THE NATURAL GROWTH PATTERN OR CHARACTERISTIC FORM OF THE PLANT EXCEPT AS NECESSARY TO ACHIEVE HEIGHT CLEARANCE FOR VEHICULAR AND PEDESTRIAN PASSAGE OR TO ACHIEVE A CONTINUOUS OPAQUE HEDGE IF REQUIRED.
13. LANDSCAPED AREAS SHALL BE KEPT FREE OF TRASH, WEEDS, DEBRIS, AND DEAD PLANT MATERIAL.
14. ALL LIVE STABILIZED SOIL & INORGANIC SELECT FILL FOR BUILDING SHOULD BE REMOVED FROM PLANTING AREAS TO A DEPTH OF 24" & REPLACED WITH ORGANIC IMPORTED TOPSOIL FILL.
15. TREES OVERHANGING PUBLIC SIDEWALKS AND PARKING SHALL HAVE A 7.1 MINIMUM CLEAR TRUNK HEIGHT TO MEET ACCESSABILITY STANDARDS. TREES OVERHANGING PUBLIC STREETS, DRIVE ALLEYS, AND FIRE LINES SHALL HAVE A 14' MINIMUM CLEAR TRUNK HEIGHT.
16. CONTRACTOR TO PROVIDE 18 MONTH WARRANTY AFTER ALL CONSTRUCTION IS COMPLETE.

PLANT SCHEDULE

TREES	COMMON / BOTANICAL NAME
	Chinese Pistache / <i>Pistacia chinensis</i>
	Lacebark Elm / <i>Ulmus parvifolia</i>
	Texas Red Oak / <i>Quercus buckleyi</i>
SHRUBS	COMMON / BOTANICAL NAME
	Autumn Sage / <i>Salvia greggii</i>
	Green Cloud Texas Ranger / <i>Leucophyllum frutescens</i> "Green Cloud"
	Mexican Feather Grass / <i>Nassella tenuissima</i>
	White Muhly Grass / <i>Muhlenbergia capillaris</i> "White Cloud"
GRASSY COVERS	COMMON / BOTANICAL NAME
	Berkeley Sedge / <i>Carex divulsa</i>
	Bermuda Sod / <i>Cynodon dactylon</i>
	Wintercreeper / <i>Euonymus fortunei</i>

Town of Sherman Landscape Requirements	Required	Provided
Parking Lot Landscape		
Parking lots with 25+ parking spaces shall have open landscaped areas that are equal to, but not less than, 10% of the parking areas and drives in the parking areas	52,386 sf x 10% = 5,239 sf landscape area	21,937 sf landscape area
Landscaping shall consist of a combination of material such as grasses, ground cover, shrubs, vines, hedges, trees or other such material. Grasses and ground cover along shall not constitute adequate landscaping.	Yes	Yes
FM 1417 Overlay District		
The site shall include a 10' buffer strip that shall be landscaped and irrigated	Yes	Yes
Detention area shall be visually screened from any adjacent street		
Minimum required screening shall achieve an opaque visual screen to a height of no less than six (6) feet nor greater than eight (8) feet	Yes	See Variance Request



LANDSCAPE PLAN
SHERMAN INSPIRE ACADEMY, BEING A
REPLAT OF G-0625 SHERMAN INSPIRE
ACADEMY, SECTION ?
BEING 10 ACRES IN THE E. JONES
SURVEY, ABSTRACT NO. 625

Owner:
Sherman Developers LLC
4122 Birch Vale Ln.
Sugar Land, Texas 77479

Owner:
Braination, Inc.
10325 Bandera Rd.
San Antonio, Texas 78250
Phone: (210) 638-5012
Contact: Jennifer Rower

City of Sherman,
Grayson County, Texas
SUBMITTED: OCTOBER 30, 2023

ARCHITECT:
Grace Hubert Curtis Architects
5000 Quorum Dr
Suite 500
Dallas, Texas 75254
Phone: (214) 378-9810
Contact: David Hebert, A.I.A.

Landscape Architect:
Kimley-Horn and Associates, Inc.
260 E. Davis Street
Suite 100
McKinney, Texas 75069
Phone: (469) 353-6061
Contact: Marie Robirds, PLA

Kimley»»Horn
© 2023 KIMLEY HORN AND ASSOCIATES, INC.
260 EAST DAVIS STREET, SUITE 100, MCKINNEY, TX 75069
PHONE: 469-301-2580 FAX: 972-239-3820
WWW.KIMLEYHORN.COM TX F-928

PRELIMINARY
FOR REVIEW ONLY
Not for construction or permit purposes

Kimley»Horn

P.L.A. MARIE E. ROBERTS
C.A. No. 3369 Date 10/31/2023

KHA PROJECT XXXXXXXXXX	DATE OCTOBER 2023	SCALE AS SHOWN	DESIGNED BY KHA	DRAWN BY KHA	CHECKED BY MER
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SHERMAN CHARTER
SCHOOL

SHERMAN, TEXAS

LANDSCAPE PLAN

SHEET NUMBER
LP 1.01

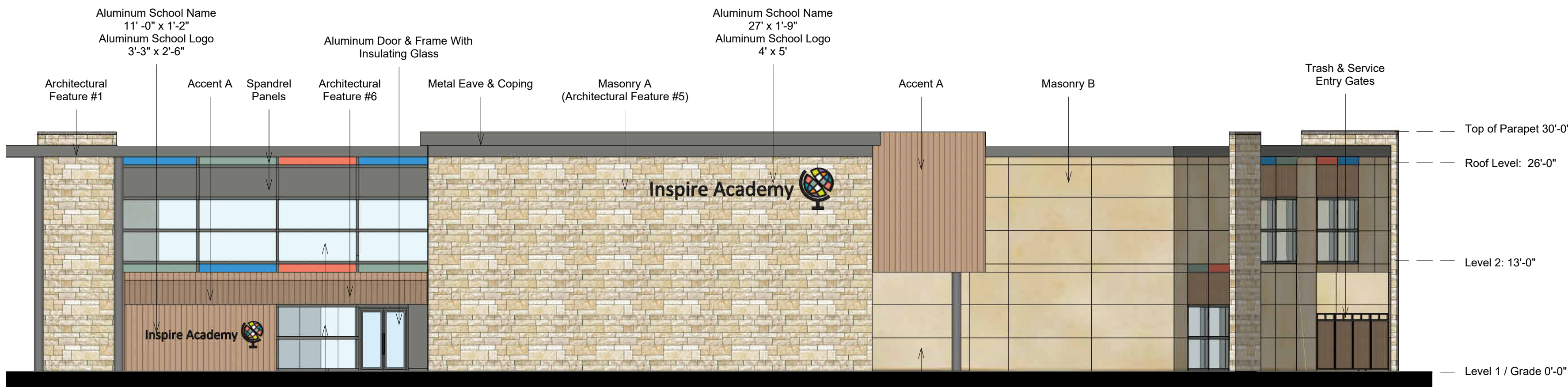
Sherman Inspire Academy

Building Elevations

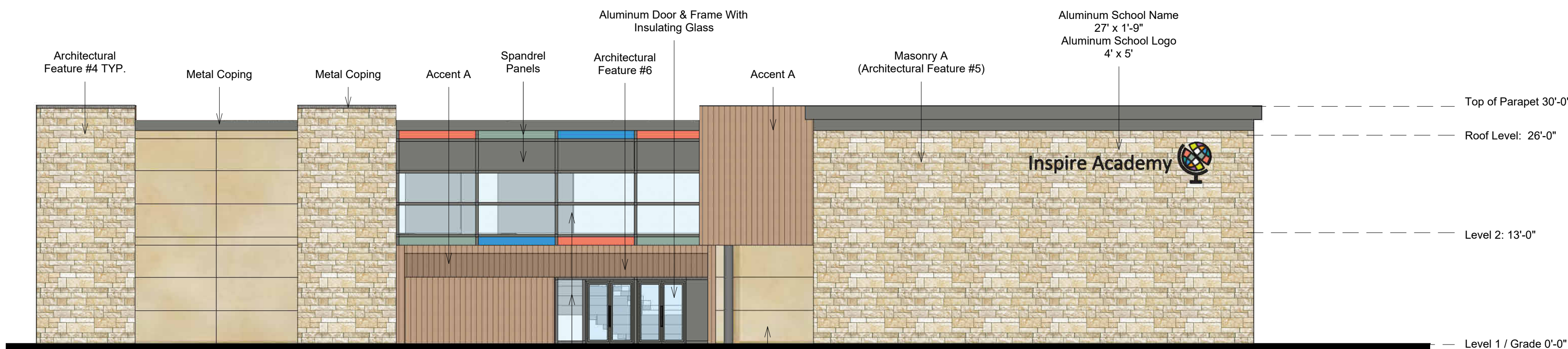
Drawing Number A101

Date 11/1/23

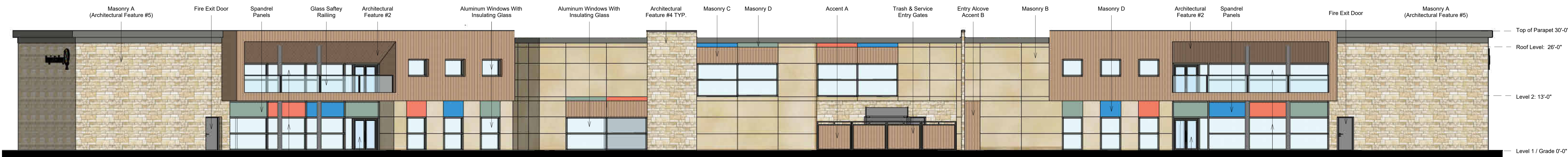
Scale 3/32" = 1'-0"



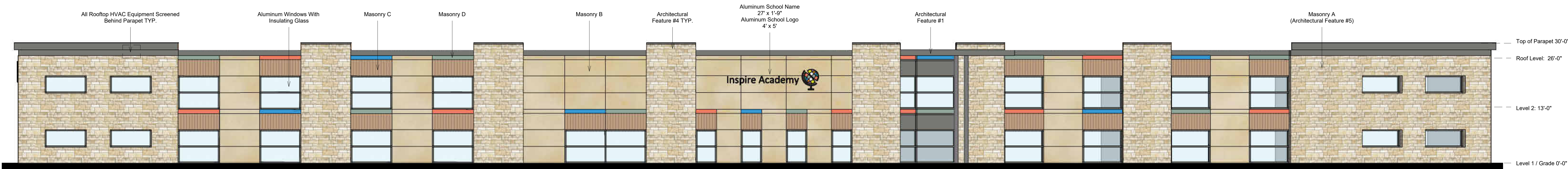
① East
3/32" = 1'-0"



③ West
3/32" = 1'-0"



② North
3/32" = 1'-0"



④ South
3/32" = 1'-0"

Building Materials & Percent Coverage:

Masonry A:
Limestone Thin Veneer
38% of Total Facade (10,700 Sq Ft)

Masonry B:
Precast tilt up panel with evenly spaced reveals
Finish: Tan Paint
18% of Total Facade (5,090 Sq Ft)

Accent A:
Architectural Rainscreen Panel
11% of Total Facade (3,090 Sq Ft)

Masonry C:
Precast tilt up panel
Finish: Evenly spaced reveals, Board Form Textured
Color: Brown Colored Paint to Match Accent A
4% of Total Facade (1,020 Sq Ft)

Glazing A:
Architectural Glass (less than 27% reflectance)
24% of Total Facade (6,780 Sq Ft)

Masonry D:
Precast tilt up panel smooth finish, painted
Paint Colors: Coral, Teal, Blue
1% of Total Facade (380 Sq Ft)

Metal Eaves, Copping, Exit Doors
5% of Total Facade (1,440 Sq Ft)

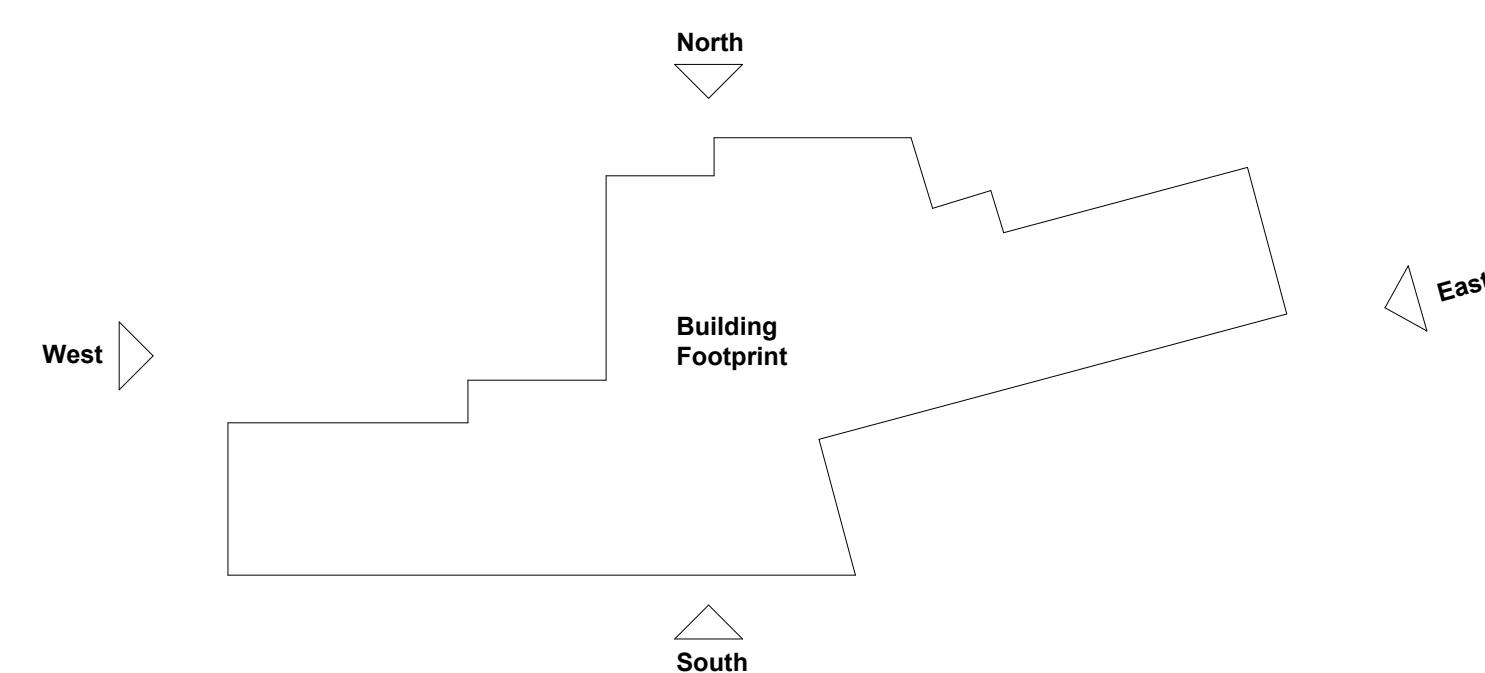
Key Architectural Features:

1. Main Entry Canopy
2. Projections at Learning Community Patios (Accent A)
3. Outdoor Patio for Dining & Learning Activities
4. Brick Offsets (Masonry A Plaster 12' Wide x 30' Tall)
5. Accent Materials at Visible Locations (Masonry A)
6. Front & Rear Entry Alcove (Accent B)

Notes on Local Design Requirements:

1. 84% of facade materials are either stone or masonry
2. Primary facade materials are non reflective earth tones
3. Front entry & rear entry are defined with alcoves
4. Facade offsets (12' wide pilasters finished in Masonry A) are provided to break down all Facades longer than 50'.
5. Long rooflines are broken up by the same Facade Offsets (12' wide pilasters finished in Masonry A)
6. A building parapet at the perimeter will screen all HVAC units from ground visibility

Elevation Locations



STAFF REVIEW LETTER

December 5, 2023

Sent via Email

Sherman Developers, LLC
6923 Deseo
Irving, TX 75039

Kimley-Horn and Associates, Inc.
Michael Carlisle
260 East Davos Street, Suite 100
McKinney, TX 75069

Dear Applicants,

The request of a Public Hearing and Specific Use Permit approval under Section 14.06.009 to allow Schools; elementary, high, college and universities, public, private, or denominational in a C-1 (Retail Business) District/F.M. 1417 Overlay District and Site Plan approval for Sherman Charter School located at 2276 South FM 1417 (Heritage Parkway) has been scheduled to be heard by the Planning and Zoning Commission on Tuesday, December 12, 2023, at 5:00 P.M., in the City Council Chambers, City Hall at 220 W. Mulberry.

City staff has reviewed your request and the following items need to be noted/addressed:

Zoning:

1. Compliance with applicable City ordinances, regulations, standards and rules and other laws, as they exist or may be amended, including but not limited to the City's Zoning Ordinance/Code of Ordinance Chapter 14.
2. Fire access, lanes and codes shall be coordinated with the Fire Marshal (903.892.7267). (*Code of Ordinances Chapter 3.02(c)*)
3. There shall be a minimum of 10 stacking spaces in 1 pick-up/drop-off lane. (*Section 14.04.005(5)(a)*)
4. Fence Permits shall be permitted separately from the building permit and must adhere to the City's Zoning Ordinance/Code of Ordinance Chapter 14. (*Sec. 14.04.004*) (*Sec. 14.03.002*)
5. Sign Permits shall be permitted separately from the building permit and must adhere to the City's Zoning Ordinance/Code of Ordinance Chapter 14. (*Sec. 14.03.002*)
6. Impact fees will be required at the time of building permit application. (*Chapter 13, Article. 13.11*)
7. The approval of a Site Plan shall be effective for a period of two (2) years from the date of approval, at the end of which time the Site Plan shall expire unless the applicant demonstrates to the Director of Development Services that progress has been made toward completion of the project for which the Site Plan was approved.
8. Any changes made to the site plan prior to the final fulfillment of the conditions of the staff review letter must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

Engineering

9. Right-in/Right-out only driveway access will be required unless the proposed driveway is aligned with the existing driveway on the east side of FM 1417, across from the subject property.
10. Platting of the property is required. *Code of Ordinances Chapter 10.02.002(a)(1); Texas Local Government Code Title 1, Sec. 212.004*
11. Title of civil engineering plans shall match proposed Plat title.

12. Civil Engineering plans shall be provided to the Engineering Department for review and approval. Plat to reflect changes upon Engineering review. Civil Plan submittal requirements can be found in the Development Guide on the City of Sherman website. *Code of Ordinances Chapter 10.03.006(b)*

Fire Services

13. [] 507.5.1 - Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 600' from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official.
14. [] 507.5.1.1 - Buildings equipped with a FDC installed in accordance shall have a fire hydrant within 100' of the fire department connections.
15. Fences attached to building shall have gates with Knox access to maintain hose lay application around buildings.
16. If building exceeds 30' all fire code aerial apparatus access roads shall apply.

Solid Waste Services

17. Dumpster Enclosure shall be a minimum of 10' by 10'.
18. Dumpster Enclosure shall be constructed of masonry or similar durable material. (*Sec. 14.04.004(d)(4)(C)*)

It is the policy of Planning and Zoning Commission and Board of Adjustment not to consider a request unless the applicant or its representative attends the meeting at which the request is considered. You are hereby notified to present your case on the date and time stated above.

If additional information or clarification is needed, do not hesitate to contact Development Services at 903-892-7229 prior to the meeting.

Respectfully,



Rob Rae
Acting Secretary, Planning and Zoning Board and Board of Adjustment

CC: Robby Hefton, City Manager
Clint Philpott, Asst. City Manager
Wayne Lee, P.E., Director of Engineering
Tom Pruitt, Utility Engineer
The Law Firm of Abernathy, Roeder, Boyd, & Hullett, P.C., City Attorney

Dillon Stewart, Fire Chief
Amber Doan, Engineering Coordinator
Christopher Armstrong, Asst. City Engineer



City Council Regular Meeting

Agenda Item No. D.3.

Meeting Date: 1/16/2024

Prepared By: Lauren Marlow, Development Service Coordinator

Approved By: Robby Hefton, City Manager

Caption:

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6685

Amending Sherman's Zoning Ordinance/Code of Ordinances Chapter 14, and Granting a Specific Use Permit to Allow a Junk, Salvage Yard, or Wrecking Service in the M-2 (Heavy Manufacturing) District, Located at 415 East Houston Street, Consisting of 1.526 acres being a Part of the J.B. McAnair Survey, Abstract No. 763 and being all of Tract One, Tract Two and Tract Three, City of Sherman, Grayson County, Texas Justin Ellis, Ellis Truck and Auto, Inc. (Owner) and Underwood Drafting & Surveying (Surveyor); Prescribing Conditions to the Specific Use Permit; Providing A Penalty Not to Exceed \$2,000.00; Providing A Repealing/Savings Clause, Severability Clause And An Effective Date

Issue:

Consideration of a Specific Use Permit for 1.526 acres of land located at 415 East Houston Street to Allow a Junk, salvage yard, or wrecking service in the M-2 (Heavy Manufacturing) District

Background:

The property is located at 415 East Houston Street at the corner of North East Street and East Houston Street. The owner is requesting a Site Plan and Specific Use Permit for a junk, salvage yard, or wrecking service.

Staff was directed by Council to review code compliance in the downtown area, and staff identified concerns about off-site storage of vehicles along the public right-of-way for East Street between Houston Street and Pecan Street. Staff met with an employee of Ellis Auto to inquire about the vehicles stored in the right-of-way and why they were not stored on the business' lot. The Ellis Auto employee shared that they had no room on the lot because that is where they store vehicles for the wrecking service. Following that conversation, staff researched information on the property and found that the business has a certificate of occupancy for automobile servicing, but not for a wrecking or salvage yard. Staff informed Ellis Auto that in order continue operating a wrecking service on the property, in addition to the auto mechanic shop, the business would need to obtain a Specific Use Permit for the wrecking service use.

A notice of violation was sent to Ellis Auto on August 8, 2023, informing the owner of code violations, including the unlawful operation of the wrecking service without a Specific Use Permit. The vehicles stored off-site along the public right-of-way were removed by the business, but no action was taken to bring the wrecking service use into compliance with the Zoning Ordinance.

On October 10, 2023, a second notice of violation was sent to Ellis Auto. On November 1, 2023, Development Services staff received an application from Justin Ellis, requesting the Specific Use Permit that is the subject of this item.

After the application was submitted, a representative of Ellis Auto argued that the wrecking service use is a lawfully existing non-conforming use and does not need a Specific Use Permit to continue operating, suggesting

that the wrecking service has operated on the property since 1986. To date, however, no evidence has been provided to the City to corroborate that assertion. (Under the Zoning Ordinance and state law, the party claiming non-conforming status has the burden of proof on that issue.) The representative has provided a copy of a 2009 assumed name certificate, which listed the subject property as the address for “Ellis Towing.”

In any event, staff has determined that the City’s Zoning Ordinance has required a Specific Use Permit for a wrecking service since at least 1985, and perhaps longer than that. City staff has no record of anyone ever having obtained a Specific Use Permit or Certificate of Occupancy for a wrecking service on the property. The Zoning Ordinance requires unlawful uses to come into compliance with all applicable regulations if they wish to continue operating.

Origination:

Justin Ellis, Ellis Truck and Auto, Inc. (Owner)
Underwood Drafting & Surveying (Surveyor)

Financial Consideration:

None

Staff Recommendation:

At the December 12, 2023 regular meeting, the Planning and Zoning Commission voted 6/0 to recommend to the City Council that the Specific Use Permit be approved subject to the Staff Review Letter with 1 Commission member abstaining. **The proposed use is not compatible with the City of Sherman Comprehensive Plan. Staff recommends that Council approve this item.**

Alternatives:

The City Council could deny the request.

Attachments:

1. Ordinance No. 6685
2. Location Map
3. Zoning Map
4. Future Land Use Map
5. Property Notification Sign
6. Narrative
7. Exhibit A - Survey/Site Plan
8. Exterior Photos
9. Violation Letters
10. Opposition - Smith
11. Staff Review Letter

ORDINANCE NO. 6685

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SHERMAN'S ZONING ORDINANCE/CODE OF ORDINANCES CHAPTER 14, AND GRANTING A SPECIFIC USE PERMIT TO ALLOW A JUNK, SALVAGE YARD, OR WRECKING SERVICE IN THE M-2 (HEAVY MANUFACTURING) DISTRICT, LOCATED AT 415 EAST HOUSTON STREET, CONSISTING OF 1.526 ACRES BEING A PART OF THE J.B. MCANAIR SURVEY, ABSTRACT NO. 763 AND BEING ALL OF TRACT ONE, TRACT TWO AND TRACT THREE, CITY OF SHERMAN, GRAYSON COUNTY, TEXAS; JUSTIN ELLIS, ELLIS TRUCK AND AUTO, INC. (OWNER) AND UNDERWOOD DRAFTING & SURVEYING (SURVEYOR); PRESCRIBING CONDITIONS TO THE SPECIFIC USE PERMIT; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00; PROVIDING A REPEALING/SAVINGS CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with the state law and the ordinances of the City of Sherman, have given the required notices and have held the required public hearings regarding this Specific Use Permit; and

WHEREAS, the City Council finds that this use will complement or be compatible with the surrounding uses and community facilities; contribute to, enhance, or promote the welfare of the area of request and adjacent properties; not be detrimental to the public health, safety, or general welfare; and conform in all other respects to all applicable zoning regulations and standards; and

WHEREAS, the City Council finds that it is in the public interest to grant this Specific Use Permit, subject to certain conditions.

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

SECTION 1. That, from and after the effective date of this Ordinance, the property located at 415 East Houston Street, City of Sherman, Grayson County, Texas is granted a Specific Use Permit to operate a junk, salvage yard, or wrecking service, subject to the conditions described in this Ordinance. Sherman's Zoning Ordinance/Code of Ordinances, Chapter 14 is hereby amended so as to reflect the issuance of this Specific Use Permit on the property highlighted in yellow on **Exhibit A – Survey/Site Plan.**

SECTION 2. That this Specific Use Permit is granted on the following conditions:

Zoning:

1. Compliance with applicable City ordinances, regulations, standards and rules and other laws, as they exist or may be amended, including but not limited to the City's Zoning Ordinance/Code of Ordinance Chapter 14.
2. Fire access, lanes and codes shall be coordinated with the Fire Marshal (dillons@cityofsherman.com). (*Code of Ordinances Chapter 3.02(c)*)
3. Required parking or driveways must be paved concrete or asphalt within 90 days of the effective date of this Ordinance. Additional parking above the required parking may be constructed with a pervious material as approved by the director of engineering. (*Sec. 14.04.003(d)(1)*)
4. Off-street parking shall be prohibited from encroaching into the public right-of-way in any case. (*Sec. 14.04.003(b)(1)*)
5. The property must be properly maintained in a state of good repair and neat appearance.
6. Outside parking or storage of dismantled, junk or inoperable vehicles, equipment, wrecks, tires or parts shall be fully screened with a wood or masonry fence on all sides of the property within 90 days of the effective date of this Ordinance.
7. Fencing permits are required and must adhere to the City's Zoning Ordinance/Code of Ordinance Chapter 14. (*Sec. 14.04.004*)
8. Barbed wire fences are not permitted in the City of Sherman and must be removed from the property within 90 days of the effective date of this Ordinance. (*Sec. 8.02.003*)
9. Current fences are encroaching on the public right-of-way and adjacent properties and must be removed within 90 days of the effective date of this Ordinance.
10. The use of the property must comply with all Federal and State Laws and Regulations and with all the Ordinances, Rules and Regulations of the City of Sherman.
11. The granting of the Specific Use Permit has no effect on the uses permitted as of right and does not waive the regulations of the underlying zoning district.
12. A Specific Use Permit is an amendment to the district regulations of the Zoning Ordinance that permits the establishment of a specific use within a zoning district in which such specific use may be established unless such use of land or structure is discontinued or abandoned for a period of thirty (30) consecutive days in which event such Specific Use Permit shall be void and such use may not thereafter be resumed unless a new Specific Use Permit is granted in accordance with this section. (*Sec. 14.06.009(a)(1)(C)*)
13. The approval of a Site Plan shall be effective for a period of two (2) years from the date of approval, at the end of which time the Site Plan shall expire unless the applicant demonstrates to the Director of Development Services that progress has been made toward completion of the project for which the Site Plan was approved.
14. Any changes made to the site plan prior to the final fulfillment of the conditions of the staff review letter must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

Engineering

15. Platting of the property is required within 90 days of the effective date of this Ordinance. *Code of Ordinances Chapter 10.02.002(a)(1); Texas Local Government Code Title 1, Sec. 212.004*
16. Drive approaches and sidewalks must conform to City of Sherman and TxDOT standards and a permit with drawing showing dimensions is required from City of Sherman Engineering Department for review and approval prior to any work being done within

public right of way. *Code of Ordinances Chapter 3, Division 5, Sec. 3.10.154; 10.03.003.(f)*

17. Fences encroach into right of way and adjacent neighbor to the North. Fence to be moved to property line within 90 days of the effective date of this Ordinance.

Additional Conditions: as applicable

18. The property shall be developed and used in accordance with all City Ordinances and the Site Plan shown in **Exhibit A**.

SECTION 3. That this Ordinance shall be entered upon the official zoning map as provided in Sherman's Zoning Ordinance/Code of Ordinances, Chapter 14, Section 14.01.002.

SECTION 4. That after holding a properly noticed public hearing, the City Council may amend, change, or rescind the Specific Use Permit if any of the conditions set forth in Zoning Ordinance/Code of Ordinances Chapter 14, Section 14.06.009(1)(g), apply or exist.

SECTION 5. That the Specific Use Permit shall be effective from and after the effective date of this Ordinance. Upon termination of the Specific Use Permit, the property shall cease to be used as provided herein unless another Specific Use Permit or appropriate zoning has been obtained.

SECTION 6. That it shall be unlawful for any person to make use of the property in some manner other than as authorized by this Ordinance, and it shall be unlawful for any person to construct on the property any building that is not in conformity with the permissible uses under this Ordinance. Any person violating any provision of this Ordinance or the Zoning Ordinance, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in an amount not exceeding TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). A violation of any provision of this Ordinance shall constitute a separate violation for each calendar day in which it occurs. The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 7. That the Zoning Ordinance shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 8. That in the event any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

SECTION 9. 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.

SECTION 10. That this Ordinance shall become effective from and after its adoption and publication as required by law and the City Charter.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS.

INTRODUCED on this the 16th day of January 2024.

ADOPTED on this the 16th day of January 2024.

EFFECTIVE DATE on this the 16th day of January 2024.

CITY OF SHERMAN, TEXAS

BY: _____
DAVID PLYLER, MAYOR

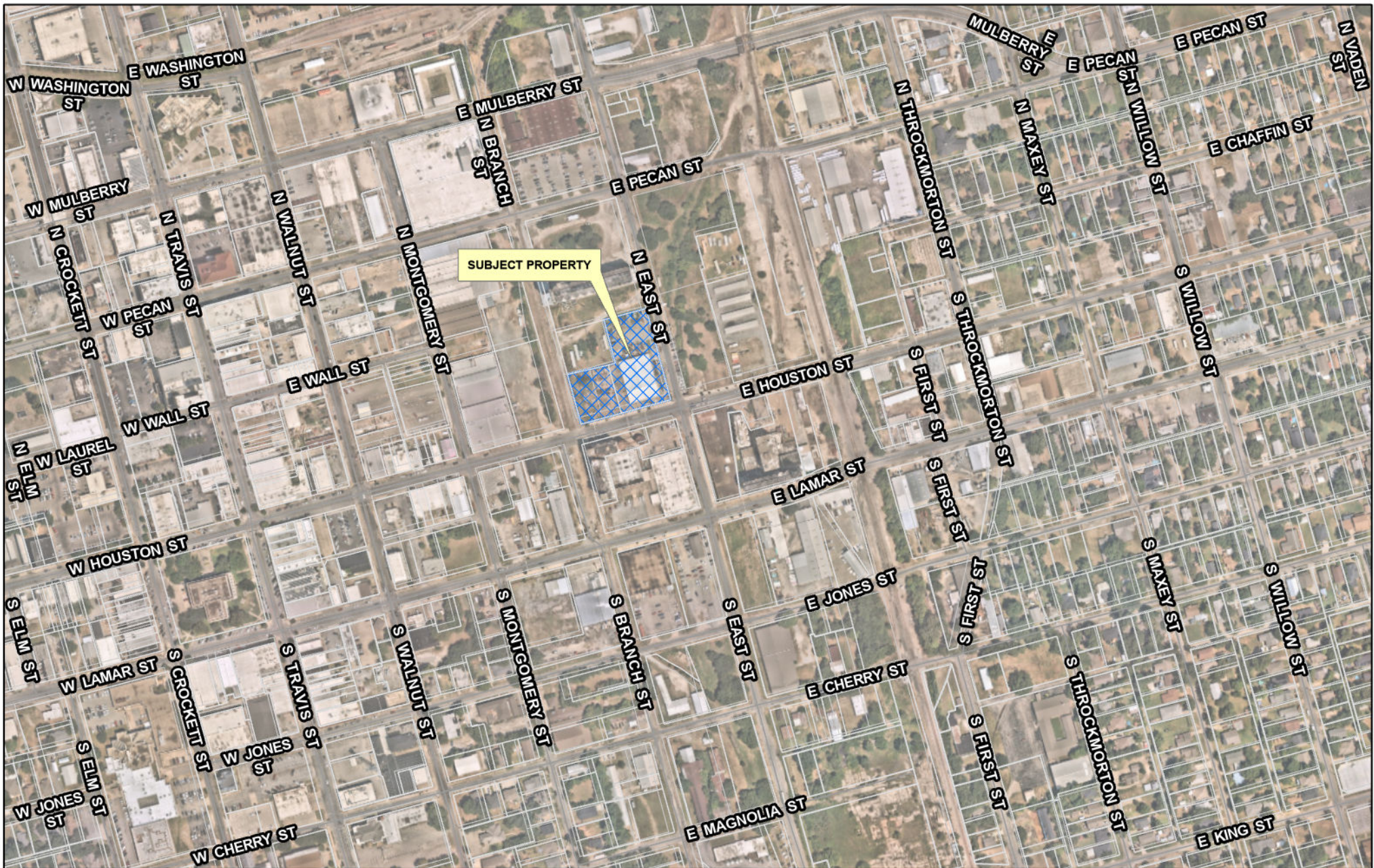
ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM:
THE LAW FIRM OF ABERNATHY,
ROEDER, BOYD & HULLETT, P.C.**

BY: _____
RYAN D. PITTMAN, CITY ATTORNEY

diagrame H:\PLANNING\Public Notification KT.aprx

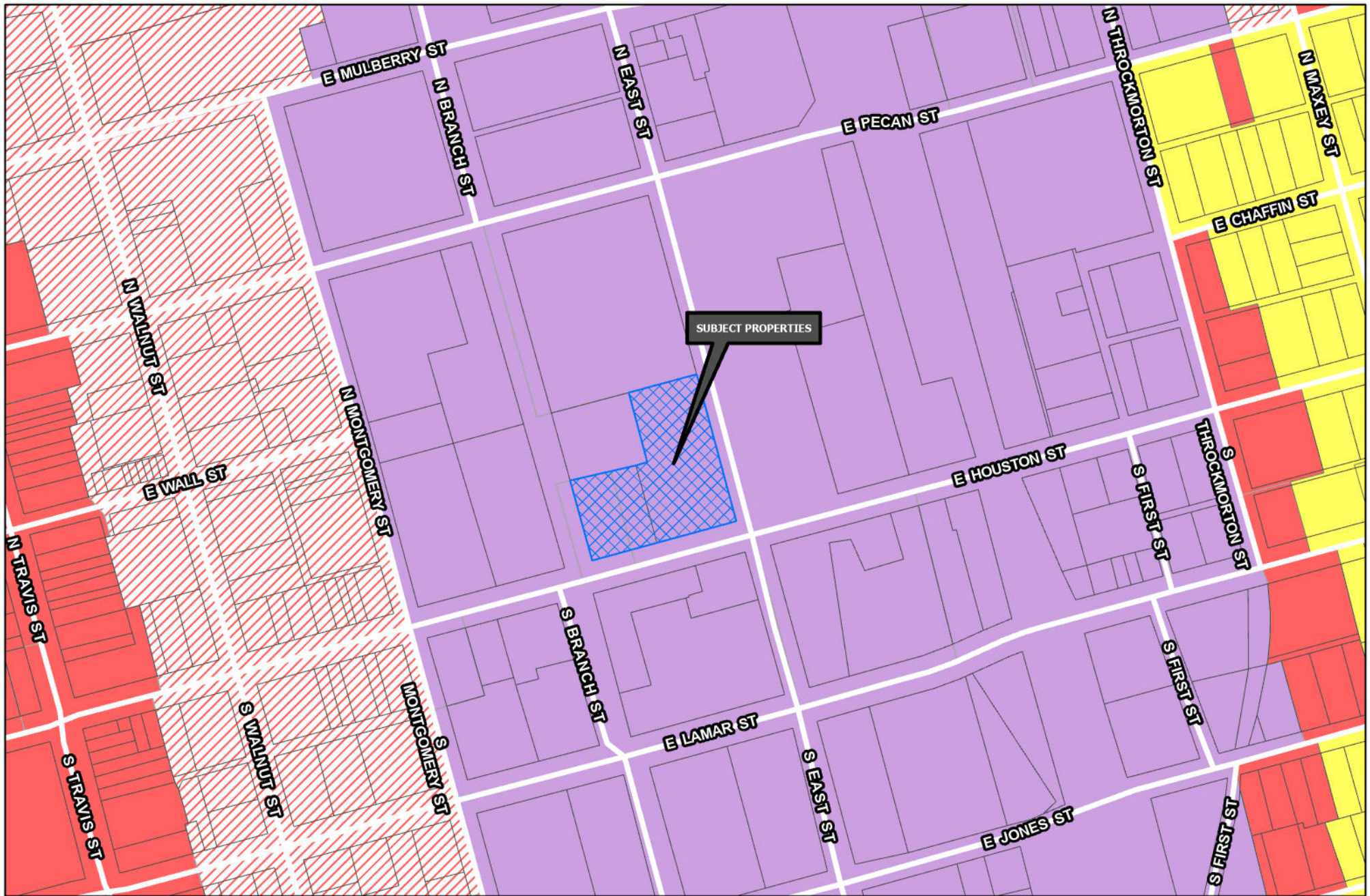


City of Sherman, Texas
Development Services Department

CITY OF SHERMAN
LOCATION MAP
415 E HOUSTON ST



Date: 12/6/2023 9:20 AM



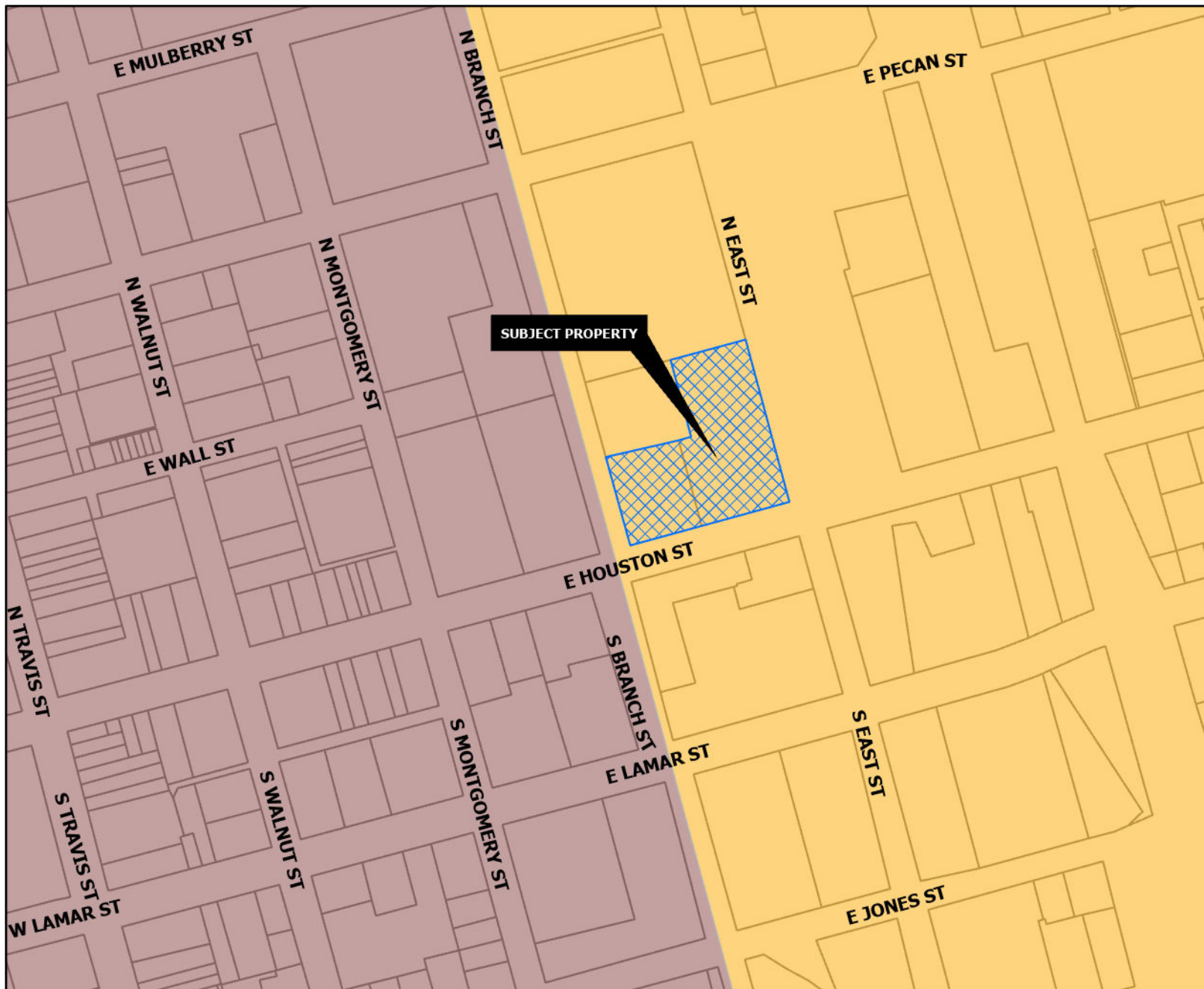
Sherman
CLASSIC TOWN. BROAD HORIZON.

Development Services
Department

R-A Residential Agricultural	MF-15 Multi-Family Residential	M-1.5 Medium Manufacturing
R-E Estate Residential	MF-30 Multi-Family Residential	M-2 Heavy Manufacturing
R-12 Single Family Residential	MH Manufactured Housing	PD Planned Development
R-6 Single Family Residential	C-N Neighborhood Commercial	Road Names All
R-5 Single Family Residential	C-O Office	Planning & Zoning
R-4 Patio Home Residential	C-1 Retail Business	
R-2F Duplex Residential	C-2 General Commercial	
R-TH Townhome Residential	M-1 Light Manufacturing	

CITY OF SHERMAN
ZONING MAP
415 E HOUSTON ST





CORE NEIGHBORHOOD

Intent & Character

The Core Neighborhood category is intended to protect and enhance the existing residential areas of Sherman. This area is generally located in the center of the city, east and west of US-75. A majority of the Core Neighborhood category encompasses what is known as east Sherman. This category encourages infill development that maintains the existing character, while increasing the aesthetic appeal of the community. In certain areas, an increase in density can be appropriate through the development of single-family attached products, like townhomes or quad-plexes.

Appropriate Land Use Types

- Single-family detached
- Single-family attached
- Local/neighborhood commercial and office
- Parks and open space
- Schools and civic uses

Compatible Zoning Districts

- Single-Family Residential (R-5, R-4, R-2F, and R-TH)
- Multi-Family Residential (MF-15 and MF-30)
- Manufactured Housing
- Retail Business
- Neighborhood Commercial

Considerations

- Infill that increases density should match the character of the surrounding structures.
- Small-scale commercial uses are appropriate along larger streets and should be compatible with the surrounding residential development.

Sherman
CLASSIC TOWN. BROAD HORIZON.

Development Services
Department

	Agriculture/Rural		Core Neighborhood		Technology Hub
	Airport		Downtown		Planning & Zoning
	City Parkland		Regional Commercial		
	Community Commercial		Suburban Neighborhood		

CITY OF SHERMAN
FUTURE LAND USE MAP
415 E HOUSTON ST



Marlow, Lauren

From: laurenm@cityofsherman.com
To: Justin Ellis
Subject: RE: Property Notification Signs

From: Justin Ellis
Sent: Tuesday, November 28, 2023 2:33 PM
To: Marlow, Lauren
Subject: Re: Property Notification Signs



Here is a picture of the sign up at 415 E Houston. It is 2:33pm on 11/28/23.

Ellis Truck & Auto, Inc.
415 E Houston, Sherman, Tx 75090
903-893-1127
Justin@EllisAuto.Com

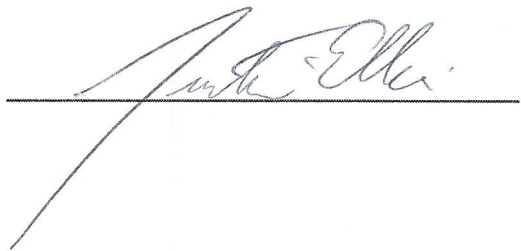
Request for Specific Use Permit

To Whom it May Concern,

Ellis Truck & Auto, Inc. TDLR Tow License # 005724507C TDLR VSF License # 0570765VSF is requesting a specific use permit to continue running a towing service and impound lot at our current location 415 E Houston. This location is primarily operated as an auto repair shop and the fenced area on the north side of the building is the licensed impound lot for storing vehicles.

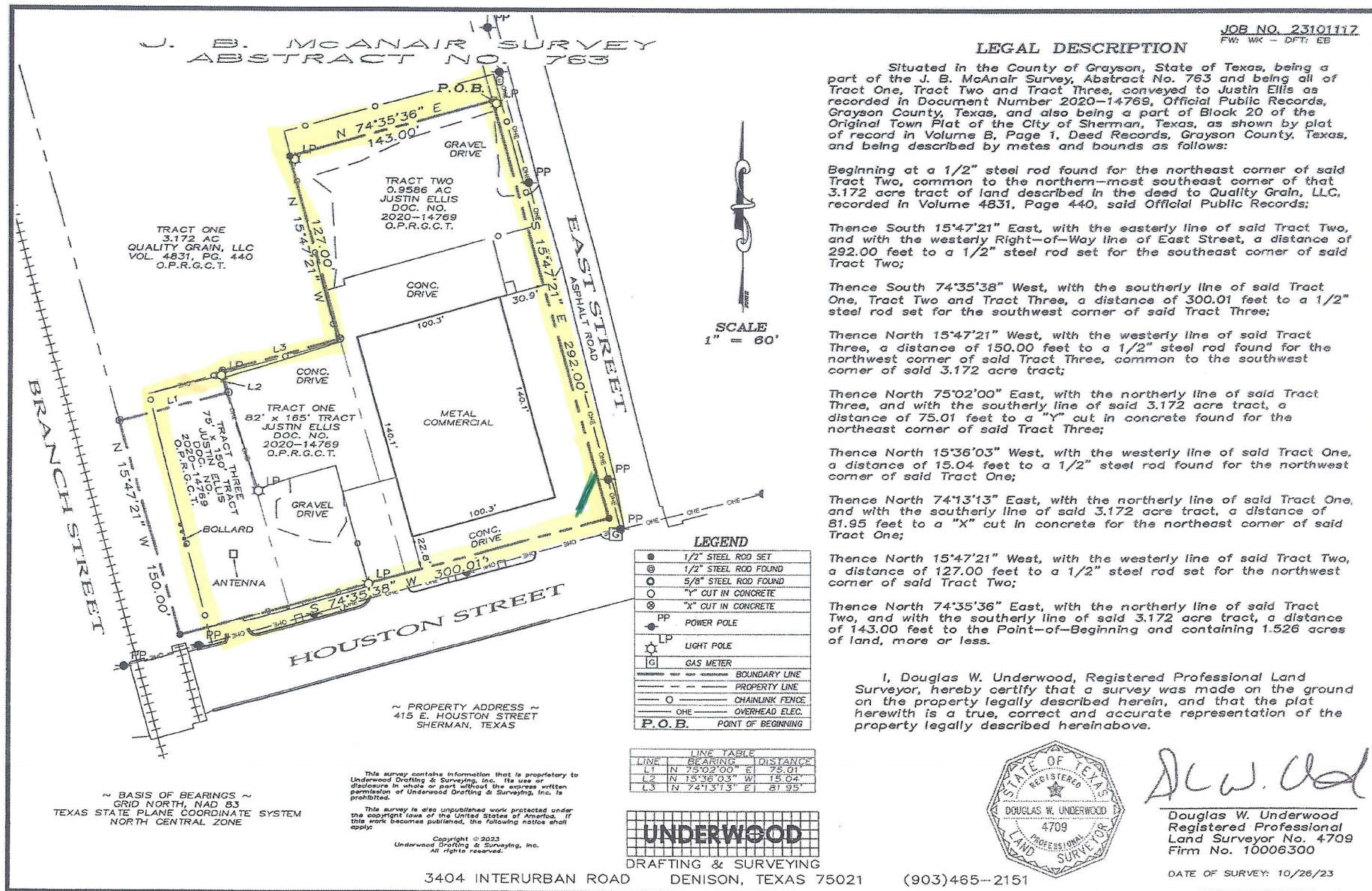
Thank You,

Justin Ellis
President



Date

11/1/23







August 8, 2023

Ellis Auto
415 E Houston Street
Sherman, TX 75090

Certified Mail:
7021 2720 0001 0333 5750

NOTICE OF VIOLATION

Dear Owner/Occupant,



This letter is being sent to you as the listed owner of the real property located at 415 E Houston Street, Sherman, Texas, commonly known as the Ellis Auto, according to the Real Property Records of Grayson County, Texas (the "Property").

It has come to the attention of the City of Sherman that Ellis Auto is operating a wrecking service without an appropriate Certification of Occupancy (CO) and Special Use Permit (SUP) which is a violation of the City's Code of Ordinances. You will be required to submit all the relevant application materials necessary for a SUP request. If approved, you would then be permitted to apply for a CO for a wrecking service.

You are required to respond to this notice by August 22, 2023 to advise how you intend to conform to the City Code and your proposed timeline to get into conformity. Should you fail to respond as required and/or the Code violations be permitted to continue on the Property, the City may begin issuing citations for each day such you or other persons continue to violate the City Code. Violation of the City Code constitutes a misdemeanor, and an entity or person convicted may be fined up to \$2,000 for each offense. A violation of any provision of the Code shall constitute a separate violation for each calendar day in which it occurs. In addition, the City may bring a civil action for enforcement of the Code and seek the following relief: (i) an injunction; (ii) a civil penalty of up to \$1,000.00 per day; (iii) the repair or demolition of structure(s) on the Property; (iv) an action in rem against the Property, meaning that the City will seek to foreclose on the Property to collect expenses associated with bringing the structure(s) and Property into compliance with the Code; and (v) any other relief to which the City may be entitled. See TEX. LOC. GOV'T CODE §§ 54.012, 54.016, 54.017, 54.018.

The City of Sherman will also be installing no parking signs in the right of way on North East Street beside your business on August 22, 2023. Please remove all vehicles parked in the right of way on North East Street by the given date, failure to do so will result in all remaining cars being towed at the cost of Ellis Auto.

If additional information or clarification is needed, do not hesitate to contact me at 220 W. Mulberry or by phone 903-892-7197

Respectfully,

A handwritten signature in blue ink, appearing to read 'Caleb Green', with a stylized, cursive script.

Caleb Green, Inspector
Development Services

Cc: Rob Rae, Director of Development Services
Robby Hefton, City Manager
Clint Philpott, Assistant City Manager
Ryan Pittman, City Attorney, Abernathy Roeder & Hullett, P.C.

NOTICE OF VIOLATION

October 10, 2023

Ellis Auto
415 E Houston Street
Sherman, TX 75090

Certified Mail:
7021 2720 0001 0333 5842

Dear Owner/Occupant,

This letter is being sent to you as the listed owner of the real property located at 415 E Houston Street, Sherman, Texas, commonly known as the Ellis Auto, according to the Real Property Records of Grayson County, Texas (the "Property").

It has come to the attention of the City of Sherman that Ellis Auto is operating a wrecking service without an appropriate Certification of Occupancy (CO) and Special Use Permit (SUP), which is a violation of the City's Code of Ordinances. You will be required to submit all the relevant application materials necessary for a SUP request. If approved, you would then be permitted to apply for a CO for a wrecking service.

Per our meeting and phone call you will need to have your SUP paperwork in by November 1, 2023, or you will be forcing the City to move forward with the legal process to gain compliance including but not limited to being removed from the City of Sherman's wrecker rotation list. If additional information or clarification is needed, do not hesitate to contact me at 220 W. Mulberry or by phone 903-892-7197

Respectfully,



Caleb Green, Inspector
Development Services

Cc: Rob Rae, Director of Development Services
Robby Hefton, City Manager
Zachary Flores, Assistant City Manager
Ryan Pittman, City Attorney, Abernathy Roeder & Hullett, P.C.

7021 2720 0001 0333 5750

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

- ☐ Return Receipt (hardcopy) \$
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$

Total Postage and Fees

\$

Sent To

Ellis Auto

Street and Apt. No., or PO Box No.

415 E Houston St

City, State, ZIP+4®

Sherman TX 75090

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions



7021 2720 0001 0333 5842

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

- ☐ Return Receipt (hardcopy) \$
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$

Total Postage and Fees

\$

Sent To

Ellis Auto

Street and Apt. No., or PO Box No.

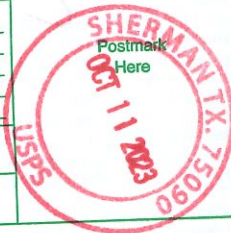
415 E Houston St

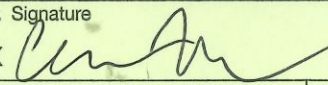
City, State, ZIP+4®

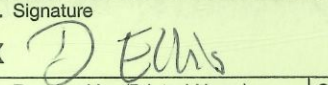
Sherman TX 75090

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X  ☐ Agent ☐ Addressee B. Received by (Printed Name) C. Date of Delivery D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
1. Article Addressed to: Ellis Auto 415 E Houston St Sherman, TX 75090			
 9590 9402 6453 0346 3958 99		3. Service Type ☐ Adult Signature ☐ Priority Mail Express® ☐ Adult Signature Restricted Delivery ☐ Registered Mail™ ☐ Certified Mail® ☐ Registered Mail Restricted Delivery ☐ Certified Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Collect on Delivery ☐ Signature Confirmation Restricted Delivery ☐ Collect on Delivery Restricted Delivery	
2. Article Number (Transfer from service label) 7021 2720 0001 0333 5842		☐ Mail Restricted Delivery (over \$500)	
PS Form 3811, July 2020 PSN 7530-02-000-9053		Domestic Return Receipt	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X  ☒ Agent ☐ Addressee B. Received by (Printed Name) C. Date of Delivery DELLIS 8-11-23 D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
1. Article Addressed to: Ellis Auto 415 E Houston St Sherman, TX 75090			
 9590 9402 6453 0346 3959 81		3. Service Type ☐ Adult Signature ☐ Priority Mail Express® ☐ Adult Signature Restricted Delivery ☐ Registered Mail™ ☐ Certified Mail® ☐ Registered Mail Restricted Delivery ☐ Certified Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Collect on Delivery ☐ Signature Confirmation Restricted Delivery ☐ Collect on Delivery Restricted Delivery	
2. Article Number (Transfer from service label) 7021 2720 0001 0333 5750		☐ Mail Restricted Delivery (over \$500)	
PS Form 3811, July 2020 PSN 7530-02-000-9053		Domestic Return Receipt	

Marlow, Lauren

From: Planning
To: David Smith
Subject: RE: Quality Grain 118 N East St, Special Use Permit Ellis Truck and Auto

From: David Smith
Sent: Monday, December 4, 2023 9:59 AM
To: Planning
Subject: Quality Grain 118 N East St, Special Use Permit Ellis Truck and Auto

Lauren,

We received the notice for Public Hearing for Ellis Truck & Auto applying for a Special Use Permit. We feel this land description contains part of our property and we do not wish for a Special Use Permit on our property. Also they have located two fences on portions of our property over the years, and if required to screen or fence for this permit, it should be relocated on their property.

Sincerely,

David Smith, Manager
Quality Grain LLC.

STAFF REVIEW LETTER

December 5, 2023

Sent via email

Justin Ellis
2502 Canyon Creek Dr.
Sherman, TX 75092

Dear Applicants,

The request of a Public Hearing, Site Plan and Specific Use Permit approval under Section 14.06.009 to allow a Junk, salvage yard, or wrecking service in an M-2 (Heavy Manufacturing) District located at 415 East Houston Street has been scheduled to be heard by the Planning and Zoning Commission on Tuesday, December 12, 2023, at 5:00 P.M., in the City Council Chambers, City Hall at 220 W. Mulberry.

City staff has reviewed your request, and the following items need to be noted/addressed:

Zoning:

1. Compliance with applicable City ordinances, regulations, standards and rules and other laws, as they exist or may be amended, including but not limited to the City's Zoning Ordinance/Code of Ordinance Chapter 14.
2. Fire access, lanes and codes shall be coordinated with the Fire Marshal (dillons@cityofsherman.com). (*Code of Ordinances Chapter 3.02(c)*)
3. Required parking or driveways must be paved concrete or asphalt. Additional parking above the required parking may be constructed with a pervious material as approved by the director of engineering. (*Sec. 14.04.003(d)(1)*)
4. Off-street parking shall be prohibited from encroaching into the public right-of-way in any case. (*Sec. 14.04.003(b)(1)*)
5. The property must be properly maintained in a state of good repair and neat appearance.
6. Outside parking or storage of dismantled, junk or inoperable vehicles, equipment, wrecks, tires or parts shall be fully screened with a wood or masonry fence on all sides of the property.
7. Fencing permits are required and must adhere to the City's Zoning Ordinance/Code of Ordinance Chapter 14. (*Sec. 14.04.004*)
8. Barbed wire fences are not permitted in the City of Sherman. (*Sec. 8.02.003*)
9. Current fences are encroaching on the public right-of-way and adjacent properties and must be removed.
10. The use of the property must comply with all Federal and State Laws and Regulations and with all the Ordinances, Rules and Regulations of the City of Sherman.
11. The granting of the Specific Use Permit has no effect on the uses permitted as of right and does not waive the regulations of the underlying zoning district.
12. A Specific Use Permit is an amendment to the district regulations of the Zoning Ordinance that permits the establishment of a specific use within a zoning district in which such specific use may be established unless such use of land or structure is discontinued or abandoned for a period of thirty (30) consecutive days in which event such Specific Use Permit shall be void and such use may not thereafter be resumed unless a new Specific Use Permit is granted in accordance with this section. (*Sec. 14.06.009(a)(1)(C)*)

13. The approval of a Site Plan shall be effective for a period of two (2) years from the date of approval, at the end of which time the Site Plan shall expire unless the applicant demonstrates to the Director of Development Services that progress has been made toward completion of the project for which the Site Plan was approved.
14. Any changes made to the site plan prior to the final fulfillment of the conditions of the staff review letter must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

Engineering

15. Platting of the property is required. *Code of Ordinances Chapter 10.02.002(a)(1); Texas Local Government Code Title 1, Sec. 212.004*
16. Drive approaches and sidewalks must conform to City of Sherman and TxDOT standards and a permit with drawing showing dimensions is required from City of Sherman Engineering Department for review and approval prior to any work being done within public right of way. *Code of Ordinances Chapter 3, Division 5, Sec. 3.10.154; 10.03.003.(f)*
17. Fences encroach into right of way and adjacent neighbor to the North. Fence to be moved to property line.

If additional information or clarification is needed, contact Development Services by emailing planning@cityofsherman.com prior to the meeting.

Respectfully,



Rob Rae

Acting Secretary, Planning and Zoning Board and Board of Adjustment

CC: Robby Hefton, City Manager
Clint Philpott, Asst. City Manager
Wayne Lee, P.E., Director of Engineering
Tom Pruitt, Utility Engineer
The Law Firm of Abernathy, Roeder, Boyd, & Hullett, P.C., City Attorney

Dillon Stewart, Fire Chief
Amber Doan, Engineering Coordinator
Christopher Armstrong, Asst. City Engineer



City Council Regular Meeting

Agenda Item No. D.4.

Meeting Date: 1/16/2024

Prepared By: Lauren Marlow, Development Service Coordinator

Approved By: Robby Hefton, City Manager

Caption:

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6686

Amending Sherman's Zoning Ordinance/Code of Ordinances Chapter 14, and Granting a Specific Use Permit to Allow a Travel Trailer Park in the C-1 (Retail Business) District/75 & 82 Overlay District, Located at 3551 East Highway 82, consisting of 10.586 acres in the Samuel M. McGlothlin Survey, Abstract No. 811, City of Sherman, Grayson County, Texas, Wendy Ferguson, KWLTL Assets, LLC (Owner), Todd Evans, Lanterra Group, LLC (Applicant) and North Texas Surveying, LLC (Surveyor); Prescribing Conditions to the Specific Use Permit; Providing A Penalty Not to Exceed \$2,000.00; Providing A Repealing/Savings Clause, Severability Clause And An Effective Date

Issue:

Consideration of a Specific Use Permit for 10.586 acres of land located at 3551 East Highway 82 to Allow a Recreational Vehicle Resort (Travel Trailer Park) in the C-1 (Retail Business) District/75 & 82 Overlay District

Background:

The property is located at 3551 East Highway 82 at the corner of Skaggs Road and East Highway 82. The owner is requesting a Site Plan and Specific Use Permit for a Recreational Vehicle Resort (Travel Trailer Park).

The following has been approved for this location:

- September 22, 2020 - Zone Change from an R-1 (Single Family Residential) District to a C-1 (Retail Business) District
- September 22, 2020 - Specific Use Permit to allow a travel trailer park(Ferguson RV Park) in a C-1 (Retail Business) District/O-1 (75 & 82) Overlay District; expired in September of 2022.

Origination:

Wendy Ferguson, KWLTL Assets, LLC (Owner)
Todd Evans, Lanterra Group, LLC (Applicant)
North Texas Surveying, LLC (Surveyor)

Financial Consideration:

None

Staff Recommendation:

At the December 12, 2023 regular meeting, the Planning and Zoning Commission voted 6/1 to recommend to the City Council that the Specific Use Permit be approved subject to the Specific Use Permit being tied to the applicant, Wendy Ferguson. **The proposed use is compatible with the City of Sherman Comprehensive Plan. Staff recommends that Council deny this item.**

Alternatives:

The City Council could deny the request.

Attachments:

1. Ordinance No. 6686
2. Location Map
3. Zoning Map
4. Future Land Use Map
5. Property Notification Sign
6. Narrative
7. Exhibit A - Survey
8. Exhibit B - Site Plan
9. Exhibit C - Landscape Plan
10. Floor Plans/Elevations

ORDINANCE NO. 6686

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS AMENDING SHERMAN'S ZONING ORDINANCE/CODE OF ORDINANCES CHAPTER 14, AND GRANTING A SPECIFIC USE PERMIT TO ALLOW A TRAVEL TRAILER PARK IN THE C-1 (RETAIL BUSINESS) DISTRICT/75 & 82 OVERLAY DISTRICT, LOCATED AT 3551 EAST HIGHWAY 82, CONSISTING OF 10.586 ACRES IN THE SAMUEL M. MCGLOTHLIN SURVEY, ABSTRACT NO. 811, CITY OF SHERMAN, GRAYSON COUNTY, TEXAS WENDY FERGUSON, KWLIT ASSETS, LLC (OWNER), TODD EVANS, LANTERRA GROUP, LLC (APPLICANT) AND NORTH TEXAS SURVEYING, LLC (SURVEYOR); PRESCRIBING CONDITIONS TO THE SPECIFIC USE PERMIT; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00; PROVIDING A REPEALING/SAVINGS CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with the state law and the ordinances of the City of Sherman, have given the required notices and have held the required public hearings regarding this Specific Use Permit; and

WHEREAS, the City Council finds that this use will complement or be compatible with the surrounding uses and community facilities; contribute to, enhance, or promote the welfare of the area of request and adjacent properties; not be detrimental to the public health, safety, or general welfare; and conform in all other respects to all applicable zoning regulations and standards; and

WHEREAS, the City Council finds that it is in the public interest to grant this Specific Use Permit, subject to certain conditions.

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

SECTION 1. That, from and after the effective date of this Ordinance, the property located at 3551 East Highway 82, City of Sherman, Grayson County, Texas is/are granted a Specific Use Permit to operate a Travel Trailer Park on the property, subject to the conditions described in this Ordinance. Sherman's Zoning Ordinance/Code of Ordinances, Chapter 14 is hereby amended so as to reflect this Specific Use Permit on the property, more particularly described in **Exhibit A – Survey**.

SECTION 2. That this Specific Use Permit is granted on the following conditions:

Zoning:

1. Compliance with applicable City ordinances, regulations, standards and rules and other laws, as they exist or may be amended, including but not limited to the City's Zoning Ordinance/Code of Ordinance Chapter 14 and the City's Building Regulations Chapter 3/Article 3.09(Division 8).

2. Fire access, lanes and codes shall be coordinated with the Fire Marshal (903.892.7267). (*Code of Ordinances Chapter 3.02(c)*)
3. Fence Permits shall be permitted separately from the building permit and must adhere to the City's Zoning Ordinance/Code of Ordinance Chapter 14. (*Sec. 14.04.004*) (*Sec. 14.03.001(g)*)
4. Sign Permits shall be permitted separately from the building permit and must adhere to the City's Zoning Ordinance/Code of Ordinance Chapter 14. (*Article 14.07*)
5. Required parking or driveways must be paved concrete or asphalt. (*Section 14.04.003(d)(1)*)
6. Off-street parking shall be provided for each use identified. (*Section 14.04/003(e)(1)*)
7. Dumpster enclosure shall be constructed of masonry or similar durable material. (*Section 14.04.004(d)(4)(C)*)
8. Outside lights must be made up of a light source and reflector so that, acting together, the light beam is controlled and not directed across a property line. (*Section 8.01.002(b)*)
9. Impact fees will be required at the time of building permit application. (*Chapter 13, Article. 13.11*)
10. The approval of a Site Plan shall be effective for a period of two (2) years from the date of approval, at the end of which time the Site Plan shall expire unless the applicant demonstrates to the Director of Development Services that progress has been made toward completion of the project for which the Site Plan was approved.
11. Any changes made to the site plan prior to the final fulfillment of the conditions of the staff review letter must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

Engineering

12. Platting of the property is required. *Code of Ordinances Chapter 10.02.002(a)(1); Texas Local Government Code Title 1, Sec. 212.004*
13. Dedication of Right of Way along Skaggs Road will be required upon platting to reflect the City's thoroughfare plan.
14. Widening or improvement of Skaggs Road by developer may be required upon development. *Code of Ordinances Chapter 10.03.003(b)(K)*
15. Drive approaches and sidewalks must conform to City of Sherman and TxDOT standards and a permit with drawing showing dimensions is required from City of Sherman Engineering Department for review and approval prior to any work being done within public right of way. *Code of Ordinances Chapter 3, Division 5, Sec. 3.10.154; 10.03.003(f)*
16. Proposed approach off of U.S. Hwy. 82 does not meet TxDOT standard. *Code of Ordinances Chapter 3, Division 5, Sec. 3.10.154; 10.03.003(f)*
17. Proposed approach off of Skaggs Road does not meet City standard. *Code of Ordinances Chapter 3, Division 5, Sec. 3.10.154; 10.03.003(f)*
18. Entrances/Exits off of U.S. Hwy. 82 service road will be right-in, right-out only.
19. Internal water and sewer lines will be privately owned and maintained.
20. Privately owned and maintained detention in accordance with City criteria may be required. Engineering documentation shall be provided to the City of Sherman Engineering Department for review and approval. If detention is required, Ownership and Maintenance information to be shown on plat. *Code of Ordinances Chapter 10.03.003(i)*
21. Detention Pond to be designed and constructed with first phase of development.
22. Water main must be extended in accordance with City criteria to serve proposed development. *Code of Ordinances Chapter 13, Sec. 13.07.282; Chapter 10.03.003(g)*
23. Verify water capacity for proposed use. Upgrade of water infrastructure by developer may be required. *Code of Ordinances 10.03.003(g)(4)*
24. City wastewater does not serve subject property. On-site sewage facility or extension of wastewater main by developer is required. *Code of Ordinances Chapter 13, Sec. 13.07.282; 10.03.003(h)*
25. Civil Engineering plans shall be provided to the Engineering Department for review and approval. Plat to reflect changes upon Engineering review. Civil Plan submittal requirements can be found

in the Development Guide on the City of Sherman website. *Code of Ordinances Chapter 10.03.006(b)*

26. All parking surfaces must be asphalt or concrete per City Ordinance. *Code of Ordinances Chapter 14.04.03(d)*

Fire Services

27. NFPA 1194 shall be followed for RV site application.
28. Hydrant shall be within 400' of each RV site.
29. Fire access roads shall be a minimum of 24' and paved to hold up to 75,000 pounds.
30. Turning radius shall be a minimum of 25'.

Additional Conditions: as applicable

31. The property shall be developed and used in accordance with all City Ordinances and the Site Plan shown in **Exhibit B – Site Plan** with amendments made to the Site Plan that address engineering comments #16 and #17 above.
32. The lodge/clubhouse, pool, playgrounds and pet areas, cornhole area, pickleball courts and other amenities as shown in **Exhibit B** must be completed as a condition of the Certificate of Occupancy.
33. Notwithstanding anything to the contrary herein, the Specific Use Permit granted in this Ordinance shall automatically expire, terminate and be rescinded in the event that a person or entity other than Wendy Ferguson, KWLT Assets, LLC is the lessee of the Property.
34. The property shall be developed and used in accordance with the Landscape Plan shown in **Exhibit C**.

SECTION 3. That this Ordinance shall be entered upon the official zoning map as provided in Sherman's Zoning Ordinance/Code of Ordinances, Chapter 14, Section 14.01.002.

SECTION 4. That after holding a properly noticed public hearing, the City Council may amend, change, or rescind the Specific Use Permit if any of the conditions set forth in Zoning Ordinance/Code of Ordinances Chapter 14, Section 14.06.009(1)(g), apply or exist.

SECTION 5. That the Specific Use Permit shall be effective from and after the effective date of this Ordinance. Upon termination of the Specific Use Permit, the property shall cease to be used as provided herein unless another Specific Use Permit or appropriate zoning has been obtained.

SECTION 6. That it shall be unlawful for any person to make use of the property in some manner other than as authorized by this Ordinance, and it shall be unlawful for any person to construct on the property any building that is not in conformity with the permissible uses under this Ordinance. Any person violating any provision of this Ordinance or the Zoning Ordinance, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in an amount not exceeding TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). A violation of any provision of this Ordinance shall constitute a separate violation for each calendar day in which it occurs. The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 7. That the Zoning Ordinance shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 8. That in the event any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

SECTION 9. 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.

SECTION 10. That this Ordinance shall become effective from and after its adoption and publication as required by law and the City Charter.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS.

INTRODUCED on this the 16th day of January 2024.

ADOPTED on this the 16th day of January 2024.

EFFECTIVE DATE on this the 16th day of January 2024.

CITY OF SHERMAN, TEXAS

BY: _____
DAVID PLYLER, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM:
THE LAW FIRM OF ABERNATHY,
ROEDER, BOYD & HULLETT, P.C.

BY: _____
RYAN D. PITTMAN, CITY ATTORNEY

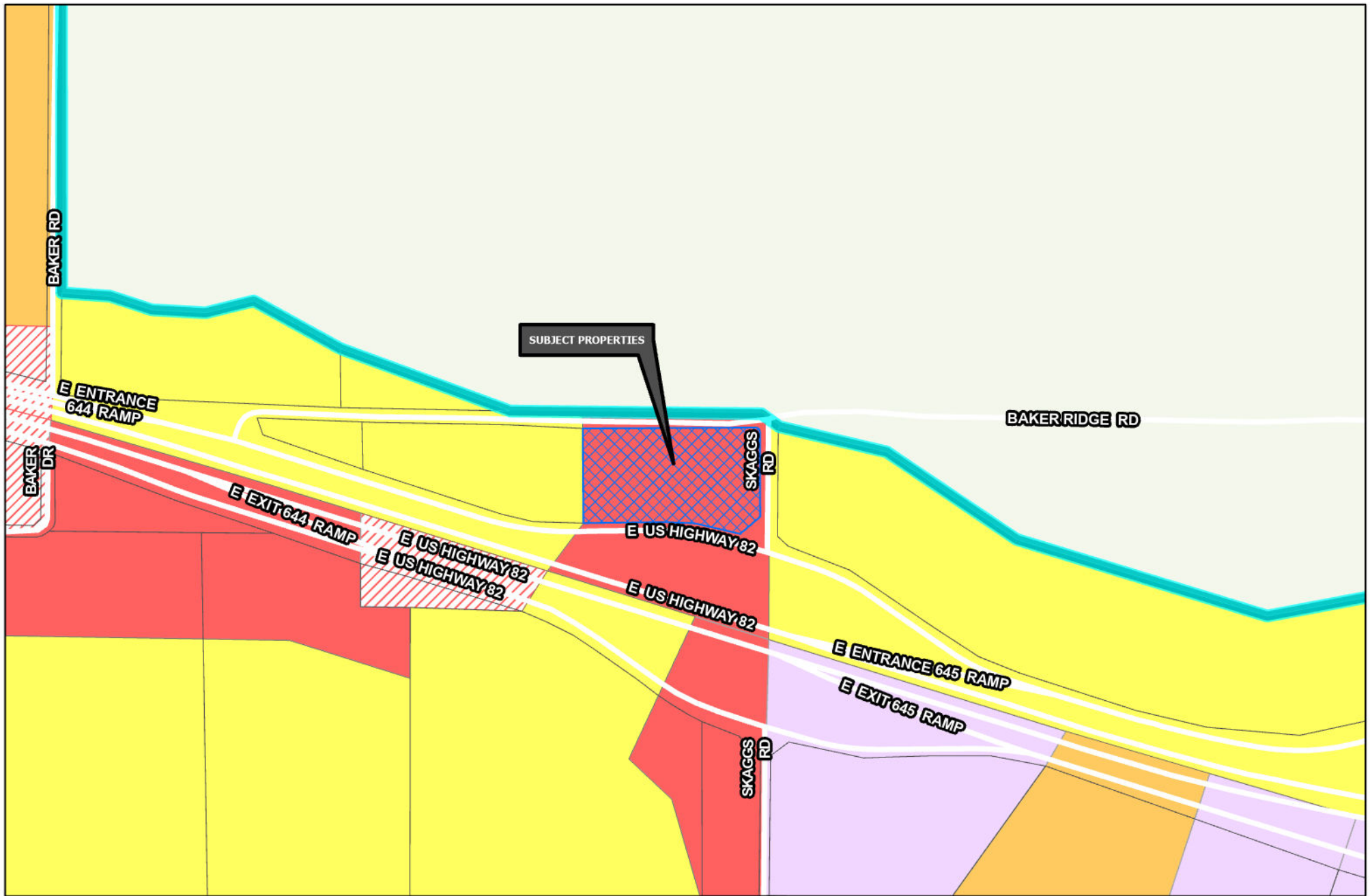


City of Sherman, Texas
Development Services Department

CITY OF SHERMAN
LOCATION MAP
3551 E HWY 82



Date: 12/6/2023 9:38 AM



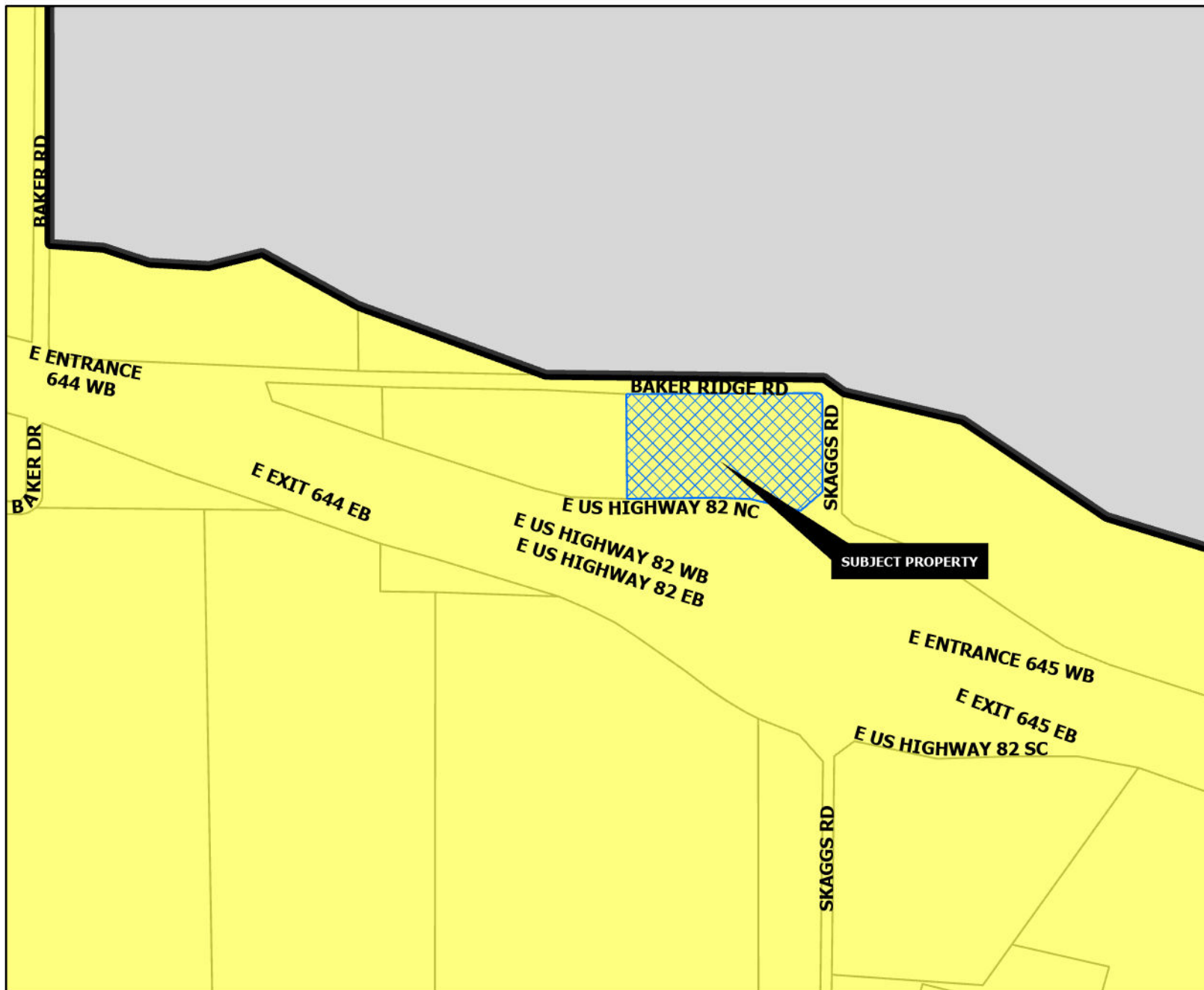
Sherman
CLASSIC TOWN. BROAD HORIZON.

Development Services
Department

R-A Residential Agricultural	MF-15 Multi-Family Residential	M-1.5 Medium Manufacturing
R-E Estate Residential	MF-30 Multi-Family Residential	M-2 Heavy Manufacturing
R-12 Single Family Residential	MH Manufactured Housing	PD Planned Development
R-6 Single Family Residential	C-N Neighborhood Commercial	Road Names All
R-5 Single Family Residential	C-O Office	Planning & Zoning
R-4 Patio Home Residential	C-1 Retail Business	
R-2F Duplex Residential	C-2 General Commercial	
R-TH Townhome Residential	M-1 Light Manufacturing	

CITY OF SHERMAN
ZONING MAP
3551 E HWY 82





SUBURBAN NEIGHBORHOOD

Intent & Character

The Suburban Neighborhood category is intended to allow primarily single-family detached in a "complete neighborhood" setting. New subdivisions should include a mix of housing products and lot sizes. Areas of supporting local commercial should be integrated into the neighborhoods, primarily along major streets near the entrance of neighborhoods. Community amenities such as parks, trails, open spaces, and civic uses should also be included in the creation of new subdivisions. This category gives flexibility for the creation of master-planned neighborhoods that are compatible with the surrounding area.

Appropriate Land Use Types

- Single-family detached (primary land use type)
- Single-family attached (duplexes and townhomes)
- Local/neighborhood commercial and office
- Parks and open space
- Schools and civic uses

Compatible Zoning Districts

- Estate Residential
- Single-Family Residential (R-12, R-6, R-5, and R-4)
- Multi-Family Residential (MF-15 and MF-30)
- Manufactured Housing
- Neighborhood Commercial
- Planned Development

Considerations

- Street connections to existing and future developments.
- Smaller lots and denser development can serve as a transition from the local commercial areas.

Sherman
CLASSIC TOWN. BROAD HORIZON.

Development Services
Department



CITY OF SHERMAN
FUTURE LAND USE MAP
3551 E HWY 82



Marlow, Lauren

From: laurenm@cityofsherman.com
To: Wendy Ferguson
Subject: RE: Property Notification Signs

From: Wendy Ferguson
Sent: Tuesday, November 28, 2023 1:06 PM
To: Marlow, Lauren
Subject: Re: Property Notification Signs

Good afternoon Lauren,

Please see attached photo of signed placement.

Thank you!
Wendy Ferguson



Date: November 1, 2023

Re: ***Kissing Trees RV Resort***
Project Narrative for SUP Application

Project Narrative

The property Owner, KWLT Assets, LLC intends to develop the property at the Northwest corner of the intersection of Highway 82 and Skaggs Road. The property is depicted in the survey that is included with the referenced submittal. The property contains approximately 10.6 acres and is bound on the South side by Highway 82, on the East side by Skaggs Road, and on the North side by Baker Ridge Road. Right-of-way dedication is being requested on Skaggs Road and Baker Ridge Road that will reduce the property size to approximately 9.4 acres.

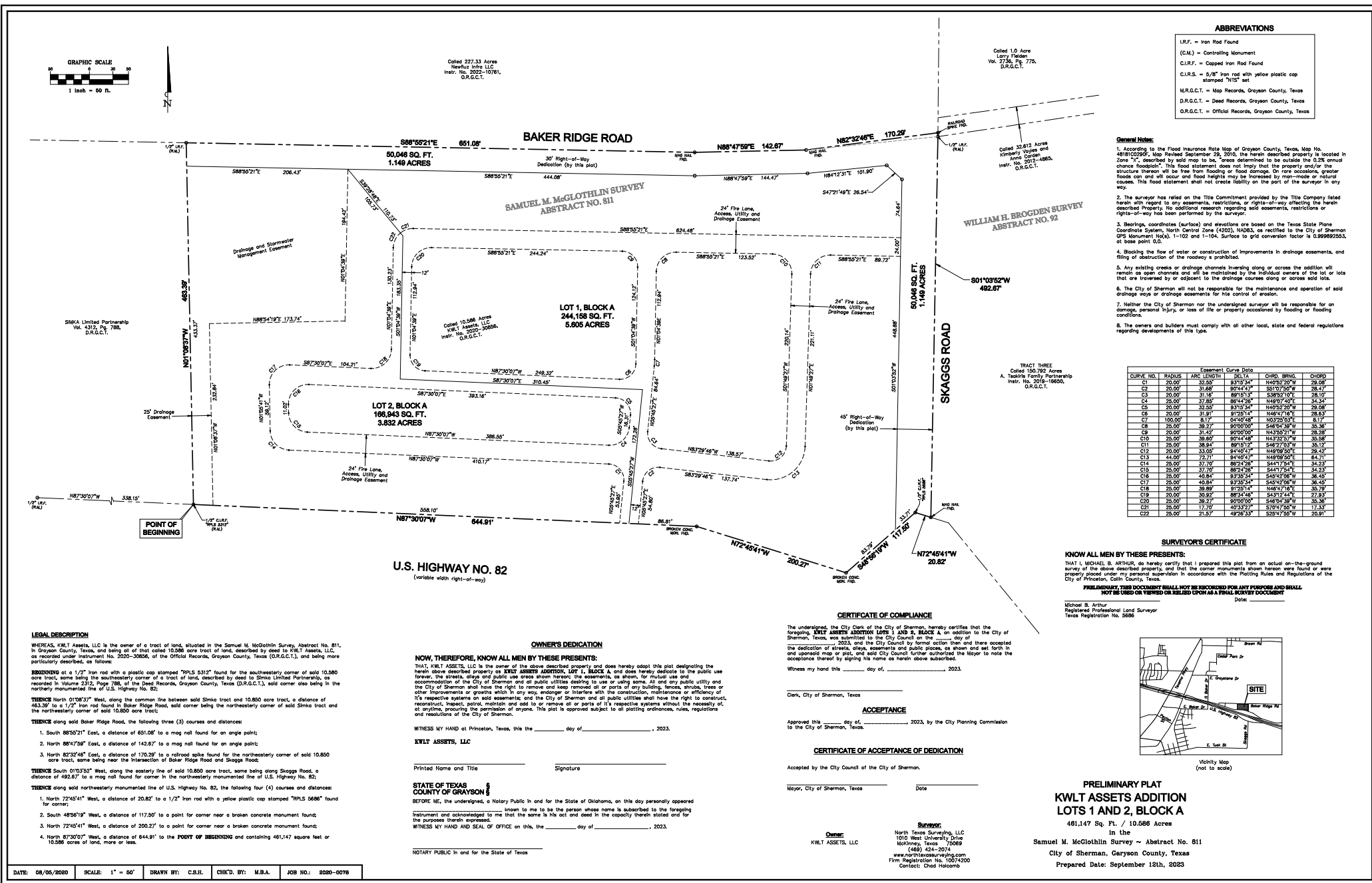
The Owner intends to develop an RV Park with a pool, recreation areas, and building for office, bathroom, laundry, and other supporting activities. The property is currently zoned C-1 which allows for the proposed use with the approval of a Special Use Permit (SUP).

The Site Plan accompanying the SUP reflects the design team's expectations for the layout of the project. The layout includes 63 RV spaces in the initial phase and an area set aside for 15 future RV spaces. Public water is anticipated to be used by extending the existing waterline (across HWY 82) to the area of the intersection of Skaggs Road and Baker Ridge Road. Sanitary sewer is not practically available to the site so an On-Site Septic Facility (OSSF) is planned. The discharge is anticipated to be in the form of drip line buried in vegetated areas of the site. The regulations for the OSSF require that no single parcel's system dispose of more than 5,000 gpd. The site is being divided into two parcels so that the requirement of distinct systems is met. Each of the two parcel's public utility systems (water and sewer) are to be independent from the other site. This has accomplished as indicated in the SUP Site Plan figure.

A single stormwater management facility is expected to serve both parcels and address stormwater management needs for the entire project. This facility is anticipated to be designed to reduce the post developed peak discharges to predeveloped peak levels in the 2-, 10-, and 100-year storm events. Industry standard design practices and coordination with and approval by the City of Sherman are part of the design process to ensure the stormwater management requirements are met for the project.

The project is subject to SWPPP permitting and erosion control practices will be designed and maintained in accordance with industry standards.

The layout, utility, and surface materials of the project are based on state and local requirements as well as the National Park Service Campground Design Guidelines.



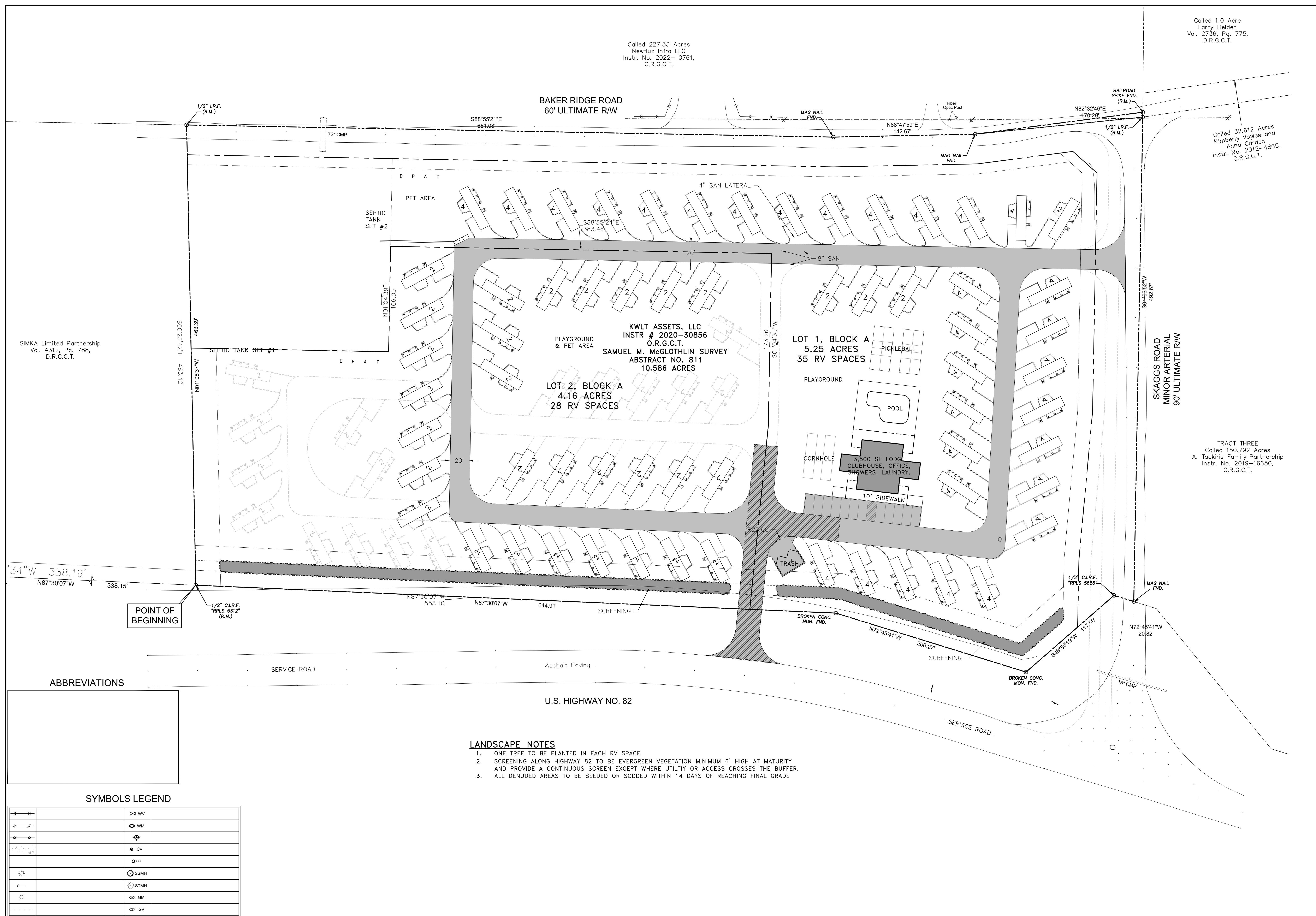
Nov. 7, 2023

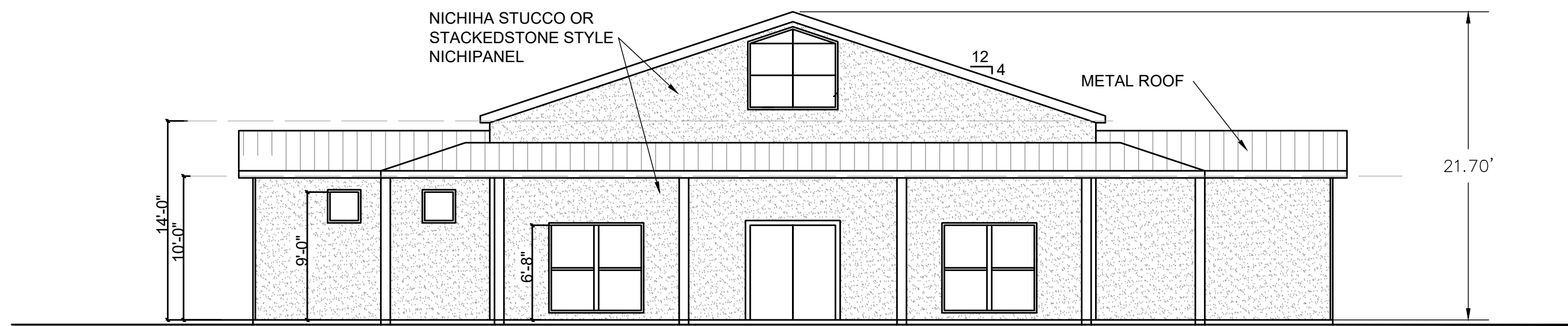
PERSON	DATE	DESCRIPTION
1	11/21/23	INCLUDED TREE IN TYPICAL RV SPACE DETAIL
2	11/30/23	MODIFICATIONS PER CITY FEEDBACK

KISSING TREES RV RESORT
RV SITES WITH AMENITIES
HWY 82 AND SKAGGS ROAD
SHERMAN, TEXAS

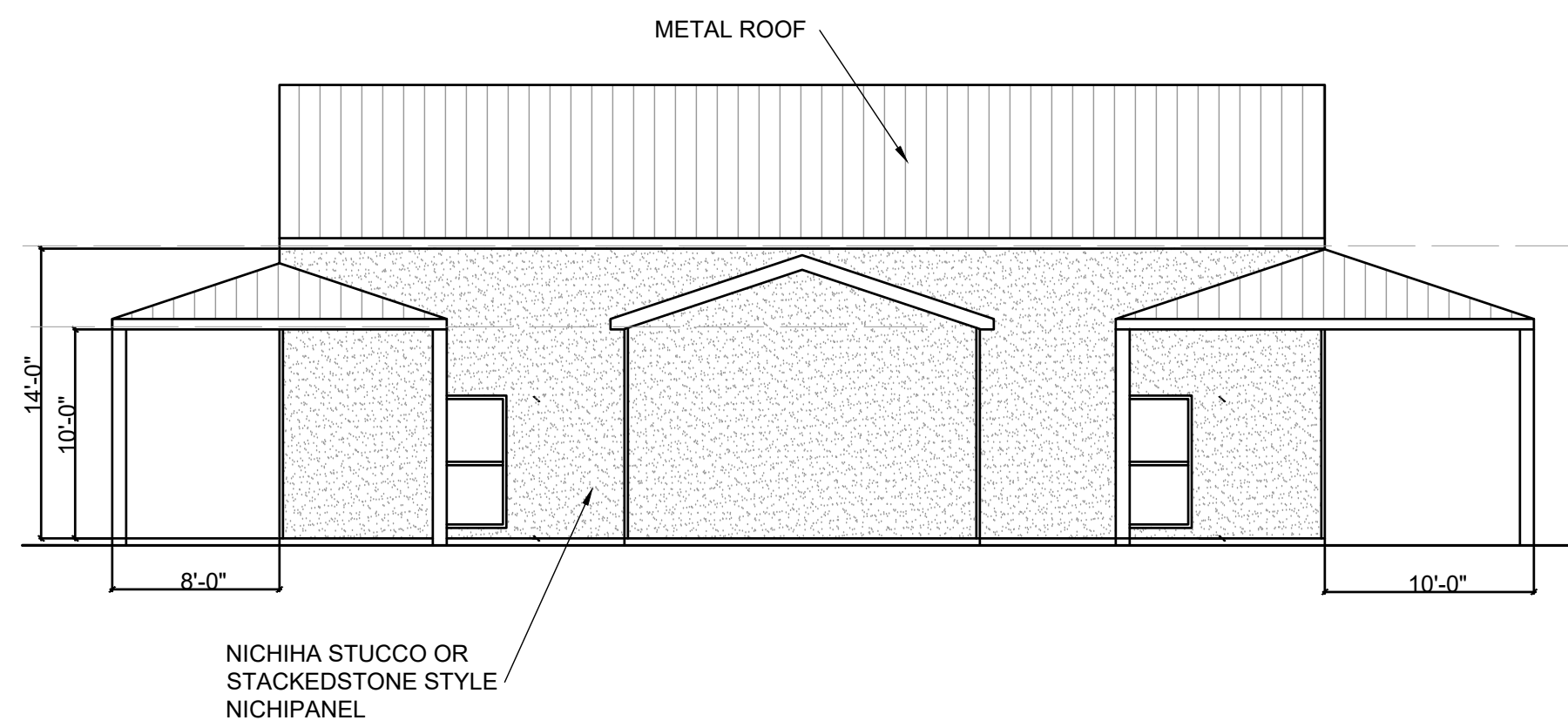
PRELIMINARY
LANDSCAPE
PLAN FOR SPECIAL
USE PERMIT

L1.0
SHEET 2 OF 3
Page 80 of 44

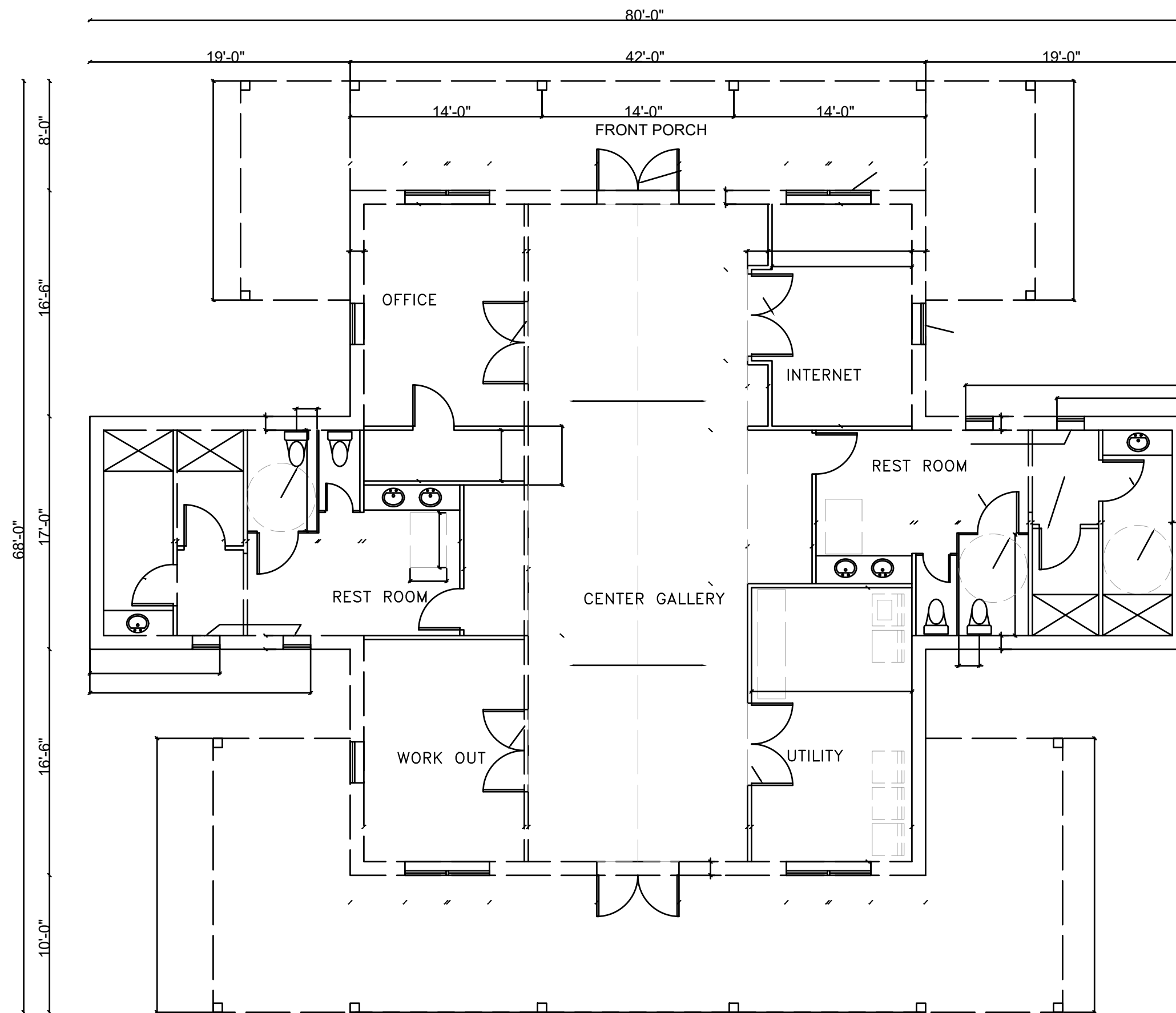




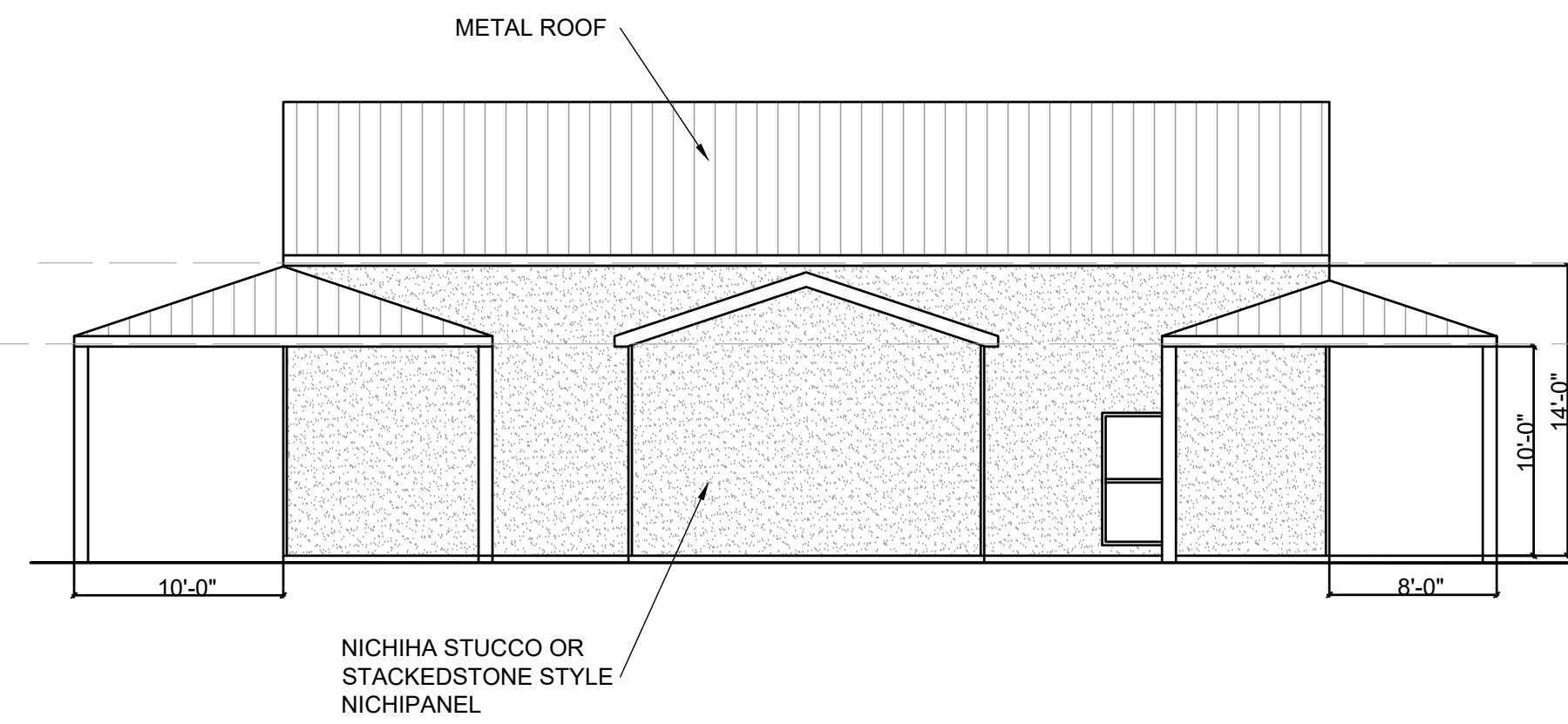
NORTH ELEVATION



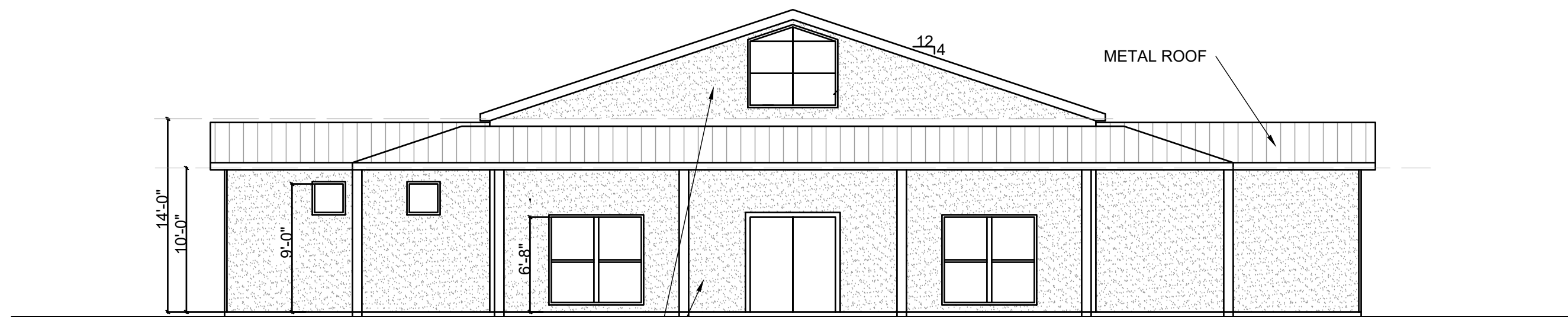
WEST ELEVATION



FLOOR PLAN



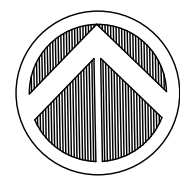
EAST ELEVATION



SOUTH ELEVATION

SCALE: 1/8" = 1 FT

These documents are not approved for construction



SUP FIGURE

Nov. 7, 2023

VERSION	DATE	DESCRIPTION
1	11/21/23	INCLUDED TREE IN TYPICAL RV SPACE DETAIL
2	11/30/23	MODIFICATIONS PER CITY FEEDBACK

KISSING TREES RV RESORT
 RV SITES WITH AMENITIES
 HWY 82 AND SKAGGS ROAD
 SHERMAN, TEXAS

PRELIMINARY
 ARCHITECTURAL
 FIGURES



City Council Regular Meeting

Agenda Item No. D.5.

Meeting Date: 1/16/2024

Prepared By: Lauren Marlow, Development Service Coordinator

Approved By: Robby Hefton, City Manager

Caption:

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6687

Amending Sherman's Zoning Ordinance/Code of Ordinances Chapter 14, to Rezone a Tract of Land Consisting of 0.115 acres in the G.B. Pilant Survey, Abstract No. 963, City of Sherman, Grayson County, Texas, Located at 413 South Willow Street, Heretofore Zoned R-6 (Single Family Residential) District; Rezoning and Placing the Tract in the R-5 (Single Family Residential) District Zoning Classification, Gladiator Build (Owner) and Barton Chapa Surveying (Surveyor); Providing for a Penalty not to Exceed \$2,000.00; Providing A Repealing/Savings Clause, Severability Clause And An Effective Date

Issue:

Consideration of a Zone Change for 0.115 acres of land located at 413 South Willow Street from an R-6 (Single Family Residential) District to a R-5 (Single Family Residential) District

Background:

The property is located at 413 South Willow Street between East Cherry Street and East King Street. The owner is requesting a Zone Change from an R-6 (Single Family Residential) District to R-5 (Single Family Residential) District.

Origination:

Gladiator Build (Owner)
Barton Chapa Surveying (Surveyor)

Financial Consideration:

None

Staff Recommendation:

At the December 12, 2023 regular meeting, the Planning and Zoning Commission voted 7/0 to recommend to the City Council that the Zone Change be approved. **The proposed use is compatible with the City of Sherman Comprehensive Plan. Staff recommends that Council approve this item.**

Alternatives:

The City Council could deny the request.

Attachments:

1. Ordinance No. 6687
2. Location Map
3. Zoning Map

4. Future Land Use Map
5. Property Notification Sign
6. Narrative
7. Exhibit A - Survey

ORDINANCE NO. 6687

AN ORDINANCE OF THE CITY OF SHERMAN, TEXAS AMENDING SHERMAN'S ZONING ORDINANCE/CODE OF ORDINANCES CHAPTER 14, TO REZONE A TRACT OF LAND CONSISTING OF 0.115 ACRES IN THE G.B. PILANT SURVEY, ABSTRACT NO. 963, CITY OF SHERMAN, GRAYSON COUNTY, TEXAS, LOCATED AT 413 SOUTH WILLOW STREET, HERETOFORE ZONED R-6 (SINGLE FAMILY RESIDENTIAL) DISTRICT; REZONING AND PLACING THE TRACT IN THE R-5 (SINGLE FAMILY RESIDENTIAL) DISTRICT ZONING CLASSIFICATION, GLADIATOR BUILD (OWNER) AND BARTON CHAPA SURVEYING (SURVEYOR); PROVIDING FOR A PENALTY NOT TO EXCEED \$2,000.00; PROVIDING A REPEALING/SAVINGS CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with the state law and the ordinances of the City of Sherman, have given the required notices and have held the required public hearings regarding this proposed rezoning case; and

WHEREAS, the City Council finds that rezoning the property as described in this Ordinance is in accordance with the Comprehensive Plan and will complement or be compatible with the surrounding uses and community facilities; contribute to, enhance, or promote the welfare of the area of request and adjacent properties; not be detrimental to the public health, safety, or general welfare; and conform in all other respects to all applicable zoning regulations and standards; and

WHEREAS, the City Council finds that it is in the public interest to rezone the property as described in this Ordinance.

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

SECTION 1. That, from and after the effective date of this Ordinance, the property described in **Exhibit A – Survey and Legal Description**, attached hereto, located at 413 South Willow Street, and all streets, roads and alleyways contiguous and/or adjacent thereto, shall be rezoned and placed in the R-5 (Single Family Residential) District, and that Sherman's Zoning Ordinance/Code of Ordinances, Chapter 14, is hereby amended so as to hereafter include such property.

SECTION 2. That this Ordinance shall be entered upon the Official Zoning Map as provided in Sherman's Zoning Ordinance/Code of Ordinances, Chapter 14, Section 14.01.002.

SECTION 3. That no person shall acquire any vested interest in this Ordinance or in any other specific regulations contained herein. Any portion of this Ordinance may be repealed or amended by the City Council in the manner provided for by law.

SECTION 4. That it shall be unlawful for any person to make use of the Property in some manner other than as authorized by this Ordinance, and it shall be unlawful for any person to construct on the Property any building that is not in conformity with the permissible uses under this Ordinance. Any person violating any provision of this Ordinance or the General Zoning Ordinance, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in an amount not exceeding TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). A violation of any provision of this Ordinance shall constitute a separate violation for each calendar day in which it occurs. The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 5. That the Zoning Ordinance shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the Ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 6. That in the event any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

SECTION 7. 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.

SECTION 8. That this Ordinance shall become effective from and after its adoption and publication as required by law and the City Charter.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS.

INTRODUCED on this the 16th day of January 2024.

ADOPTED on this the 16th day of January 2024.

EFFECTIVE DATE on this the 16th day of January 2024.

CITY OF SHERMAN, TEXAS

BY: _____
DAVID PLYLER, MAYOR

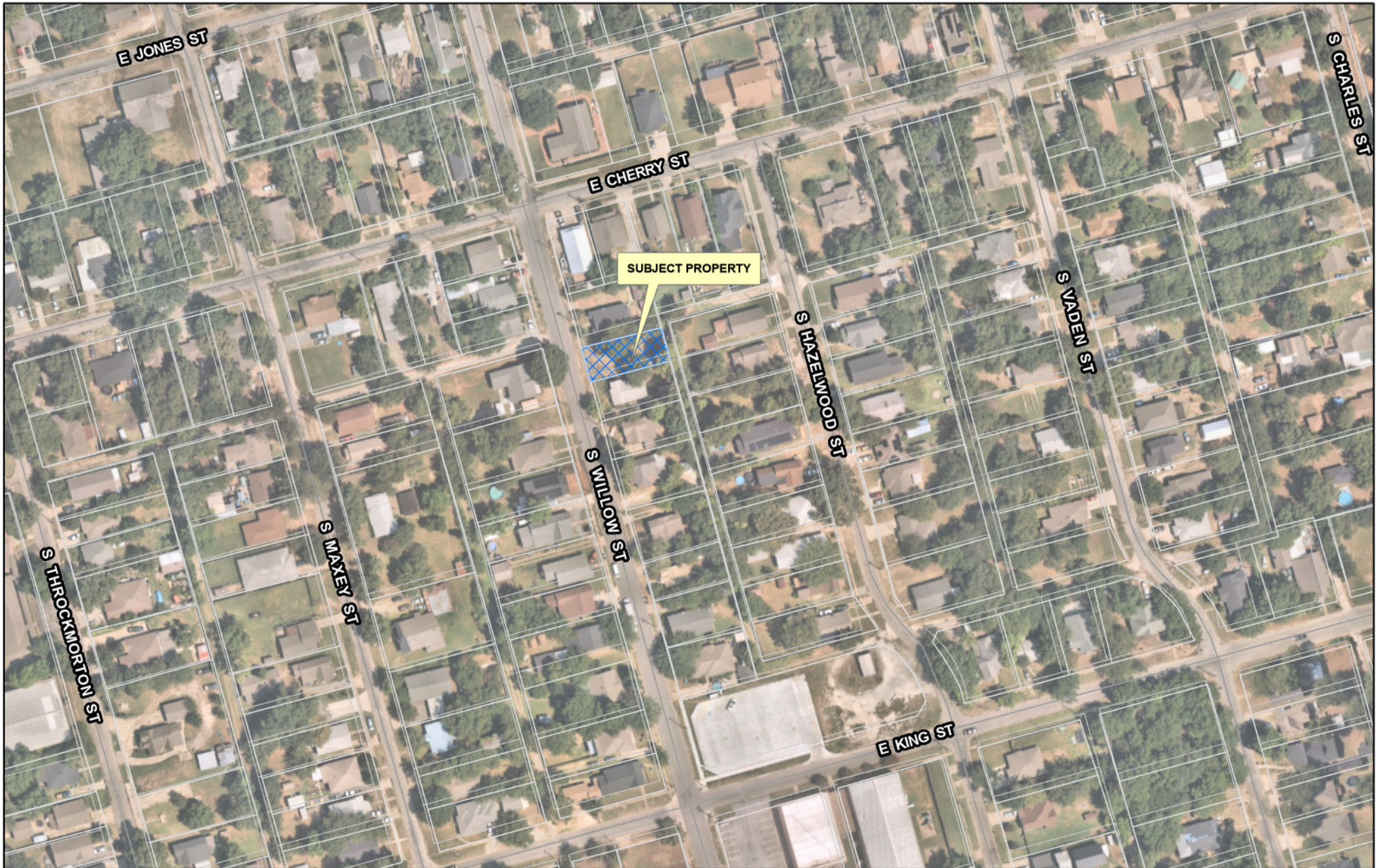
ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM:
THE LAW FIRM OF ABERNATHY,
ROEDER, BOYD & HULLETT, P.C.

BY: _____
RYAN D. PITTMAN, CITY ATTORNEY

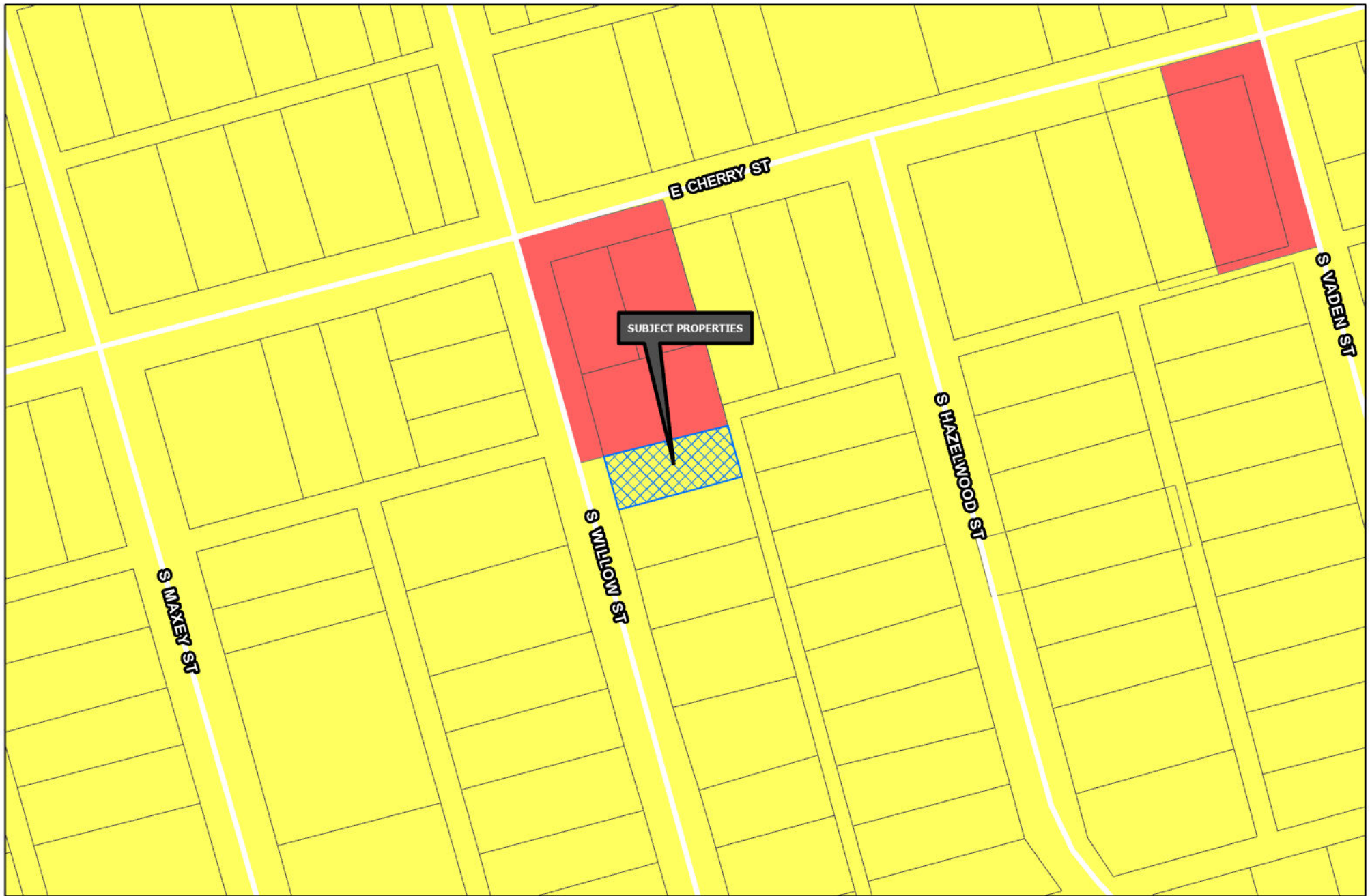
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City of Sherman, Texas
Development Services Department

CITY OF SHERMAN
LOCATION MAP
413 S WILLOW ST



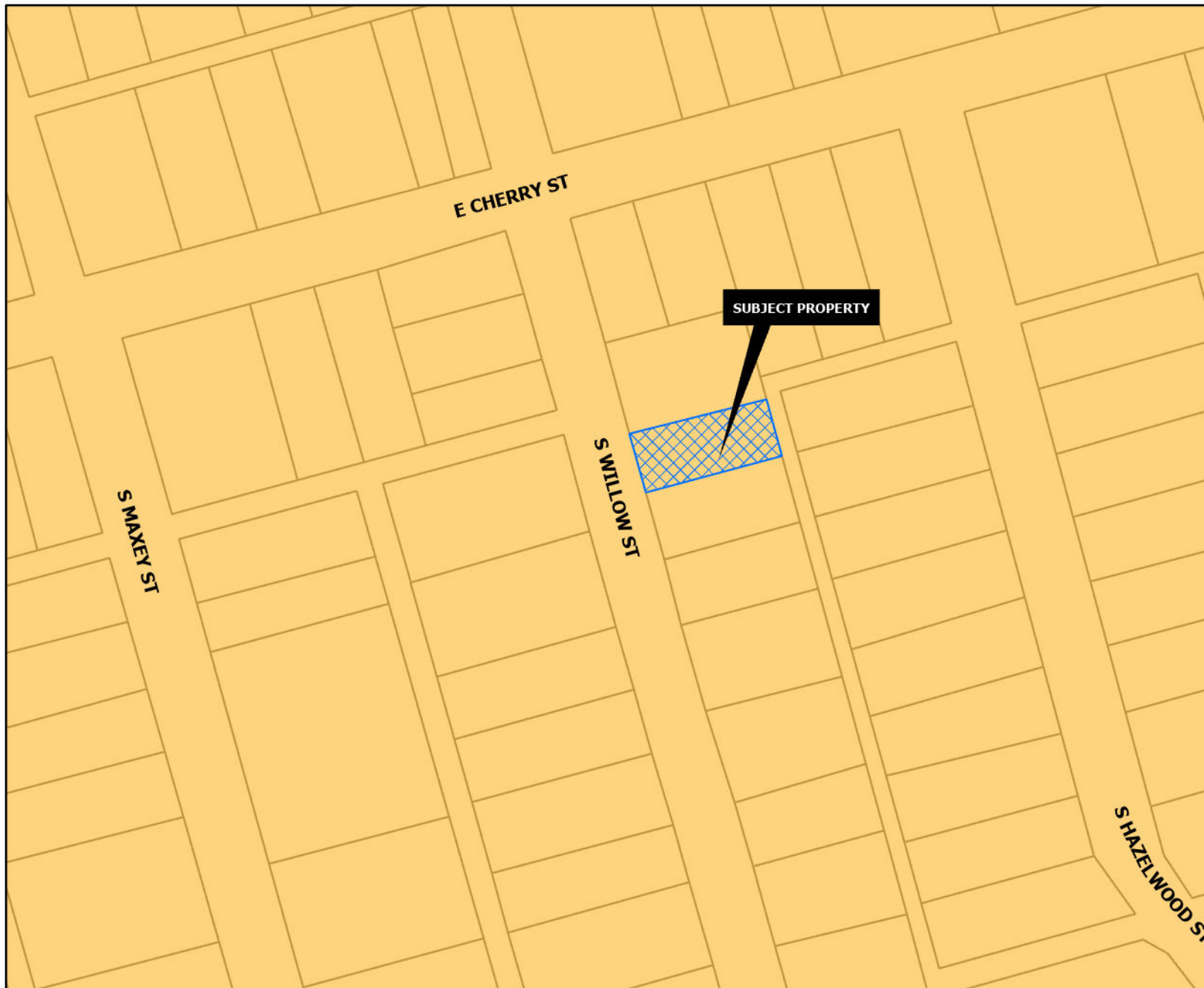


Development Services
Department

R-A Residential Agricultural	MF-15 Multi-Family Residential	M-1.5 Medium Manufacturing
R-E Estate Residential	MF-30 Multi-Family Residential	M-2 Heavy Manufacturing
R-12 Single Family Residential	MH Manufactured Housing	PD Planned Development
R-6 Single Family Residential	C-N Neighborhood Commercial	Road Names All
R-5 Single Family Residential	C-O Office	Planning & Zoning
R-4 Patio Home Residential	C-1 Retail Business	
R-2F Duplex Residential	C-2 General Commercial	
R-TH Townhome Residential	M-1 Light Manufacturing	

CITY OF SHERMAN
ZONING MAP
413 S WILLOW ST





CORE NEIGHBORHOOD

Intent & Character

The Core Neighborhood category is intended to protect and enhance the existing residential areas of Sherman. This area is generally located in the center of the city, east and west of US-75. A majority of the Core Neighborhood category encompasses what is known as east Sherman. This category encourages infill development that maintains the existing character, while increasing the aesthetic appeal of the community. In certain areas, an increase in density can be appropriate through the development of single-family attached products, like townhomes or quad-plexes.

Appropriate Land Use Types

- Single-family detached
- Single-family attached
- Local/neighborhood commercial and office
- Parks and open space
- Schools and civic uses

Compatible Zoning Districts

- Single-Family Residential (R-5, R-4, R-2F, and R-TH)
- Multi-Family Residential (MF-15 and MF-30)
- Manufactured Housing
- Retail Business
- Neighborhood Commercial

Considerations

- Infill that increases density should match the character of the surrounding structures.
- Small-scale commercial uses are appropriate along larger streets and should be compatible with the surrounding residential development.

Sherman
CLASSIC TOWN. BROAD HORIZON.

Development Services
Department



CITY OF SHERMAN
FUTURE LAND USE MAP
413 S WILLOW ST





Add a Caption



Look Up Plant >

Tuesday • Nov 28, 2023 • 11:30 AM

Adjust

IMG_0538

Apple iPhone 15 Pro Max

HEIF



Main Camera — 24 mm f1.78

24 MP • 4284 × 5712 • 9.7 MB

VIBRANT

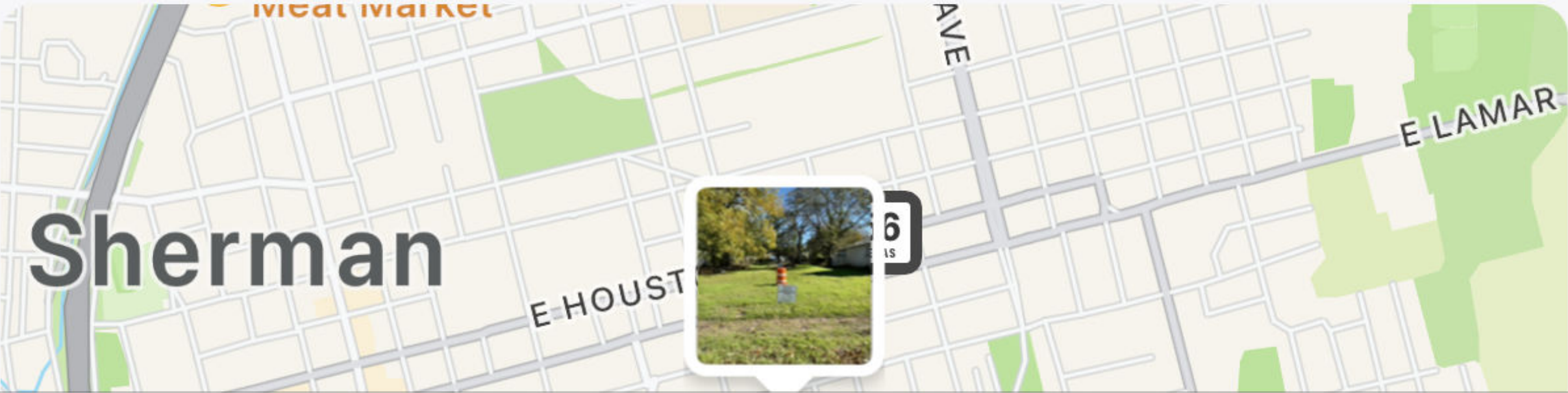
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413 S Willow – Rezoning Narrative

The property is currently zoned R-6 (Single Family Residential) District and with the lot being 50X100, we would like to request a rezoning to an R-5 (Single Family Residential) District.

LEGEND OF SYMBOLS

- air conditioning unit
ICV irrigation control valve
EM electric meter
fence or guardrail
FH fire hydrant
AD area drain
GI grate inlet
GV gas valve
GM gas meter
sanitary sewer manhole
storm water manhole
telephone manhole
TPED telephone pedestal
CO utility clean out
UVC comm. utility vault
UVE elect. utility vault
UVW water utility vault
UP/SP utility/service pole
WV water valve
W well
WM water meter
CATV cable tv riser

SURVEYOR'S NOTES:

1. Bearings are based on the State Plane Coordinate System, Texas North Central Zone (4202) North American Datum of 1983 (NAD '83), distances are surface with a combined scale factor of 1.00012.
2. This property lies within Zone "X" of the Flood Insurance Rate Map for Grayson County, Texas and Incorporated Areas, map no. 48181C0290G, with an effective date of September 1, 2022, via scaled map location and graphic plotting.
3. Monuments are found unless specifically designated as set.
4. Building lines shown hereon are as shown on record plat. City regulations and setbacks may differ.

LEGEND OF ABBREVIATIONS

- P.R.G.C.T. PLAT RECORDS, GRAYSON COUNTY, TEXAS
- C.M. CONTROLLING MONUMENT
- ROW RIGHT OF WAY
- CRS CAPPED REBAR SET

PROPERTY DESCRIPTION

BEING a tract of land out of the G.B. Pilant Survey, Abstract Number 963, in the City of Sherman, Grayson County, Texas, and being that same tract of land described by deed to 468 E FM 120 House, LLC as recorded under Document Number 2023-16591, Official Public Records, Grayson County, Texas, the subject tract being more particularly described by metes and bounds as follows (bearings are based on State Plane Coordinate System, Texas North Central Zone (4202) North American Datum of 1983 (NAD '83)):

BEGINNING at a 1/2 inch rebar with cap stamped, "GARTIN" found for the northwest corner of said 468 E FM 120 House tract and the herein described tract, from which a 1/2 inch rebar with cap stamped, "GARTIN" found for the southwest corner of a tract of land described by deed to Jesus E. Hernandez and Yovani F. Hernandez as recorded under Volume 2018, Page 25587, (O.P.R.G.C.T.), bears North 15 degrees 28 minutes 36 seconds West, a distance of 1.81 feet;

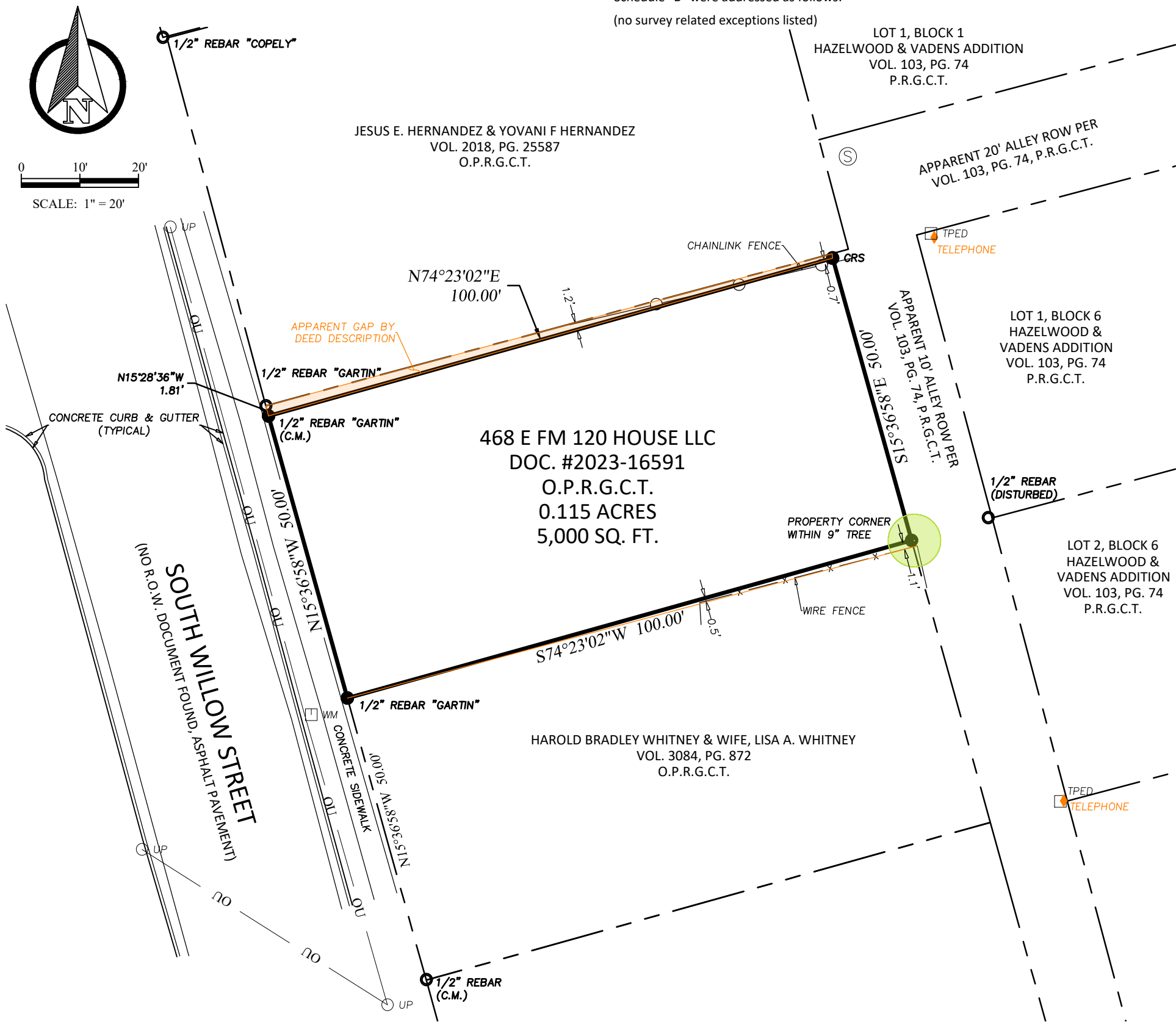
THENCE with the perimeter and to the corners of said 468 E FM 120 House tract, the following calls:

1. North 74 degrees 23 minutes 02 seconds East, a distance of 100.00 feet to a 1/2 inch rebar with pink cap stamped, "BARTON CHAPA" set (hereinafter called "capped rebar set");
2. South 15 degrees 36 minutes 58 seconds East, a distance of 50.00 feet to a point within a 9 inch tree;
3. South 74 degrees 23 minutes 02 seconds West, a distance of 100.00 feet to a 1/2 inch rebar with cap stamped, "GARTIN" found;
4. North 15 degrees 36 minutes 58 seconds West, a distance of 50.00 feet, returning to the **POINT OF BEGINNING** and enclosing 0.115 acres (5,000 square feet) of land, more or less.

TITLE COMMITMENT NOTES

This survey was prepared with the benefit of a commitment for title insurance provided by Texas Title Insurance Company, G.F. Number 0143439, Effective Date September 4, 2023. This commitment was relied upon for encumbrance research, and the surveyor has performed no independent title search. Therefore, easements, agreements, or other documents, either recorded, or unrecorded may exist that affect the subject property that are not shown on this survey. The following exceptions from Schedule "B" were addressed as follows:

(no survey related exceptions listed)

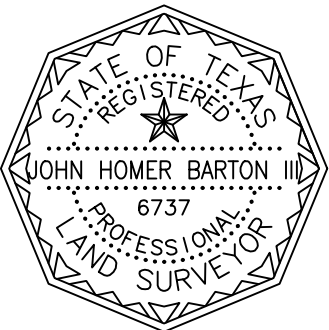


SURVEYOR'S CERTIFICATE

This is to certify that I, John H. Barton III, a Registered Professional Land Surveyor of the State of Texas, have prepared this map from an actual survey on the ground, and that this map correctly represents that survey made by me or under my direction and supervision. This survey meets the minimum requirements for a Category 1A, Condition II Land Title Survey. Fieldwork was completed on September 19, 2023.

Date of Plat/Map: September 20, 2023

John H. Barton III, RPLS# 6737



BCS

BARTON CHAPA
SURVEYING

5200 State Highway 121
Colleyville, TX 76034
Phone: 817-864-1957
info@bcsdfw.com
TBPLS Firm #10194474

CATEGORY 1A, CONDITION II
LAND TITLE SURVEY

A TRACT SITUATED IN THE
G.B. PILANT SURVEY, ABSTRACT #963
CITY OF SHERMAN
GRAYSON COUNTY, TEXAS

JOB NUMBER: 2023.121.0350 - DRAWN BY: BCS - CHECKED BY: JHB



City Council Regular Meeting

Agenda Item No. D.6.

Meeting Date: 1/16/2024

Prepared By: Lauren Marlow, Development Service Coordinator

Approved By: Robby Hefton, City Manager

Caption:

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6688

Amending Sherman's Zoning Ordinance/Code of Ordinances Chapter 14, and Granting a Specific Use Permit to Allow An Automobile Repair, Body Work, or Painting in the C-2 (General Commercial) District, Located at 3314 and 3318 Texoma Parkway, Tract One Consisting of 5.34 acres being a part of Lots 12, 13, 14, all of Lots 15 and 16, 17, Block 1 of the Redick Addition and Tract Two, Consisting of 2.927 acres being a part of the Reuben Hendrix Survey, Abstract No. 504, City of Sherman, Grayson County, Texas, Thomas Hardin II (Owner); Prescribing Conditions to the Specific Use Permit; Providing A Penalty Not to Exceed \$2,000.00; Providing A Repealing/Savings Clause, Severability Clause And An Effective Date

Issue:

Consideration of a Specific Use Permit for 5.34 acres of land located at 3314 and 3318 Texoma Parkway to Allow Automobile repair, body work, or painting in the C-2 (General Commercial) District.

Background:

The property is located at 3314 and 3318 Texoma Parkway at the intersection of Gallagher Drive and Texoma Parkway. The owner is requesting a Specific Use Permit and Site Plan to allow automobile repair, body work, and painting.

The following has been approved for this location:

- January 9, 1973 - Zone Change from an R-1 (Single Family Residential) District to a C-2 (General Commercial) District

Origination:

Thomas Hardin II (Owner)

Financial Consideration:

None

Staff Recommendation:

At the December 12, 2023 regular meeting, the Planning and Zoning Commission voted 7/0 to recommend to City Council that the Specific Use Permit be approved subject to the Staff Review Letter. **The proposed use is compatible with the City of Sherman Comprehensive Plan. Staff recommends that Council approve this item.**

Alternatives:

The City Council could deny the request.

Attachments:

1. Ordinance No. 6688
2. Location Map
3. Zoning Map
4. Future Land Use Map
5. Property Notification Sign
6. Narrative
7. Exhibit A - Survey/Site Plan
8. Elevations
9. Staff Review Letter

ORDINANCE NO. 6688

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS AMENDING SHERMAN'S ZONING ORDINANCE/CODE OF ORDINANCES CHAPTER 14, AND GRANTING A SPECIFIC USE PERMIT TO ALLOW AN AUTOMOBILE REPAIR, BODY WORK, OR PAINTING IN THE C-2 (GENERAL COMMERCIAL) DISTRICT, LOCATED AT 3314 AND 3318 TEXOMA PARKWAY, TRACT ONE CONSISTING OF 5.34 ACRES BEING A PART OF LOTS 12, 13, 14, ALL OF LOTS 15 AND 16, 17, BLOCK 1 OF THE REDICK ADDITION AND TRACT TWO, CONSISTING OF 2.927 ACRES BEING A PART OF THE REUBEN HENDRIX SURVEY, ABSTRACT NO. 504, CITY OF SHERMAN, GRAYSON COUNTY, TEXAS, THOMAS HARDIN II (OWNER); PRESCRIBING CONDITIONS TO THE SPECIFIC USE PERMIT; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00; PROVIDING A REPEALING/SAVINGS CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with the state law and the ordinances of the City of Sherman, have given the required notices and have held the required public hearings regarding this Specific Use Permit; and

WHEREAS, the City Council finds that this use will complement or be compatible with the surrounding uses and community facilities; contribute to, enhance, or promote the welfare of the area of request and adjacent properties; not be detrimental to the public health, safety, or general welfare; and conform in all other respects to all applicable zoning regulations and standards; and

WHEREAS, the City Council finds that it is in the public interest to grant this Specific Use Permit, subject to certain conditions.

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

SECTION 1. That, from and after the effective date of this Ordinance, the property located at 3314 and 3318 Texoma Parkway, City of Sherman, Grayson County, Texas is/are granted a Specific Use Permit to a Automobile repair, body work, or painting, subject to the conditions described in this Ordinance and that Sherman's Zoning Ordinance/Code of Ordinances, Chapter 14 is hereby amended so as to hereafter include property on **Exhibit A – Survey/Site Plan**.

SECTION 2. That this Specific Use Permit is granted on the following conditions:

Zoning:

1. Compliance with applicable City ordinances, regulations, standards and rules and other laws, as they exist or may be amended, including but not limited to the City's Zoning Ordinance/Code of Ordinance Chapter 14.
2. Fire access, lanes and codes shall be coordinated with the Fire Marshal (903.892.7267). (*Code of Ordinances Chapter 3.02(c)*)
3. The use of the property must comply with all Federal and State Laws and regulations and with all the ordinances, rules and regulations of the City of Sherman.
4. No outside parking or storage of dismantled, junk or inoperable vehicles, wrecks, tires, displays or parts are permitted.
5. The property must be properly maintained in a state of good repair and neat appearance.
6. The approval of a Site Plan shall be effective for a period of two (2) years from the date of approval, at the end of which time the Site Plan shall expire unless the applicant demonstrates to the Director of Development Services that progress has been made toward completion of the project for which the Site Plan was approved.
7. Any changes made to the site plan prior to the final fulfillment of the conditions of the staff review letter must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

Fire Services

8. Platting of the property is required. *Code of Ordinances Chapter 10.02.002(a)(1); Texas Local Government Code Title 1, Sec. 212.004*
9. IFC Chapter 24 and NFPA 33 shall be followed on all paint booth applications.

Additional Conditions: as applicable

10. The property shall be developed and used in accordance with all City Ordinances and the Site Plan shown in **Exhibit A**.

SECTION 3. That this Ordinance shall be entered upon the official zoning map as provided in Sherman's Zoning Ordinance/Code of Ordinances, Chapter 14, Section 14.01.002.

SECTION 4. That after holding a properly noticed public hearing, the City Council may amend, change, or rescind the Specific Use Permit if any of the conditions set forth in Zoning Ordinance/Code of Ordinances Chapter 14, Section 14.06.009(1)(g), apply or exist.

SECTION 5. That the Specific Use Permit shall be effective from and after the effective date of this Ordinance. Upon termination of the Specific Use Permit, the property shall cease to be used as provided herein unless another Specific Use Permit or appropriate zoning has been obtained.

SECTION 6. That it shall be unlawful for any person to make use of the property in some manner other than as authorized by this Ordinance, and it shall be unlawful for any person to construct on the property any building that is not in conformity with the permissible uses under this Ordinance. Any person violating any provision of this Ordinance or the Zoning Ordinance, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in an amount not exceeding TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). A violation of any provision of this Ordinance shall constitute a separate violation for each calendar day in which it occurs. The penal provisions imposed under this Ordinance shall

not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 7. That the Zoning Ordinance shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 8. That in the event any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

SECTION 9. 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.

SECTION 10. That this Ordinance shall become effective from and after its adoption and publication as required by law and the City Charter.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS.

INTRODUCED on this the 16th day of January 2024.

ADOPTED on this the 16th day of January 2024.

EFFECTIVE DATE on this the 16th day of January 2024.

CITY OF SHERMAN, TEXAS

BY: _____
DAVID PLYLER, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM:
THE LAW FIRM OF ABERNATHY,
ROEDER, BOYD & HULLETT, P.C.

BY: _____
RYAN D. PITTMAN, CITY ATTORNEY

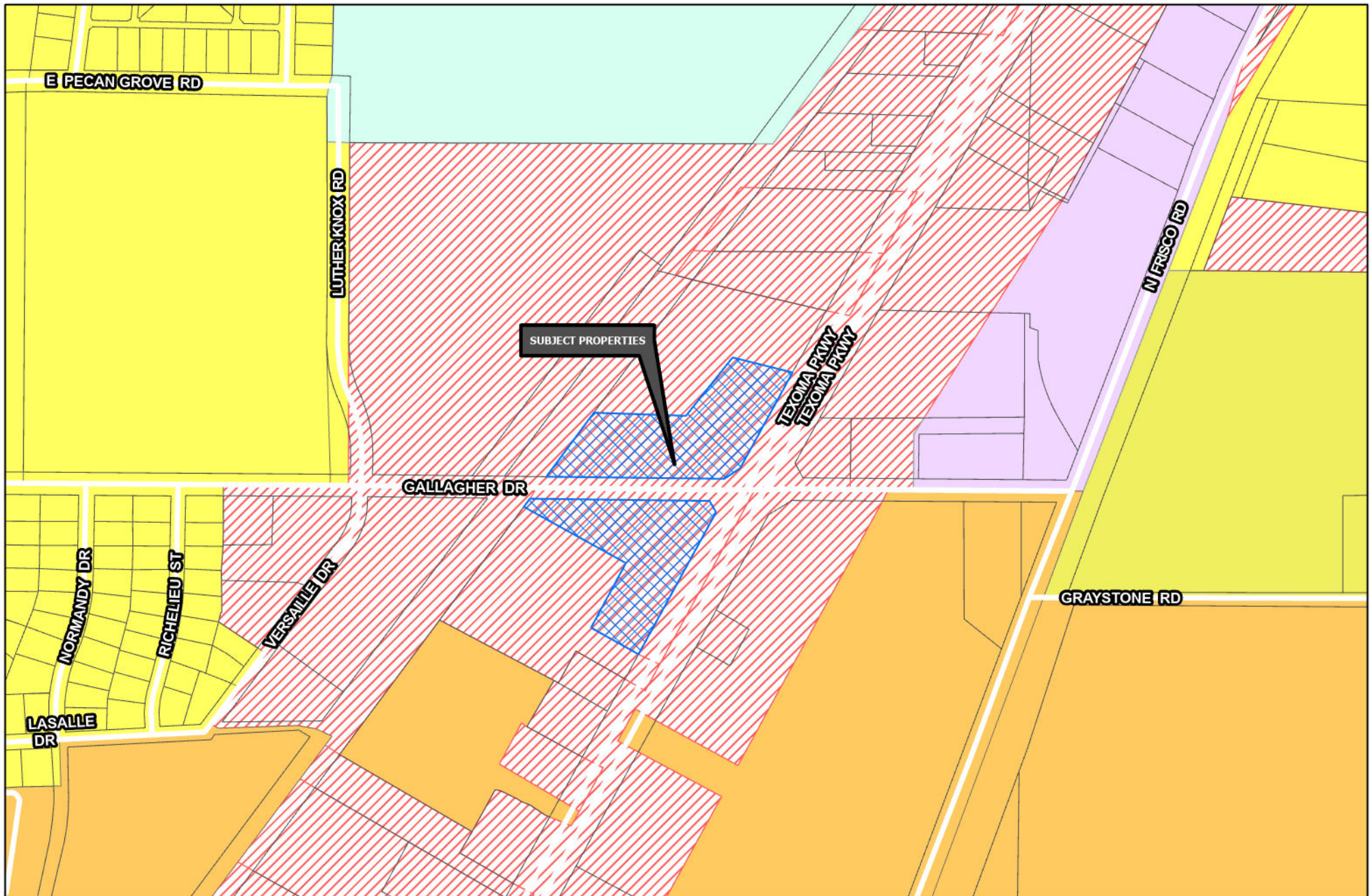
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City of Sherman, Texas
Development Services Department

CITY OF SHERMAN
LOCATION MAP
3314 & 3318 TEXOMA PKWY



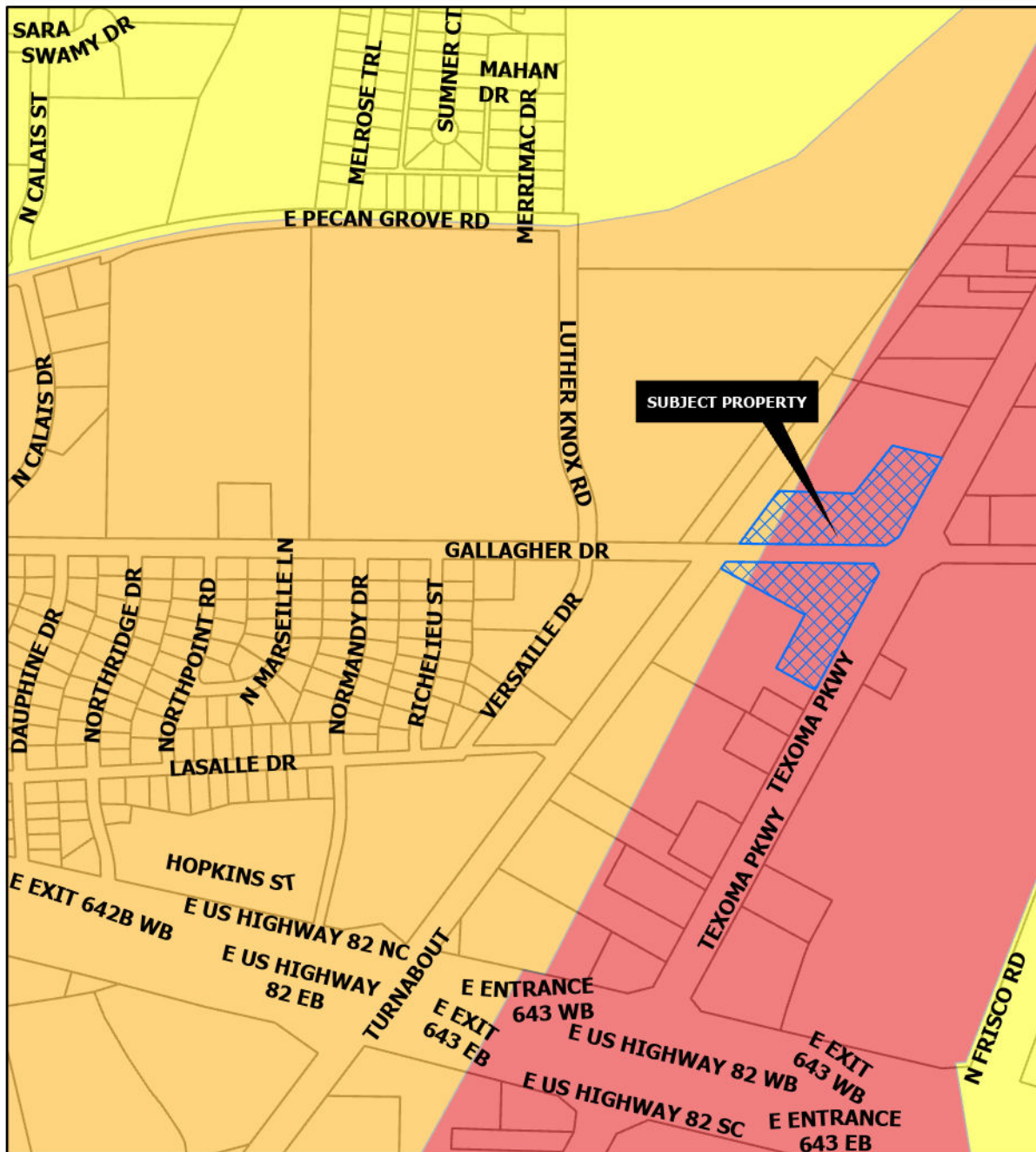


Development Services
Department

R-A Residential Agricultural	MF-15 Multi-Family Residential	M-1.5 Medium Manufacturing
R-E Estate Residential	MF-30 Multi-Family Residential	M-2 Heavy Manufacturing
R-12 Single Family Residential	MH Manufactured Housing	PD Planned Development
R-6 Single Family Residential	C-N Neighborhood Commercial	Road Names All
R-5 Single Family Residential	C-O Office	Planning & Zoning
R-4 Patio Home Residential	C-1 Retail Business	
R-2F Duplex Residential	C-2 General Commercial	
R-TH Townhome Residential	M-1 Light Manufacturing	

CITY OF SHERMAN
ZONING MAP
3314 & 3318 TEXOMA PKWY





REGIONAL COMMERCIAL

Intent & Character

The Regional Commercial category is intended to promote large-scale commercial development along US-75, while promoting community character through design. US-75 serves as the major gateway to and through the community; therefore, aesthetics and design should be promoted in this corridor. This category should allow large-scale commercial uses that serve the region and the community alike. A mix of uses and inter-connectivity between parcels should be encouraged.

Appropriate Land Use Types

- Retail and Restaurants
- Multi-Family Living
- Office Complex
- Medical
- Mixed Use
- Indoor Entertainment

Compatible Zoning Districts

- Retail Business
- General Commercial
- Office
- Multi-Family Residential (MF-15 and MF-30)
- Planned Development (for larger tracts)

Considerations

- Site design considerations should be given to parking, landscaping, and building articulation.
- Where possible, parking should be screened from view or well-landscaped with native, drought-tolerant plants.
- All buildings facades fronting a public street or within significant public view should have aesthetically-pleasing horizontal and vertical articulation.
- Signage should be multi-tenant, where possible, and should match the character of the primary structure.
- High density residential should be included in mixed use developments.
- High density residential is appropriate behind commercial areas, with inter-connectivity.
- If high density is stand alone, the surrounding uses and connectivity should be considered to avoid an "island."

CORE NEIGHBORHOOD

Intent & Character

The Core Neighborhood category is intended to protect and enhance the existing residential areas of Sherman. This area is generally located in the center of the city, east and west of US-75. A majority of the Core Neighborhood category encompasses what is known as east Sherman. This category encourages infill development that maintains the existing character, while increasing the aesthetic appeal of the community. In certain areas, an increase in density can be appropriate through the development of single-family attached products, like townhomes or quad-plexes.

Appropriate Land Use Types

- Single-family detached
- Single-family attached
- Local/neighborhood commercial and office
- Parks and open space
- Schools and civic uses

Compatible Zoning Districts

- Single-Family Residential (R-5, R-4, R-2F, and R-TH)
- Multi-Family Residential (MF-15 and MF-30)
- Manufactured Housing
- Retail Business
- Neighborhood Commercial

Considerations

- Infill that increases density should match the character of the surrounding structures.
- Small-scale commercial uses are appropriate along larger streets and should be compatible with the surrounding residential development.



Development Services
Department

- | | | |
|----------------------|-----------------------|-------------------|
| Agriculture/Rural | Core Neighborhood | Technology Hub |
| Airport | Downtown | Planning & Zoning |
| City Parkland | Regional Commercial | |
| Community Commercial | Suburban Neighborhood | |

CITY OF SHERMAN
FUTURE LAND USE MAP
3314 & 3318 TEXOMA PKWY





Tuesday, November 28, 2023, 3:07pm



Vanguard Buick GMC Collision Center

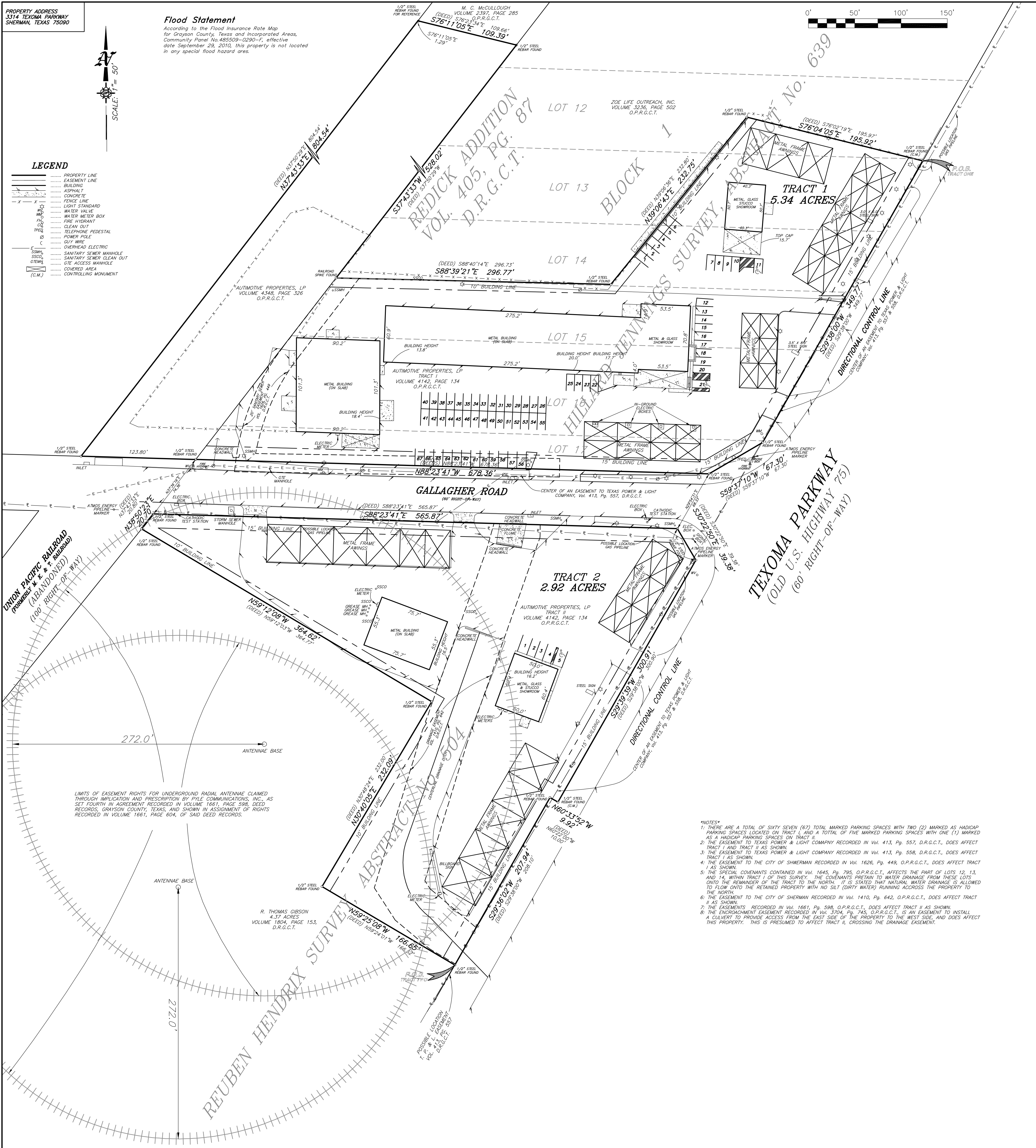
3314 Texoma Parkway

Sherman, TX 75092

Project Narrative for Proposed Paint Booth

Project: Installation of a new Blowtherm downdraft paint booth for the collision center. This will be a new paint booth installed in a pre-existing building attached to the service repair facility.

Type of use: Automotive refinishing for the collision repair facility. This booth will be more efficient and larger than the pre-existing paint booth and will allow better transfer efficiency and improved cycle times for repairs.



LEGAL DESCRIPTION
3.53 ACRES IN THE HILLARD JENNINGS SURVEY, ABSTRACT No. 639, CITY OF SHERMAN, GRAYSON COUNTY, TEXAS

TRACT ONE

All that certain tract or parcel of land located in the City of Sherman, Grayson County, Texas, being a part of Lots 12, 13, 14, all of Lots 15 and 16, and part of Lot 17, Block 1, of the Redick Addition, an addition to the City of Sherman, Grayson County, Texas, according to the plot recorded in Volume 405, Page 87, of the Deed Records of Grayson County, Texas, and being all of a called 3.5265 acre tract (Tract I) as conveyed by Heiser Enterprises, Inc., to Automotive Properties, LP by deed dated November 01, 2006, and being recorded in Volume 4142, Page 134, of the Official Public Records of Grayson County, Texas, and also being all of a called 1.81 acre tract of land conveyed by Union Pacific Railroad Company to Automotive Properties, LP by deed dated October 29, 2007, and being recorded in Volume 4348, Page 326, of the Official Public Records of Grayson County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" steel rebar found at a corner on the west right-of-way line of Texoma Parkway (Old US Highway No. 75), being the most easterly southeast corner of a tract of land conveyed to Zoe Life Outreach by deed recorded in Volume 3236, Page 502, of the Official Public Records of Grayson County, Texas, the northeast corner of said Tract I, and being on the east line of said Lot 13;

THENCE South 29 degrees 38 minutes 00 seconds West (Directional Control Line), along the west line of said Texoma Parkway and the east line of said Tract I, for a distance of 349.77 feet to a 1/2" steel rebar found at a corner;

THENCE South 59 degrees 37 minutes 10 seconds West, along a cut-back line, for a distance of 67.30 feet to a 1/2" steel rebar found at a corner on the north line of Gallagher Road (60 foot right-of-way);

THENCE North 88 degrees 23 minutes 41 seconds West, along the north line of said Gallagher Road, at a distance of 554.56 feet passing the southwest corner of said Tract I and the southeast corner of said 1.81 acre tract, continuing along the north line of said Gallagher Road for a total distance of 678.36 feet to a 1/2" steel rebar found at a corner, being the southwest corner of said 1.81 acre tract;

THENCE North 37 degrees 43 minutes 33 seconds East, along the westerly line of said 1.81 acre tract, for a distance of 804.54 feet to a point for a corner, from which a 1/2" steel rebar found bears 76 degrees 11 minutes 05 seconds East at a distance of 1.29 feet, said point also being the northwest corner of said 1.81 acre tract;

THENCE South 76 degrees 11 minutes 05 seconds East, along the north line of said 1.81 acre tract, for a distance of 109.39 feet to a 1/2" steel rebar found at a corner, being the northeast corner of said 1.81 acre tract;

THENCE South 37 degrees 43 minutes 33 seconds West, along the easterly line of said 1.81 acre tract, for a distance of 528.02 feet to a railroad spike found at a corner, being the most westerly northwest corner of said Tract I;

THENCE South 88 degrees 23 minutes 41 seconds East, along a northerly line of said Tract I, for a distance of 296.77 feet to a 1/2" steel rebar found at a corner, being the most southerly southeast corner of the aforementioned Zoe Life Outreach tract and an all corner of said Tract I;

THENCE North 39 degrees 06 minutes 43 seconds East, along the most northerly west line of said Tract I, for a distance of 232.75 feet to a 1/2" steel rebar found at a corner, being the most northerly northwest corner of said Tract I;

THENCE South 76 degrees 04 minutes 05 seconds East, for a distance of 195.92 feet to the point of beginning, and containing 5.34 acres of land, as surveyed by Szurgot & Peele Land Surveyors, LTD., on September 06, 2012.

CERTIFICATION:

To Ally Bank, Automotive Properties, LP, Title Source, Inc., and Old Republic National Title Insurance Company

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2011 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ASCM LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1-4, 6(a), 6(b), 7(a), 7(b), 7(c), 8, 9, 11(a), 13, 14, 16, 17, and 18 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON SEPTEMBER 07, 2012.

DATE OF PLAT OR MAP: September 11, 2012
REVISED SEPTEMBER 17, 2012, TO COMPLETE CALL IN LEGAL DESCRIPTION.

DONNY PEEDE, Texas RPLS No. 5137

BEARINGS BASED PER DEED RECORDED IN FILE NO. 186052, OF THE PUBLIC RECORDS OF CORVELL COUNTY, TEXAS.

LEGAL DESCRIPTION
2.92 ACRES IN THE REUBEN HENDRIX SURVEY, ABSTRACT No. 504, CITY OF SHERMAN, GRAYSON COUNTY, TEXAS

TRACT TWO

All that certain lot, tract or parcel of land situated in the City of Sherman, Grayson County, Texas, and being a part of the Reuben Hendrix Survey, Abstract No. 504, also being all of the 2.927 acre tract of land described in the Deed dated April 27, 1994, from Lanford Investments to LCH Insurance Agency, Inc., recorded in Volume 2332, Page 582, real property records, Grayson County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" steel rebar found for a corner in the west right-of-way line of Texoma Parkway, (old U.S. Highway No. 75), said rebar marking the most southerly southeast corner of said 2.927 acre tract, the most easterly northeast corner of a 4.376 acre tract of land described in the Deed dated January 1, 1986, from Gibson Investment and Management, Inc., to R. Thomas Gibson, recorded in Volume 1804, Page 153 of said real property records;

THENCE North 39 degrees 25 minutes 08 seconds West, a distance of 166.65 feet to a 1/2" steel rebar found for a corner, said rebar marking the most southerly southwest corner of said 2.927 acre tract, an ell corner of said 4.376 acre tract;

THENCE North 30 degrees 40 minutes 05 seconds East, a distance of 232.09 feet to a 1/2" steel rebar found for a corner, said rebar marking an ell corner of said 2.927 acre tract, the most northerly northeast corner of said 4.376 acre tract;

THENCE North 59 degrees 12 minutes 08 seconds West, a distance of 364.62 feet to a 1/2" steel rebar found for a corner in the east right-of-way line of the Union Pacific Railroad, (railroad abandoned with the tracks partially removed), said rod marking the most westerly southwest corner of said 2.927 acre tract, the northwest corner of said 4.376 acre tract;

THENCE North 38 degrees 50 minutes 23 seconds East, with the east right-of-way line of the said Union Pacific Railroad right-of-way, a distance of 20.70 feet to a 1/2" steel rebar found for a corner, said rebar marking the intersection of said east right-of-way line with the south line of Gallagher Road, (a 60 foot wide dedicated public right-of-way), the northwest corner of said 2.927 acre tract, the southwest corner of a 0.171 acre tract of land described in the Deed of Dedication dated September 12, 1977, from T. B. Lanford to the City of Sherman, Texas, recorded in Volume 1410, Page 640, Deed Records of said County;

THENCE South 88 degrees 23 minutes 41 seconds East, with the south line of said Gallagher Road, the north line of said 2.927 acre tract, the south line of said 0.171 acre tract, a distance of 565.87 feet to a 1/2" steel rebar set for a corner, said rebar marking the intersection of the south line of said Gallagher Road with the west right-of-way line of said Texoma Parkway, the most northerly northeast corner of said 2.927 acre tract;

THENCE South 30 degrees 22 minutes 50 seconds East, with the westerly right-of-way line of said Texoma Parkway, a distance of 39.38 feet to a 1/2" steel rebar set for a corner, said rebar marking a jog in said west right-of-way line, and a jog in the east line of the said 2.927 acre tract;

THENCE South 29 degrees 39 minutes 39 seconds West, continuing along the west right-of-way line of said Texoma Parkway, a distance of 300.91 feet to a 1/2" steel rebar found for a corner, said rebar marking a jog in said west right-of-way line, and a jog in the east line of the said 2.927 acre tract;

THENCE North 60 degrees 33 minutes 52 seconds West, with said jog in the west right-of-way line of said Texoma Parkway, a distance of 9.92 feet to a 1/2" steel rebar found for a corner;

THENCE South 29 degrees 36 minutes 02 seconds West, continuing along the west right-of-way line of said Texoma Parkway and the east line of said 2.927 acre tract, a distance of 207.94 feet to the point of beginning and containing 2.92 acres of land as surveyed on the ground on September 06, 2012, by Szurgot & Peele Land Surveyors, LTD.

Job No. 082912 DRP



SZURGOT & PEEDE
LAND SURVEYORS, LTD
125 N. COVINGTON STREET
P.O. BOX 533
HILLSBORO, TEXAS 76645
PHONE: (254) 582-9231
FAX: (254) 582-3234







STAFF REVIEW LETTER

December 5, 2023

Sent via Email

Thomas Hardin II
3318 Texoma Parkway
Sherman, TX 75090

J5 Motors
1449 Air Park
Horseshoe Bay, TX 78657

Dear Applicants,

The request of a Public Hearing, Site Plan and Specific Use Permit approval under Section 14.06.009 to allow an Automobile repair, body work, or painting in a C-2 (General Commercial) District located at 3314 and 3318 Texoma Parkway has been scheduled to be heard by the Planning and Zoning Commission on Tuesday, December 12, 2023, at 5:00 P.M., in the City Council Chambers, City Hall at 220 W. Mulberry.

City staff has reviewed your request, and the following items need to be noted/addressed:

Zoning:

1. Compliance with applicable City ordinances, regulations, standards and rules and other laws, as they exist or may be amended, including but not limited to the City's Zoning Ordinance/Code of Ordinance Chapter 14.
2. Fire access, lanes and codes shall be coordinated with the Fire Marshal (903.892.7267). (*Code of Ordinances Chapter 3.02(c)*)
3. The use of the property must comply with all Federal and State Laws and regulations and with all the ordinances, rules and regulations of the City of Sherman.
4. No outside parking or storage of dismantled, junk or inoperable vehicles, wrecks, tires, displays or parts are permitted.
5. The property must be properly maintained in a state of good repair and neat appearance.
6. The approval of a Site Plan shall be effective for a period of two (2) years from the date of approval, at the end of which time the Site Plan shall expire unless the applicant demonstrates to the Director of Development Services that progress has been made toward completion of the project for which the Site Plan was approved.
7. Any changes made to the site plan prior to the final fulfillment of the conditions of the staff review letter must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

Fire Services

8. Platting of the property is required. *Code of Ordinances Chapter 10.02.002(a)(1); Texas Local Government Code Title 1, Sec. 212.004*
9. IFC Chapter 24 and NFPA 33 shall be followed on all paint booth applications.

It is the policy of Planning and Zoning Commission and Board of Adjustment not to consider a request unless the applicant or its representative attends the meeting at which the request is considered. You are hereby notified to present your case on the date and time stated above.

If additional information or clarification is needed, do not hesitate to contact Development Services at 903-892-7229 prior to the meeting.

Respectfully,



Rob Rae
Acting Secretary, Planning and Zoning Board and Board of Adjustment

CC: Robby Hefton, City Manager
Clint Philpott, Asst. City Manager
Wayne Lee, P.E., Director of Engineering
Tom Pruitt, Utility Engineer
The Law Firm of Abernathy, Roeder, Boyd, & Hullett, P.C., City Attorney
Dillon Stewart, Fire Chief
Amber Doan, Engineering Coordinator
Christopher Armstrong, Asst. City Engineer



City Council Regular Meeting

Agenda Item No. F.1.

Meeting Date: 1/16/2024

Prepared By: Zachary Flores, Assistant City Manager

Approved By: Robby Hefton, City Manager

Caption:

RESOLUTION NO. 7242

Authorizing Execution of a Standard Short Form of Agreement Between Owner (City of Sherman) and Architect (Hidell and Associates Architects, Inc.) for Professional Services Relating to the Renovation for the Sherman City Hall

Issue:

Authorizing Execution of a Standard Short Form of Agreement Between Owner (City of Sherman) and Architect (Hidell and Associates Architects, Inc., "Hidell") for Professional Services Relation to the Renovations for Sherman City Hall

Background:

Since early 2023, City staff has been working on plans to provide more office and workspace for City staff in light of the growing number of employees housed in City administrative offices (current City Hall and the Municipal Building). To this end, earlier this year City staff engaged Gensler Architects in an effort to plan and design a new campus for these purposes. Since that time, it has become apparent that the more prudent approach to providing space in the short to intermediate-term is to consider renovations to the existing City Hall to better utilize the space. While this approach is not a long-term solution, it will provide a "stop-gap" alternative for several years to allow City management and City Council time to ensure financial stability during these times of very high capital spending.

This agenda item relates to engaging Hidell to perform planning, design, and construction management services for modifications to the existing City Hall. Recall that Hidell has provided architectural services to the City for other prominent City projects, most recently the new Police Department HQ. This contract amount of a little over \$200,000 would be a not-to-exceed amount. Prior to commencing construction any renovations, City staff would bring back a request for Council approval for any project. This design work should be complete by spring/summer 2024.

Origination:

City Manager's Office

Financial Consideration:

Professional Services Fee:

Based on our assumptions regarding the scope of the project, we have assumed a construction cost range not to exceed \$2,000,000 to \$2,400,000. Hidell's fee is based on the above-listed scope of work and anticipated cost.

Professional Fee (Building Renovation)

Civil Engineering Allowance \$12,000

Limited Topographic Survey \$4,000

Architectural	\$123,400
MEP Engineer	\$35,000
A/V Data Consultant	\$17,000
Furniture Selection	\$11,000
Subtotal Professional Fee	\$202,400

Staff Recommendation:

Staff recommends approval of this agreement

Alternatives:

As directed by Council

Attachments:

1. Resolution No. 7242
2. AIA Agreement - Signed
3. Remodel Concept Plan

RESOLUTION NO. 7242

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A STANDARD SHOT FORM OF AGREEMENT BETWEEN OWNER (CITY OF SHERMAN) AND ARCHITECT (HIDELL AND ASSOCIATES ARCHITECTS, INC.) FOR PROFESSIONAL SERVICES RELATING TO THE RENOVATION FOR THE SHERMAN CITY HALL; 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 Standard Short Form of Agreement Between Owner and Architect with Hidell and Associates, Inc. professional services relating to the renovations for the Sherman City Hall 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.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS on this the 16th day of January 2024.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
DAVID PLYLER, MAYOR

**APPROVED AS TO FORM AND
CONTENT:
THE LAW FIRM OF ABERNATHY,
ROEDER, BOYD & HULLETT, P.C.**

BY: _____
RYAN D. PITTMAN, CITY ATTORNEY



AIA® Document B133® – 2019

Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition

B133-2019 v2 (03-31-2021)

AGREEMENT made as of the _____ day of _____ in the year Two Thousand Twenty-Four (2024).
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address, and other information)

City of Sherman
220 W. Mulberry Street
Sherman, TX 75090
Phone: 903-892-7206

and the Architect:
(Name, legal status, address, and other information)

Hidell and Associates Architects, Inc.
3033 Kellway Dr. Suite 120
Carrollton, Texas 75006
Phone: 972-416-4666

for the following Project:
(Name, location, and detailed description)

ARBH File No. 6262.0023 Sherman/City Hall
221 W. Mulberry Street
Sherman, Texas 75090

City Hall Reconfiguration. Services include a full Schematic Design, Design Development, Bid Assistance, and Construction Administration.

The Construction Manager (if known):
(Name, legal status, address, and other information)

To be determined.

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A201–2017™, General Conditions of the Contract for Construction; A133–2019™ Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price; and A134–2019™ Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price. AIA Document A201™–2017 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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User Notes:

(1903128651)

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

Shall be developed as part of the basic scope of services.

§ 1.1.2 The Project's physical characteristics:
(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:
(Provide total and, if known, a line item breakdown.)

The Owner's overall budget for the Cost of the Work is Two Million Dollars (\$2,000,000.00), excluding the Architect's fee.

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

Completion of the design phase shall occur no later than August 31, 2024.

.2 Construction commencement date:

The date of commencement of construction shall be established with a Notice to Proceed by the Owner.

.3 Substantial Completion date or dates:

To be determined.

.4 Other milestone dates:

§ 1.1.5 The Owner intends to retain a Construction Manager pursuant to the following agreement:
(Indicate agreement type.)

- ☒ AIA Document A133–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.
- ☐ AIA Document A134–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price.

§ 1.1.6 The Owner's requirements for accelerated or fast-track design and construction, or phased construction are set forth below:
(List number and type of bid/procurement packages.)

N/A

§ 1.1.7 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

N/A

§ 1.1.7.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this Agreement, the Owner and Architect shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.4:
(List name, address, and other contact information.)

Zachary Flores
Executive Director of Public Safety
220 W. Mulberry Street
Sherman, TX 75090

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:
(List name, address, and other contact information.)

N/A

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§ 1.1.10 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Construction Manager:

To be selected by Owner.

.2 Land Surveyor:

To be determined.

.3 Geotechnical Engineer:

To be determined.

.4 Intentionally Deleted:

.5 Other consultants and contractors:

(List any other consultants and contractors retained by the Owner.)

Boundary and Topographic Survey
Construction Period Materials Testing
HVAC Test and Balance

§ 1.1.11 The Architect identifies the following representative in accordance with Section 2.4:
(List name, address, and other contact information.)

Aaron Babcock, Principal
Hidell and Associates Architects
3033 Kellway Dr. Suite 120
Carrollton, Texas 75006
Phone: 972-416-4666

§ 1.1.12 The Architect shall retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2:
(List name, legal status, address, and other contact information.)

§ 1.1.12.1 Consultants retained under Basic Services:

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.1 Structural Engineer:

To be determined.

.2 MEP Engineer:

To be determined.

.3 Audio/Visual and Data Consulting:

To be determined.

.4 Civil Engineer:

To be determined.

.5 Furniture Selection and Coordination for State Contract Pricing:

To be determined.

§ 1.1.12.2 Consultants retained under Supplemental Services:

If required and with the Owner's prior written approval, other consultants deemed necessary and not included in the Basic Services will be proposed and provided by the Architect and submitted as a Reimbursable Expense.

§ 1.1.13 Other Initial Information on which the Agreement is based:

None.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation by written amendment hereto. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information

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Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall provide its services in conjunction with the services of a Construction Manager as described in the agreement identified in Section 1.1.5. The Architect shall not be responsible for actions taken by the Construction Manager.

§ 2.4 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project, which representative shall be acceptable to Owner.

§ 2.5 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.6 Insurance. The Architect shall maintain the following insurance until termination of this Agreement.

§ 2.6.1 Commercial General Liability with policy limits of not less than One Million Dollars (\$1,000,000.00) for each occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate for bodily injury and property damage.

§ 2.6.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million Dollars (\$1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.6.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.6.1 and 2.6.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.6.4 Workers' Compensation at statutory limits.

§ 2.6.5 Employers' Liability with policy limits not less than One Million Dollars (\$1,000,000.00) each accident, Two Million Dollars (\$2,000,000.00) each employee, and Two Million Dollars (\$2,000,000.00) policy limit.

§ 2.6.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than One Million Dollars (\$1,000,000.00) per claim and Two Million Dollars (\$2,000,000.00) in the aggregate. If the Professional Liability is made on a claims-made basis, the policy date or Retroactive Date shall predate the Contract; the termination date of the policy or applicable extended reporting period shall be no earlier than the termination date of coverage required to be maintained after final payment.

§ 2.6.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.6.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.6.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services and other specialty consultants required to address the needs of the Project. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit, for the Construction Manager's review and the Owner's written approval, a schedule for the performance of the Architect's services. The schedule shall include design phase milestone dates, as well as the anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review of each phase (Schematic Design, Design Development, and Construction Documents), for the Construction Manager's review, for the performance of the Construction Manager's Preconstruction Phase services, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause which shall promptly be defined in detail and submitted in writing to Owner, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services. The Architect shall review and approve, or take other appropriate action upon, the portion of the Project schedule relating to the performance of the Architect's services.

§ 3.1.5 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming work, made or given without the Architect's written approval.

§ 3.1.6 The Architect shall, in coordination with the Construction Manager, contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.7 The Architect shall assist the Owner and Construction Manager in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.1.8 Prior to the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, or the Owner's approval of the Construction Manager's Control Estimate, as applicable, the Architect shall consider the Construction Manager's requests for substitutions and, upon written request of the Construction Manager, provide clarification or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the Architect. The Architect and Construction Manager shall include the Owner in communications related to substitution requests, clarifications, and interpretations.

§ 3.2 Review of the Construction Manager's Guaranteed Maximum Price Proposal or Control Estimate

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare, for review by the Owner and Architect, and for the Owner's acceptance or approval, a Guaranteed Maximum Price proposal or Control Estimate. The Architect shall assist the Owner in reviewing the Construction Manager's proposal or estimate. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager.

§ 3.2.2 Upon authorization by the Owner, and subject to Section 4.2.1.14, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.

§ 3.3 Schematic Design Phase Services

§ 3.3.1 The Architect shall review the program, and other information furnished by the Owner and Construction Manager, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.3.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.3.3 The Architect shall present its preliminary evaluation to the Owner and Construction Manager and shall discuss with the Owner and Construction Manager alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.3.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, to the Owner and Construction Manager, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.3.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for Construction Manager's review and the Owner's approval. The Schematic Design Documents shall include:

- (1) A conceptual Site Plan, scaled accurately, to depict all features of the site, including but not necessarily limited to drives, parking, streets, alleys, easements, finish floor elevation and site contours, location of existing utilities as provided by Owner under Section 5.5 and the building locations indicating proposed sidewalks and other site appurtenances. The site plan shall bear a schedule indicating the acreage of the site, the area of the site proposed for concrete or asphalt paving, the total area of the building, and area of proposed covered walks and overhangs.
- (2) Floor Plan or plans, drawn to scale, indicating the dimensions and net areas of each individual space, labeled as to use, and indicating door swings, window or glassed areas, wall thickness, conceptual casework/millwork and other design features, which require Owner approval. Spaces too small at the plan scale to be adequately examined shall be enlarged and illustrated as necessary. Floor plan sheet shall bear a schedule indicating the gross area of the building and the square footage allocated to instruction, administration, support, circulation, and ancillary preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.
- (3) Exterior Elevations, drawn to scale, proposing the design concept and indicating proposed materials and design features.
- (4) A preliminary code search, indicating the anticipated code requirements governing building, fire, life safety, accessibility, and health, and a statement as to the Architect's and Architect's Consultants' approach to accommodate these requirements shall be included. At the Owner's direction, the Schematic Design Documents may include study models, perspective sketches, electronic modeling or combinations of these media. The Architect shall obtain approval of Schematic Design Documents from Owner before proceeding to Design Development Phase.

§ 3.3.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the

Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.

§ 3.3.5.2 The Architect shall consider with the Owner and the Construction Manager the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.3.6 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents.

§ 3.3.7 Upon receipt of the Construction Manager's review comments and cost estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, and request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.

§ 3.3.8 In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall be entitled to rely on the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager's agreement with the Owner.

§ 3.4 Design Development Phase Services

§ 3.4.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Construction Manager's review and the Owner's approval. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.4.2 The extent of presentation shall be such that all aspects of the design and features, locations of equipment, switching, lighting, door numbers/types, room numbers/finishes, ceiling types/finishes and any other issue which may be incorporated into the Construction Documents shall have been presented to and approved by the Owner.

A complete code review, addressing building, fire, safety, ADA/TAS, health, and any or all other code/ordinance requirements shall be included, indicating the Architect's and Architect's Consultants' interpretations as to the code requirements and the features incorporated into the design that satisfy the requirements.

Site plans shall depict the final locations of all site appurtenances, utility connections and routing, drives, walks, yard irrigation, and other features to illustrate to the Owner that essentially all decisions have been made and that decisions of significance will not be required during Construction Document Phase.

Specifications shall be in outline form, and shall describe the materials and methods intended for use within the project, as well as potential alternates, allowances, and other significant information to be included in the Architectural and Engineering technical specifications sections of a project manual.

(Paragraph deleted)

§ 3.4.3 The Architect shall review the Construction Manager's detailed estimate of the final Cost of the Work.

§ 3.4.4 The Architect shall submit the Design Development Documents to the Owner and request the Owner's approval.

§ 3.4.5 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents. Owner shall approve Design Development Documents prior to Architect proceeding with Construction Documents.

§ 3.5 Construction Documents Phase Services

§ 3.5.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Construction Manager's review and the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Construction Manager will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.5.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents which shall comply with all laws, statutes, ordinances, codes, rules and regulations, including, but not limited to, fire building, health, ADA/TAS, and indoor air quality.

§ 3.5.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Owner and Construction Manager in the development and preparation of (1) the Conditions of the Contract for Construction (General, Supplementary and other Conditions) and (2) a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include sample forms.

§ 3.5.4 Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Construction Documents.

§ 3.5.5 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7, and request the Owner's approval of the Construction Documents.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Construction Manager as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Construction Manager modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

§ 3.6.1.2 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Owner's approval of the Construction Manager's Control Estimate, or by a written agreement between the Owner and Construction Manager which sets forth a description of the Work to be performed by the Construction Manager prior to such acceptance or approval. Subject to Section 4.2, and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.1.3 The Architect shall advise and consult with the Owner and Construction Manager during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Construction Manager's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager or of any other persons or entities performing portions of the Work.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site not less than once per week while Work is in progress, and as often as necessary and appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine for the Owner's benefit and protection, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous

on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner in writing (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Construction Manager, and (3) defects and deficiencies observed in the Work.

§3.6.2.1.1 The Architect shall provide services made necessary by major defects or deficiencies in the Work of the Construction Manager(s) or its agents, employees or subcontractors which through reasonable care the Architect should have discovered and promptly reported to the Owner but failed to do so. In addition, the Architect shall follow the usual and customary standards of the profession in performing all services under this Agreement. Any defective design drawings or Specifications furnished by the Architect shall be promptly corrected by the Architect at no cost to the Owner. The Owner's approval, acceptance, use of or payment for all or any part of the Architect's services hereunder or the Project itself shall in no way diminish or limit the Architect's obligations and liability or the Owner's rights.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Construction Manager, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Construction Manager. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations, the Architect shall endeavor to secure faithful performance by the Construction Manager, and shall not be liable for results of interpretations or decisions rendered without negligence and in good faith. The Owner shall have final authority on matters relating to aesthetic effect, provided such authority is exercised in a way which is consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Construction Manager designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Construction Manager as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Construction Manager

§ 3.6.3.1 The Architect shall review and certify the amounts due the Construction Manager and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Construction Manager's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Construction Manager is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Construction Manager's right to payment, or (4) ascertained how or for what purpose the Construction Manager has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Construction Manager's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the

approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Construction Manager's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Construction Manager's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Construction Manager to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Construction Manager's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Construction Manager in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Construction Manager; and
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to (1) check conformance of the Work with the requirements of the Contract Documents and (2) verify the accuracy and completeness of the list submitted by the Construction Manager of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Construction Manager, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Construction Manager: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Construction Manager under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1

(Paragraphs deleted)

Paragraph Intentionally Deleted.

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 Paragraph Intentionally Deleted.

§ 4.1.2.2 Paragraph Intentionally Deleted.

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall, by mutual agreement of Owner and Architect, entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or bid packages in addition to those listed in Section 1.1.6;
- .2 Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work, Guaranteed Maximum Price proposal, or Control Estimate exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes, or equipment;
- .3 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .4 Changing or editing previously prepared Instruments of Service necessitated by official interpretations, after the date of Owner's acceptance of the Construction Drawings, of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;

- .5 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .6 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner- authorized recipients;
- .7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .8 Intentionally deleted;
- .9 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .11 Intentionally deleted;
- .12 Services necessitated by replacement of the Construction Manager or conversion of the Construction Manager as constructor project delivery method to an alternative project delivery method;
- .13 Intentionally deleted;
- .14 Intentionally deleted; and
- .15 Intentionally deleted.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice:

- .1 Reviewing a Construction Manager's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Construction Manager's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Construction Manager from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Construction Manager-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders, and Construction Change Directives that require evaluation of the Construction Manager's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims submitted by the Owner's consultants, the Contractor or others in connection with the Work except where such extensive number of claims could have been rectified by more descriptive original Contract Documents or addenda thereto; or
- .5 Evaluating substitutions proposed by the Owner or Construction Manager and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide
(Paragraphs deleted)

during Construction Phase Services all services necessary to complete and completely discharge its responsibilities under this Agreement.

§ 4.2.4 Paragraph intentionally deleted.

§ 4.2.5 Paragraph intentionally deleted.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall retain a Construction Manager to provide services, duties, and responsibilities as described in the agreement selected in Section 1.1.5.

§ 5.3 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final

completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect and Construction Manager. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3.1 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it associated risks. Such risks include the Owner incurring costs for the Architect to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Construction Manager to remove and replace previously installed Work. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

§ 5.4 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.5 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.6 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.7 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.8 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 5.9 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.10 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.11 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.12 The Owner shall provide prompt written notice to the Architect and Construction Manager if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service, but the Owner's failure or omission to do so shall not relieve the Architect of his responsibilities hereunder and the Owner shall have no duty of observations, inspection or investigation.

§ 5.13 The Owner shall include the Architect in communications with the Construction Manager that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of

any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.14 The Owner shall coordinate the Architect's duties and responsibilities set forth in the Agreement between the Owner and the Construction Manager with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Construction Manager, including the General Conditions of the Contract for Construction.

§ 5.15 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Construction Manager to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.16 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and approved in writing by the Owner, and shall include the Construction Manager's general conditions costs, overhead, and profit. The Cost of the Work shall not include the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the compensation of the Construction Manager for Preconstruction Phase services; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in the Initial Information, and shall be adjusted throughout the Project as required under Sections 5.3 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

§ 6.3 The Owner shall require the Construction Manager to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Construction Manager prepares as the Architect progresses with its Basic Services. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the Construction Manager's inaccuracies or incompleteness in preparing cost estimates. The Architect may review the Construction Manager's estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

§ 6.3.1 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Architect and the Construction Manager shall work together to reconcile the cost estimates.

§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Construction Manager, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.5 If the Construction Manager's estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time, with no adjustment in the Architect's compensation;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to proceed under Section 6.5.4, the Architect, without additional compensation, shall incorporate the revisions in the Construction Documents Phase as necessary to comply with the Owner's budget for the

Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's revisions in the Construction Documents Phase shall be the limit of the Architect's responsibility under this Article 6.

§ 6.7 After incorporation of modifications under Section 6.6, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by the Construction Manager's subsequent cost estimates, the Guaranteed Maximum Price proposal, or Control Estimate that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due, pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Construction Manager, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they

may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction as amended by the Owner. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect shall indemnify and hold the Owner and the Owner’s officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys’ fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. The Architect’s obligation to indemnify and hold the Owner and the Owner’s officers and employees harmless does not include a duty to defend.

§ 8.1.4 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party’s termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to litigation.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be conducted in accordance with the provisions of Section 154.023, Texas Civil Practices and Remedies Code. The request may be made concurrently with the filing of a suit for legal or equitable relief.

§ 8.2.3 The parties shall share the mediator’s fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

☐ Arbitration pursuant to Section 8.3 of this Agreement

☒ Litigation in a court of competent jurisdiction

☐ Other: *(Specify)*

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 Arbitration – Intentionally Deleted

(Paragraphs deleted)

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner wrongfully fails to make payments to the Architect in accordance with this Agreement, and such failure continues for a period of 30 days after written demand from Architect to Owner, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect’s option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days’ written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect’s services, upon submitting and receiving an approved proposal to resume services to the

Owner. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted at the mutual consent of the parties to the Agreement.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect may be compensated for expenses incurred in the interruption and resumption of the Architect's services upon submitting and receiving an approved proposal to the Owner. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

- .1 Termination Fee (Additional expenses that are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated):

Zero.

- .2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

The Owner's payment to Architect in accordance with Section 9.6 shall constitute payment for a licensing fee for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project.

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction, as amended by the Owner. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the

other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 The Architect shall not specify or approve for use in the Project any new materials containing asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. If the Architect discovers that such substances as described herein have been used or do exist in the Project, the Architect shall promptly notify the Owner in writing. When asbestos containing materials, polychlorinated biphenyl (PCB) or other toxic or hazardous substances are suspected or found in the course of the Project, the Owner shall immediately provide the services of an appropriately qualified expert or consultant to determine the proper course of action. Unless otherwise provided in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations, but only at such times and dates as stipulated by the Owner's Designated Representative. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

§ 10.10 In accordance with Texas Government Code, Chapter 2270, the undersigned avers that it does not boycott Israel and will not boycott Israel during the term of this Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

.1 Stipulated Sum

Init.

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(Insert amount)

Compensation shall be a Stipulated Sum of Two Hundred Two Thousand, Four Hundred Dollars (\$202,400.00).

.2 Percentage Basis
(Insert percentage value)

N/A () % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

.3 Other
(Describe the method of compensation)

N/A

§ 11.2 Prior to the commencement of any Sustainability Services required pursuant to Section 4.1.3, Architect shall submit to the Owner a written proposal containing the scope and estimated costs related thereto for approval by the Owner.

§ 11.3 Prior to the commencement of any Additional Services that may arise during the course of the Project, including those under Section 4.2, Architect shall submit to the Owner a written proposal containing the scope and estimated costs related thereto for approval by the Owner.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect with no mark-up.
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	Ten	percent (	10	%)
Design Development Phase	Twenty-five	percent (	25	%)
Construction Documents Phase	Forty-five	percent (	45	%)
Construction Phase	Ten	percent (	10	%)
Conceptual Design	Five	Percent (	5	%)
Procurement	Five	Percent (	5	%)
Total Basic Compensation	one hundred	percent (	100	%)

The Owner acknowledges that with an accelerated Project delivery, multiple bid package process, or Construction Manager as constructor project delivery method, the Architect may be providing its services in multiple Phases simultaneously. Therefore, the Architect shall be permitted to invoice monthly in proportion to services performed in each Phase of Services, as appropriate.

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those

Init.

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portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Employee or Category	Rate (\$0.00)
o Principal.....	\$200.00/hr
o Project Architect.....	\$180.00/hr
o Architect.....	\$100.00/hr
o CADD.....	\$80.00/hr
o Administration.....	\$60.00/hr

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation in connection with the Project, when such transportation is not a function of routine performance of duties of the Architect or Architect's Consultants in connection with the Project, and when such transportation extends beyond 50 miles from the project site; authorized out-of-town travel and substance, which shall be prior approved by the Owner's Designated Representative, and which reimbursements shall be governed by the same travel policies provided for Owner's employees according to current adopted Owner's policy. Prior to the event, the Architect shall request, and the Owner's designated Representative shall provide the provisions and restrictions applicable to out-of-town travel reimbursements. Electronic communication reimbursable expense shall be limited to long-distance telephone or fax toll charges specifically required in the discharge of professional responsibilities related to the Project;
- .2 Intentionally deleted;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Reproductions, specifically limited to progress prints prepared for presentation to Owner at each phase of progress, and final construction documents prepared for distribution at bidding phase, provided that the Architect has duly obtained at least three quotations from commercial printing firms and has chosen the best value for the Owner. Plots shall be limited to plotting of final documents, provided that the Architect has duly obtained at least three quotations from commercial firms offering plotting services, and has chosen the best value for the Owner. Standard form documents are reimbursable if bulk-purchase discounts and other privileges afforded the Architect are extended to the Owner. If licensed electronic document forms are provided in lieu of hard-copy standard forms and are furnished by the Architect, the Architect may charge as reimbursable up to fifty percent (50%) of the purchase price of the corresponding hard-copy documents, subject to restrictions and limitations of copyright provisions governing both documents. Postage and delivery of Instruments of Service are reimbursable provided the Architect duly considers all circumstances (including available time for assured delivery) of the required delivery and selects the best value for the Owner, which may require comparison of delivery costs offered by three or more sources or methods of delivery, which at minimum shall include US Mail. Courier service is acceptable only in circumstances requiring deadline-sensitive deliveries and not for the convenience of the Architect. Handling is not reimbursable;
- .5 Intentionally deleted;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in writing in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested in writing by the Owner or required for the Project;
- .8 Intentionally deleted;
- .9 Intentionally deleted;
- .10 Site office expenses;
- .11 Intentionally deleted; and

- .12 Other similar Project-related expenditures, which are duly presented in advance and approved by the Owner's Designated Representative in writing. Telephone service charges, including office or cellular phones, WATTS or Metro line services or similar charges are not reimbursable. Toll road subscriptions or toll plaza receipts are not reimbursable. Meals or any other related expenses are not reimbursable unless incurred outside a 50-mile radius of the Project, and then only reimbursable subject to compliance with Owner Policy. Faxed transmissions not requiring long distance toll charges are not reimbursable.

The Architect shall be solely responsible for the auditing of all Reimbursable Expenses, including the Architect's prior to submitting to Owner for reimbursement, and shall be responsible for the accuracy thereof. Any overpayment by the Owner for errors in submittals for reimbursement may be deducted from the Architect's subsequent payment for services.

Reimbursable Expenses shall not exceed Three Thousand Five Hundred Dollars (\$3,500.00); unless the Scope of Work is modified.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants without any additional mark-up.

§ 11.9 **Architect's Insurance.** If the types and limits of coverage required in Section 2.6 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:
(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.6, and for which the Owner shall reimburse the Architect.)

§ 11.10 **Payments to the Architect**

§ 11.10.1 **Initial Payments**

§ 11.10.1.1 An initial payment of Zero Dollars and Zero Cents (\$ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of Zero Dollars and Zero Cents (\$ 0.00) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2 **Progress Payments**

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid forty-five (45) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of monthly or annual interest agreed upon.)

The rate of interest computed in accordance with the provisions of the Texas Government Code, Section 2251.025.

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect. Owner may withhold amounts from Architect's compensation to offset sums requested by or paid to contractors for the cost of changes in the Work caused by Architect's errors, omission or negligence.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 **SPECIAL TERMS AND CONDITIONS**

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

§ 12.1 The Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337 or 505 E. Huntland Drive, Suite 350, Austin, Texas 78752, Phone: 512-305-9000, has jurisdiction over individuals licensed under the Architects Registration Law, Article 249A, VTCS

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 This AIA Document B133™–2019, Standard Form Agreement Between Owner and Architect, Construction Manager as Constructor Edition
- .2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below, if completed, or the following:
(Insert the date of the E203-2013 incorporated into this agreement.)

- .3 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)

[**N/A**] AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition dated as indicated below.
(Insert the date of the E234-2019 incorporated into this agreement.)

[**NONE**] Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

- .4 Other documents:
(List other documents, if any, forming part of the Agreement.)

A201-2017 v:4 (06-11-2020) General Conditions of the Contract for Construction, as modified by Owner, attached hereto and incorporated herein for all purposes.

This Agreement entered into as of the day and year first written above.

CITY OF SHERMAN

HIDELL AND ASSOCIATES ARCHITECTS, INC.

By:

OWNER (Signature)

(Printed name and title)

By:

ARCHITECT (Signature)

William Hidell, President

(Printed name, title, and license number, if required)

Additions and Deletions Report for AIA® Document B133® – 2019

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 11:18:13 CT on 01/10/2024.

PAGE 1

B133-2019 v2 (03-31-2021)

AGREEMENT made as of the _____ day of _____ in the year Two Thousand Twenty-Four (2024).

...

City of Sherman
220 W. Mulberry Street
Sherman, TX 75090
Phone: 903-892-7206

...

Hidell and Associates Architects, Inc.
3033 Kellway Dr. Suite 120
Carrollton, Texas 75006
Phone: 972-416-4666

...

(Name, location, and detailed description)

ARBH File No. 6262.0023 Sherman/City Hall
221 W. Mulberry Street
Sherman, Texas 75090

City Hall Reconfiguration. Services include a full Schematic Design, Design Development, Bid Assistance, and Construction Administration.

...

To be determined.

PAGE 2

Shall be developed as part of the basic scope of services.

...

The Owner's overall budget for the Cost of the Work is Two Million Dollars (\$2,000,000.00), excluding the Architect's fee.

...

Completion of the design phase shall occur no later than August 31, 2024.

The date of commencement of construction shall be established with a Notice to Proceed by the Owner.

To be determined.

[☒] AIA Document A133–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.

N/A

N/A

Zachary Flores
Executive Director of Public Safety
220 W. Mulberry Street
Sherman, TX 75090

N/A

(The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention. If the Architect is to assist the Owner in selecting the Construction Manager, complete Section 4.1.1.1.)

To be selected by Owner.

To be determined.

To be determined.

.4 Civil Engineer: Intentionally Deleted:

(List any other consultants and contractors retained by the Owner.)

Boundary and Topographic Survey
Construction Period Materials Testing
HVAC Test and Balance

...

Aaron Babcock, Principal
Hidell and Associates Architects
3033 Kellway Dr. Suite 120
Carrollton, Texas 75006
Phone: 972-416-4666

PAGE 5

To be determined.

...

.2 ~~Mechanical~~ MEP Engineer:

To be determined.

...

.3 ~~Electrical Engineer:~~ Audio/Visual and Data Consulting:

To be determined.

.4 Civil Engineer:

To be determined.

.5 Furniture Selection and Coordination for State Contract Pricing:

To be determined.

...

If required and with the Owner's prior written approval, other consultants deemed necessary and not included in the Basic Services will be proposed and provided by the Architect and submitted as a Reimbursable Expense.

...

None.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's ~~compensation~~ compensation by written amendment hereto. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 2.4 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. Project, which representative shall be acceptable to Owner.

...

§ 2.6 Insurance. The Architect shall maintain the following insurance until termination of this Agreement. ~~If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.~~

§ 2.6.1 Commercial General Liability with policy limits of not less than One Million Dollars (\$ 1,000,000.00) for each occurrence and Two Million Dollars (\$ 2,000,000.00) in the aggregate for bodily injury and property damage.

§ 2.6.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million Dollars (\$ 1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

...

§ 2.6.5 Employers' Liability with policy limits not less than One Million Dollars (\$ 1,000,000.00) each accident, Two Million Dollars (\$ 2,000,000.00) each employee, and Two Million Dollars (\$ 2,000,000.00) policy limit.

§ 2.6.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than One Million Dollars (\$ 1,000,000.00) per claim and Two Million Dollars (\$ 2,000,000.00) in the aggregate. If the Professional Liability is made on a claims-made basis, the policy date or Retroactive Date shall predate the Contract; the termination date of the policy or applicable extended reporting period shall be no earlier than the termination date of coverage required to be maintained after final payment.

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering ~~services~~. services and other specialty consultants required to address the needs of the Project. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall be entitled to rely ~~on, and shall not be responsible for, the accuracy, completeness, and timeliness of,~~ on the accuracy and completeness of services and information furnished by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit, for the Construction Manager's review and the Owner's written approval, a schedule for the performance of the Architect's services. The schedule shall include design phase milestone dates, as well as the anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's ~~review~~, review of each phase (Schematic Design, Design Development, and Construction Documents), for the Construction Manager's review, for the performance of the Construction Manager's Preconstruction Phase services, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable ~~cause~~, cause which shall promptly be defined in detail and submitted in writing to Owner, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare, for review by the Owner and Architect, and for the Owner's acceptance or approval, a Guaranteed Maximum Price proposal or Control Estimate. The Architect shall assist the Owner in reviewing the Construction Manager's proposal or estimate. ~~The Architect's review is not for the purpose of discovering errors, omissions, or inconsistencies; for the assumption of any responsibility for the Construction Manager's proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals.~~ In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager.

...

§ 3.3.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for Construction Manager's review and the Owner's approval. The Schematic Design Documents shall ~~consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations.~~ include:

- (1) A conceptual Site Plan, scaled accurately, to depict all features of the site, including but not necessarily limited to drives, parking, streets, alleys, easements, finish floor elevation and site contours, location of existing utilities as provided by Owner under Section 5.5 and the building locations indicating proposed sidewalks and other site appurtenances. The site plan shall bear a schedule indicating the acreage of the site, the area of the site proposed for concrete or asphalt paving, the total area of the building, and area of proposed covered walks and overhangs.
- (2) Floor Plan or plans, drawn to scale, indicating the dimensions and net areas of each individual space, labeled as to use, and indicating door swings, window or glassed areas, wall thickness, conceptual casework/millwork and other design features, which require Owner approval. Spaces too small at the plan scale to be adequately examined shall be enlarged and illustrated as necessary. Floor plan sheet shall bear a schedule indicating the gross area of the building and the square footage allocated to instruction, administration, support, circulation, and ancillary preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.
- (3) Exterior Elevations, drawn to scale, proposing the design concept and indicating proposed materials and design features.
- (4) A preliminary code search, indicating the anticipated code requirements governing building, fire, life safety, accessibility, and health, and a statement as to the Architect's and Architect's Consultants' approach to accommodate these requirements shall be included. At the Owner's direction, the Schematic Design Documents may include study models, perspective sketches, electronic modeling or combinations of these media. The Architect shall obtain approval of Schematic Design Documents from Owner before proceeding to Design Development Phase.

PAGE 9

§ 3.4.2 ~~Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Design Development Documents.~~ The extent of presentation shall be such that all aspects of the design and features, locations of equipment, switching, lighting, door numbers/types, room numbers/finishes, ceiling types/finishes and any other issue which may be incorporated into the Construction Documents shall have been presented to and approved by the Owner.

A complete code review, addressing building, fire, safety, ADA/TAS, health, and any or all other code/ordinance requirements shall be included, indicating the Architect's and Architect's Consultants' interpretations as to the code requirements and the features incorporated into the design that satisfy the requirements.

Site plans shall depict the final locations of all site appurtenances, utility connections and routing, drives, walks, yard irrigation, and other features to illustrate to the Owner that essentially all decisions have been made and that decisions of significance will not be required during Construction Document Phase.

Specifications shall be in outline form, and shall describe the materials and methods intended for use within the project, as well as potential alternates, allowances, and other significant information to be included in the Architectural and Engineering technical specifications sections of a project manual.

~~§ 3.4.3 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents.~~

§ 3.4.3 The Architect shall review the Construction Manager's detailed estimate of the final Cost of the Work.

§ 3.4.4 The Architect shall submit the Design Development Documents to the Owner and request the Owner's approval.

§ 3.4.5 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents. Owner shall approve Design Development Documents prior to Architect proceeding with Construction Documents.

PAGE 10

§ 3.5.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents. Documents which shall comply with all laws, statutes, ordinances, codes, rules and regulations, including, but not limited to, fire building, health, ADA/TAS, and indoor air quality.

...

§ 3.6.2.1 The Architect shall visit the site at intervals not less than once per week while Work is in progress, and as often as necessary and appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, determine for the Owner's benefit and protection, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably-informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner in writing (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Construction Manager, and (3) defects and deficiencies observed in the Work.

§3.6.2.1.1 The Architect shall provide services made necessary by major defects or deficiencies in the Work of the Construction Manager(s) or its agents, employees or subcontractors which through reasonable care the Architect should have discovered and promptly reported to the Owner but failed to do so. In addition, the Architect shall follow the usual and customary standards of the profession in performing all services under this Agreement. Any defective design drawings or Specifications furnished by the Architect shall be promptly corrected by the Architect at no cost to the Owner. The Owner's approval, acceptance, use of or payment for all or any part of the Architect's services hereunder or the Project itself shall in no way diminish or limit the Architect's obligations and liability or the Owner's rights.

PAGE 11

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Construction Manager. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, interpretations, the Architect shall endeavor to secure faithful performance by both Owner and Construction Manager, shall not show partiality to either, the Construction Manager, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if without negligence and in good faith. The Owner shall have final authority on matters relating to

aesthetic effect, provided such authority is exercised in a way which is consistent with the intent expressed in the Contract Documents.

PAGE 13

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Assistance with Selection of Construction Manager	
§ 4.1.1.2 Programming	
§ 4.1.1.3 Multiple Preliminary Designs	
§ 4.1.1.4 Measured drawings	
§ 4.1.1.5 Existing facilities surveys	
§ 4.1.1.6 Site evaluation and planning	
§ 4.1.1.7 Building Information Model management responsibilities	
§ 4.1.1.8 Development of Building Information Models for post construction use	
§ 4.1.1.9 Civil engineering	
§ 4.1.1.10 Landscape design	
§ 4.1.1.11 Architectural interior design	
§ 4.1.1.12 Value analysis	
§ 4.1.1.13 Cost estimating	
§ 4.1.1.14 On-site project representation	
§ 4.1.1.15 Conformed documents for construction	
§ 4.1.1.16 As-designed record drawings	
§ 4.1.1.17 As-constructed record drawings	
§ 4.1.1.18 Post-occupancy evaluation	
§ 4.1.1.19 Facility support services	
§ 4.1.1.20 Tenant-related services	
§ 4.1.1.21 Architect's coordination of the Owner's consultants	
§ 4.1.1.22 Telecommunications/data design	
§ 4.1.1.23 Security evaluation and planning	
§ 4.1.1.24 Commissioning	
§ 4.1.1.25 Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.26 Historic preservation	
§ 4.1.1.27 Furniture, furnishings, and equipment design	
§ 4.1.1.28 Other services provided by specialty Consultants	
§ 4.1.1.29 Other Supplemental Services	

Paragraph Intentionally Deleted.

...

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)Paragraph Intentionally Deleted.

...

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)Paragraph Intentionally Deleted.

...

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 ~~shall~~ shall, by mutual agreement of Owner and Architect, entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

...

- ...
- .1 Services necessitated by a change in the Initial Information, previous instructions or ~~recommendations given by the Construction Manager or the Owner~~, approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or bid packages in addition to those listed in Section 1.1.6;
- ...

- .4 Changing or editing previously prepared Instruments of Service necessitated by official ~~interpretations~~ interpretations, after the date of Owner's acceptance of the Construction Drawings, of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .5 Services necessitated by decisions of the Owner ~~or Construction Manager~~ not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- ...

PAGE 14

- .7 Preparation of design and documentation for alternate bid or proposal requests proposed by the ~~Owner or Construction Manager~~ Owner;
- .8 ~~Preparation for, and attendance at, a public presentation, meeting or hearing;~~ Intentionally deleted;
- ...

- .11 ~~Assistance to the Initial Decision Maker, if other than the Architect;~~ Intentionally deleted;
- ...

- .13 ~~Services necessitated by the Owner's delay in engaging the Construction Manager;~~ Intentionally deleted;

- .14 Making revisions to the Drawings, Specifications, and other documents resulting from agreed-upon assumptions and clarifications included in the Guaranteed Maximum Price Amendment or Control Estimate; and Intentionally deleted; and
- .15 Making revisions to the Drawings, Specifications, and other documents resulting from substitutions included in the Guaranteed Maximum Price Amendment or Control Estimate. Intentionally deleted.

...

- .4 Evaluating an extensive number of Claims as ~~the Initial Decision Maker;~~ submitted by the Owner's consultants, the Contractor or others in connection with the Work except where such extensive number of claims could have been rectified by more descriptive original Contract Documents or addenda thereto; or

...

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 ~~()~~ reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager
- .2 ~~()~~ visits to the site by the Architect during construction
- .3 ~~()~~ inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 ~~()~~ inspections for any portion of the Work to determine final completion during Construction Phase Services all services necessary to complete and completely discharge its responsibilities under this Agreement.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services. Paragraph intentionally deleted.

§ 4.2.5 If the services covered by this Agreement have not been completed within ~~()~~ months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services. Paragraph intentionally deleted.

PAGE 15

§ 5.12 The Owner shall provide prompt written notice to the Architect and Construction Manager if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service. Service, but the Owner's failure or omission to do so shall not relieve the Architect of his responsibilities hereunder and the Owner shall have no duty of observations, inspection or investigation.

§ 5.13 The Owner shall include the Architect in all communications with the Construction Manager that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

PAGE 16

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and approved in writing by the Owner, and shall include the Construction Manager's general conditions costs, overhead, and profit. The Cost of the Work also includes shall not include the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the compensation of the Construction Manager for Preconstruction Phase services; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

...

§ 6.3 The Owner shall require the Construction Manager to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Construction Manager prepares as the Architect progresses with its Basic Services. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the Construction Manager's inaccuracies or incompleteness in preparing cost estimates, ~~or due to market conditions the Architect could not reasonably anticipate.~~ estimates. The Architect may review the Construction Manager's estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

...

- ~~.2~~ authorize rebidding or renegotiating of the Project within a reasonable time, with no adjustment in the Architect's compensation;
- ~~.3~~ terminate in accordance with Section 9.5;
- ~~.3~~ ~~.4~~ in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- ~~.4~~ ~~.5~~ implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to proceed under Section ~~6.5.3, 6.5.4,~~ the Architect, without additional compensation, shall incorporate the revisions in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's revisions in the Construction Documents Phase shall be the limit of the Architect's responsibility under this Article 6.

PAGE 17

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for ~~Construction.~~ Construction as amended by the Owner. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. The Architect's obligation to indemnify and hold the Owner and the Owner's officers and employees harmless does not include a duty to defend. ~~The Architect's duty to indemnify the Owner under this Section 8.1.3 shall be limited to the available proceeds of the insurance coverage required by this Agreement.~~

PAGE 18

§ 8.2.1 Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to ~~binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.~~ litigation.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be ~~administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation.~~ conducted in accordance with the provisions of Section 154.023, Texas Civil Practices and Remedies Code. The request may be made concurrently with the filing of a ~~complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration~~

proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings suit for legal or equitable relief.

...

[☒] Litigation in a court of competent jurisdiction

...

§ 8.3 Arbitration – Intentionally Deleted

~~§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.~~

~~§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.~~

~~§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

~~§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

§ 8.3.4 Consolidation or Joinder

~~§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.~~

...

§ 9.1 If the Owner wrongfully fails to make payments to the Architect in accordance with this Agreement, and such failure continues for a period of 30 days after written demand from Architect to Owner, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any

expenses incurred in the interruption and resumption of the Architect's ~~services~~ services, upon submitting and receiving an approved proposal to resume services to the Owner. The Architect's fees for the remaining services and the time schedules shall be equitably ~~adjusted~~ adjusted at the mutual consent of the parties to the Agreement.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect ~~shall~~ may be compensated for expenses incurred in the interruption and resumption of the Architect's ~~services~~ services upon submitting and receiving an approved proposal to the Owner. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

PAGE 19

- .1 ~~Termination Fee~~ Fee (Additional expenses that are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated):

Zero.

...

The Owner's payment to Architect in accordance with Section 9.6 shall constitute payment for a licensing fee for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project.

...

§ 10.1 This Agreement shall be governed by the law of the place where the Project is ~~located, excluding that~~ jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3. ~~located.~~

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction, ~~except as modified in this Agreement.~~ as amended by the Owner. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

PAGE 20

§ 10.6 ~~Unless otherwise required~~ The Architect shall not specify or approve for use in the Project any new materials containing asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. If the Architect discovers that such substances as described herein have been used or do exist in the Project, the Architect shall promptly notify the Owner in writing. When asbestos containing materials, polychlorinated biphenyl (PCB) or other toxic or hazardous substances are suspected or found in the course of the Project, the Owner shall immediately provide the services of an appropriately qualified expert or consultant to determine the proper course of action. Unless otherwise provided in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such ~~representations~~ representations, but only at such times and dates as stipulated by the Owner's Designated Representative. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

...

§ 10.10 In accordance with Texas Government Code, Chapter 2270, the undersigned avers that it does not boycott Israel and will not boycott Israel during the term of this Agreement.

Compensation shall be a Stipulated Sum of Two Hundred Two Thousand, Four Hundred Dollars (\$202,400.00).

...

N/A () % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

...

N/A

§ 11.2 ~~For the Architect's Supplemental Services designated in Section 4.1.1 and for~~ Prior to the commencement of any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows: (Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.) Architect shall submit to the Owner a written proposal containing the scope and estimated costs related thereto for approval by the Owner.

...

§ 11.3 ~~For~~ Prior to the commencement of any Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows: (Insert amount of, or basis for, compensation.) Architect shall submit to the Owner a written proposal containing the scope and estimated costs related thereto for approval by the Owner.

...

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent (—%), or as follows: with no mark-up.

...

Schematic Design Phase	<u>Ten</u>	percent (	<u>10</u>	%)
Design Development Phase	<u>Twenty-five</u>	percent (	<u>25</u>	%)
Construction Documents Phase	<u>Forty-five</u>	percent (	<u>45</u>	%)
Construction Phase	<u>Ten</u>	percent (	<u>10</u>	%)
Conceptual Design	<u>Five</u>	Percent (	<u>5</u>	%)
Procurement	<u>Five</u>	Percent (	<u>5</u>	%)

<u>o Principal.....</u>	<u>\$200.00/hr</u>
<u>o Project Architect.....</u>	<u>\$180.00/hr</u>
<u>o Architect.....</u>	<u>\$100.00/hr</u>
<u>o CADD.....</u>	<u>\$80.00/hr</u>
<u>o Administration.....</u>	<u>\$60.00/hr</u>

...

- .1** ~~Transportation and authorized out-of-town travel and subsistence; in connection with the Project, when such transportation is not a function of routine performance of duties of the Architect or Architect's Consultants in connection with the Project, and when such transportation extends beyond 50 miles from the project site; authorized out-of-town travel and substance, which shall be prior approved by the Owner's Designated Representative, and which reimbursements shall be governed by the same travel~~

- policies provided for Owner's employees according to current adopted Owner's policy. Prior to the event, the Architect shall request, and the Owner's designated Representative shall provide the provisions and restrictions applicable to out-of-town travel reimbursements. Electronic communication reimbursable expense shall be limited to long-distance telephone or fax toll charges specifically required in the discharge of professional responsibilities related to the Project;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets; Intentionally deleted;
- ...
- .4 ~~Printing, reproductions, plots, and standard form documents;~~ Reproductions, specifically limited to progress prints prepared for presentation to Owner at each phase of progress, and final construction documents prepared for distribution at bidding phase, provided that the Architect has duly obtained at least three quotations from commercial printing firms and has chosen the best value for the Owner. Plots shall be limited to plotting of final documents, provided that the Architect has duly obtained at least three quotations from commercial firms offering plotting services, and has chosen the best value for the Owner. Standard form documents are reimbursable if bulk-purchase discounts and other privileges afforded the Architect are extended to the Owner. If licensed electronic document forms are provided in lieu of hard-copy standard forms and are furnished by the Architect, the Architect may charge as reimbursable up to fifty percent (50%) of the purchase price of the corresponding hard-copy documents, subject to restrictions and limitations of copyright provisions governing both documents. Postage and delivery of Instruments of Service are reimbursable provided the Architect duly considers all circumstances (including available time for assured delivery) of the required delivery and selects the best value for the Owner, which may require comparison of delivery costs offered by three or more sources or methods of delivery, which at minimum shall include US Mail. Courier service is acceptable only in circumstances requiring deadline-sensitive deliveries and not for the convenience of the Architect. Handling is not reimbursable;
- .5 Postage, handling, and delivery; Intentionally deleted;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in writing in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested in writing by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants; Intentionally deleted;
- .9 All taxes levied on professional services and on reimbursable expenses; Intentionally deleted;
- ...
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and Intentionally deleted; and
- .12 Other similar Project-related expenditures, which are duly presented in advance and approved by the Owner's Designated Representative in writing. Telephone service charges, including office or cellular phones, WATTS or Metro line services or similar charges are not reimbursable. Toll road subscriptions or toll plaza receipts are not reimbursable. Meals or any other related expenses are not reimbursable unless incurred outside a 50-mile radius of the Project, and then only reimbursable subject to compliance with Owner Policy. Faxed transmissions not requiring long distance toll charges are not reimbursable.

The Architect shall be solely responsible for the auditing of all Reimbursable Expenses, including the Architect's prior to submitting to Owner for reimbursement, and shall be responsible for the accuracy thereof. Any overpayment by the Owner for errors in submittals for reimbursement may be deducted from the Architect's subsequent payment for services.

- ~~.12 Other similar Project-related expenditures;~~ Reimbursable Expenses shall not exceed Three Thousand Five Hundred Dollars (\$3,500.00); unless the Scope of Work is modified.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants ~~plus percent (—%) of the expenses incurred without any additional mark-up.~~

PAGE 23

§ 11.10.1.1 An initial payment of Zero Dollars and Zero Cents (\$ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of Zero Dollars and Zero Cents (\$ 0.00) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

...

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid forty-five (45) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

...

~~%—The rate of interest computed in accordance with the provisions of the Texas Government Code, Section 2251.025.~~

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the ~~Architect, or Architect.~~ Owner may withhold amounts from Architect's compensation to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding. Work caused by Architect's errors, omission or negligence.

PAGE 24

§ 12.1 The Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337 or 505 E. Huntland Drive, Suite 350, Austin, Texas 78752, Phone: 512-305-9000, has jurisdiction over individuals licensed under the Architects Registration Law, Article 249A, VTCS

...

- .1 This AIA Document B133™–2019, Standard Form Agreement Between Owner and Architect, Construction Manager as Constructor Edition

...

[N/A] AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition dated as indicated below.

...

[NONE] Other Exhibits incorporated into this Agreement:

...

A201-2017 v:4 (06-11-2020) General Conditions of the Contract for Construction, as modified by Owner, attached hereto and incorporated herein for all purposes.

...

CITY OF SHERMAN

HIDELL AND ASSOCIATES ARCHITECTS, INC.

By:

By:

...

William Hidell, President

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Christopher C. Zillmer/mls, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 11:18:13 CT on 01/10/2024 under Order No. 4104242442 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B133™ – 2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.



/mls

(Signed)

(Title)

1-10-24

(Dated)

KEY STATS

BUILDING RENOVATION AS FOLLOWS:

REQUIRED PER CODE OR ACCESSIBILITY:

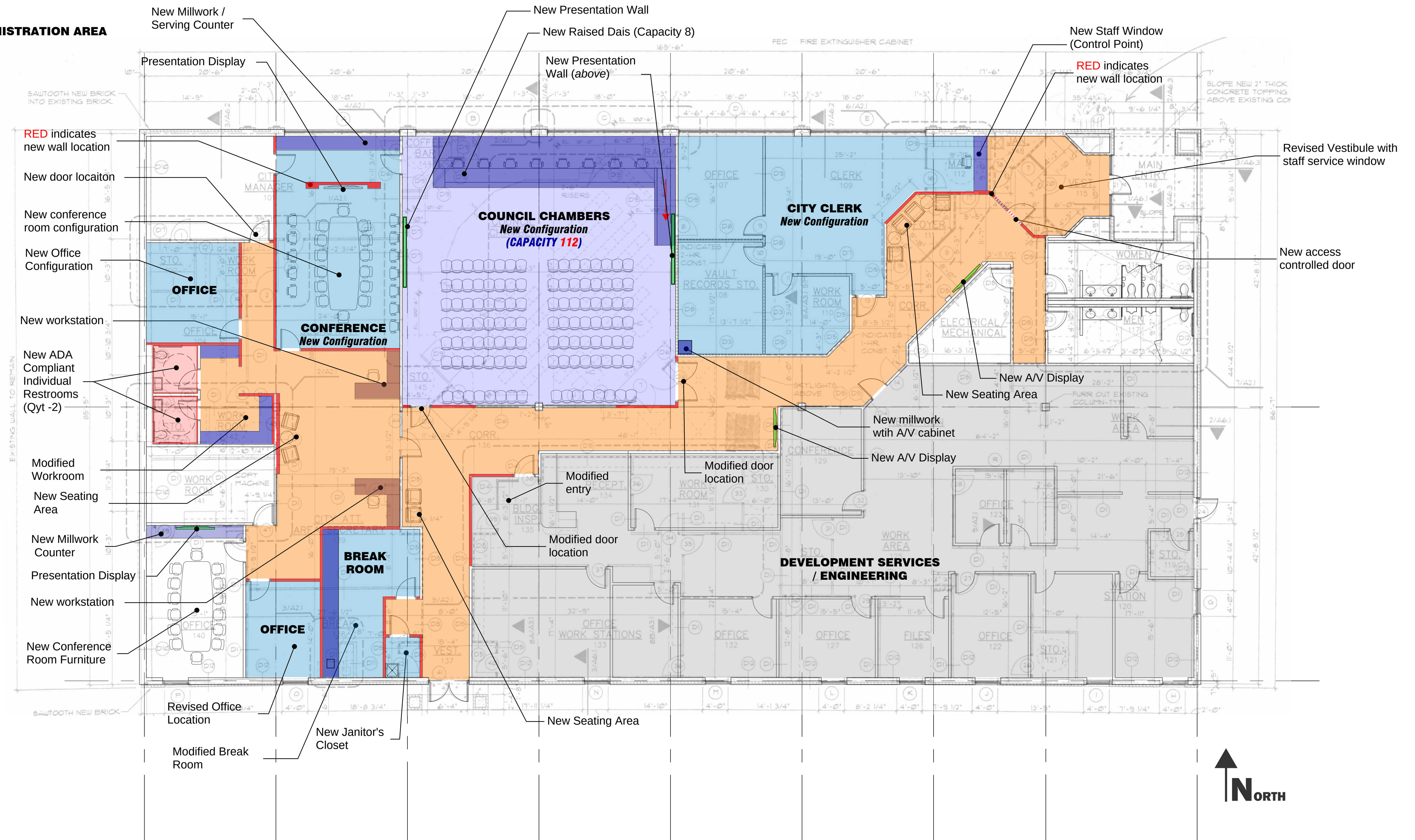
- **INDIVIDUAL RESTROOM IN ADMINISTRATION AREA (QYT -2)**

PROPOSED MODIFICAITONS

- **CONTROLLED ENTRY TO FACILITY**
- **NEW 20+ PERSON CONFERENCE ROOM IN CITY ADMINISTRATION AREA**
- **CITY CLERK / MAIL ROOM AREA RECONFIGURED**
- **INCREASED COUNCIL CHAMBER SIZE AND CAPACITY**
- **NEW RAISED DAIS**
- **MODIFIED COUNCIL CHAMBERS ENTRY**
- **CITY ADMINISTRATION SUITE MODIFIED**
- **JANITOR'S CLOSET RELOCATED**
- **MODIFIED STAFF BREAKROOM**
- **NEW CORRIDOR FLOORING**

ESTIMATED COST RANGE:

- **\$1,500,000 TO \$2,000,000**



CITY OF SHERMAN

CITY HALL RENOVATION CONCEPT PLAN

HIDELL AND ASSOCIATES ARCHITECTS
10.16.2023



City Council Regular Meeting

Agenda Item No. F.2.

Meeting Date: 1/16/2024

Prepared By: Tom Pruitt, Utility Engineer

Approved By: Robby Hefton, City Manager

Caption:

RESOLUTION NO. 7243

Approving the Greater Texoma Utility Authority's Intention to Award Amendment 5.00 - Bid Package 5.00 to Garney Companies, Inc. for the 36-Inch West Sherman Water Main

Issue:

Approving the Greater Texoma Utility Authority's Intention to Award Guaranteed Maximum Price (GMP) Amendment 5.00 - Bid Packages 5.10, 5.20, and 5.30, Pipe Installation Packages for Segments 1, 2, and 3 to Garney Companies, Inc. for the 36-Inch West Sherman Water Main

Background:

Bids were received and opened for pipe installation packages for three sections of the proposed 36" water line from the Sherman Water Treatment Plant to Shepherd Road. The bidders were evaluated and scored in accordance with CMAR rules and the scoring system applied as per CMAR contract document; the best-scoring bidders are recommended for each segment.

Origination:

Engineering Department

Financial Consideration:

Funding needed for these three packages is \$47,067,422.64 for a total construction project cost for the 36" water line is \$76,197,002.32. Funds for these three packages are available through the Greater Texoma Utility Authority 2023A Open Market Bonds.

Staff Recommendation:

It is recommended that the City Council approve Greater Texoma Utility Authority's Intention to Award Guaranteed Maximum Price (GMP) Amendment 5.00 - Bid Packages 5.10, 5.20, and 5.30, Pipe Installation Packages for Segments 1, 2, and 3 to Garney Companies, Inc. for the 36-Inch West Sherman Water Main

Alternatives:

As may be directed by the City Council

Attachments:

1. Resolution No. 7243
2. COSF-PDE-LTR0001 Letter of Recommendation 20231222
3. map

RESOLUTION NO. 7243

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, APPROVING THE GREATER TEXOMA UTILITY AUTHORITY'S INTENTION TO AWARD AMENDMENT 5.00 - BID PACKAGE 5.00 TO GARNEY COMPANIES, INC. FOR THE 36-INCH WEST SHERMAN WATER MAIN; 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 of Sherman hereby approves the Greater Texoma Utility Authority's intention to award Amendment 5.00 - Bid Package 5.00 to Garney Companies, Inc in the amount of Forty-Seven Million Sixty-Seven Thousand Four Hundred Twenty-Two Dollars and Sixty-Four Cents (\$47,067,422.64) for the 36-Inch West Sherman Water Main.

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.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS on this the 16th day of January 2024.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
DAVID PLYLER, MAYOR

**APPROVED AS TO FORM AND
CONTENT:
THE LAW FIRM OF ABERNATHY,
ROEDER, BOYD & HULLETT, P.C.**

BY: _____
RYAN D. PITTMAN, CITY ATTORNEY

December 22, 2023

Tom Pruitt, PE
City of Sherman
220 W Mulberry St.
P.O. Box 1106
Sherman, TX 75091

Re: 36-Inch West Sherman Water Main Bid package 5.0 Pipe Installation

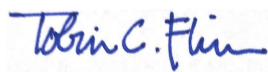
Mr. Pruitt:

On November 30, 2023, the City of Sherman and Garney Construction received four bids from prospective bidders for the project referenced above. Bidders were allowed to bid on each segment individually. A comprehensive review and evaluation were completed by the City of Sherman and the Owner's Project Team (OPT) on December 7th, 2023, each project segment was evaluated individually to determine the best value bidder for each three segments, after assessing all four bids, conducting interviews with the shortlisted bidders, the City of Sherman and the OPT decided to award each segment as outlined below:

Segment	Bidder	Score	Bid value
1	Garney Construction	97.11	\$10,065,262
2	McKee Utility Contractors	99.67	\$8,634,208
3	Garney Construction	97.11	\$14,417,104
		Total	\$33,116,574

Based on the review and evaluation of the submitted bids, Pape- Dawson recommends moving forward with the awarding of the segments as detailed above. Pape-Dawson concurs that the bids mentioned above represent the best value for each segment.

Sincerely,



Toby Flinn, PE
Program manager

Attachments:

Freese and Nicholes letter of recommendation

Garney's letter of recommendation and scoring sheet- GMP 5.0

MEMORANDUM



Innovative approaches
Practical results
Outstanding service

6136 Frisco Square Blvd, Suite 375 • Frisco, Texas 75034 • 972-624-9201 • fax 972-624-9202

www.freese.com

December 21, 2023

Tom Pruitt, PE
City of Sherman
220 W., Mulberry St.,
Sherman, TX 75091

Re: Greater Texoma Utility Authority on behalf of the City of Sherman – 36" West Sherman Water Main Bid Package 5.00

Mr. Pruitt:

On November 30th, 2023, The City of Sherman and Garney Construction received bids for Bid Package 5.00 – Pipe Installation Procurement. This bid package is for the main construction of the pipeline and was broken into three segments. Bidders were given the opportunity to bid on any combination or all three segments. Each individual segment was evaluated independently to determine the best value proposer for each of the three segments.

After initial proposal reviews, it was determined to conduct further interviews between Belt Construction and Garney Construction for segment three. The purpose of the interview was to allow the project team to discuss unique challenges on segment three with the proposers as well as the unique schedule milestone associated with this segment. These interviews were held on December 20th, 2023.

The project team discussed after the interviews and determined to award each segment as follows:

Segment	Proposer	Score	Dollar Amount
1	Garney Construction	97.11	\$10,065,262
2	McKee Utility Contractors	99.67	\$8,634,208
3	Garney Construction	97.11	\$14,417,104
		Total	\$33,116,574

Freese and Nichols concurs with awarding the segments as outlined above and is in agreement that these represent the best value proposals for each of the three segments.

Please contact me with any questions or concerns you may have regarding this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jacob D. Pannell'.

Jacob D. Pannell, PE
Freese and Nichols, Inc.



Tom Pruitt, P.E.
City of Sherman
220 W. Mulberry St.
Sherman, TX 75091

12/21/2023

RE: 36" West Water Main – Amendment 5.00

Mr. Pruitt,

In accordance with the Agreement between Garney Companies, Inc. and Greater Texoma Utility Authority (GTUA) on behalf of City of Sherman, Garney is pleased to provide the below information and attached documentation to establish the Amendment for City of Sherman – 36" West Water Main– Bid Package 5.00 – Pipeline Installation.

Garney proposes to amend the CMAR contract for this bid package at \$47,067,422.64. This Proposal includes the supply of the following scopes for the installation of the Water Pipeline. This GMP includes additional quantities for Butterfly Valves, Air Valves and Tunnel Installations that reflect the current design.

SOV 5.10 – Pipe Installation: Segment 1

SOV 5.20 – Pipe Installation: Segment 2

SOV 5.30 – Pipe Installation: Segment 3

The recommendation herein is within the estimate of the proposed GMP Documentation provided in September 2023. The total for the West Water Main CMAR totals \$76,197,002.32 inclusive of the pre-construction, procurement, and all CMAR fees. This does not include the totals, previously approved or forthcoming, for the Lift Station.

The above scopes of work will be subcontracted by Garney Construction within the requirements of the Agreement for the CMAR Project. This scope will have coordination with other procurements in previous GMP proposals. Also included in this proposal is the cost for the CMAR management.

The procurement scope included in this amendment proposal includes the above scope of supply as identified in the plans and specifications made available to Garney for the purpose of procurement. These plans and specifications are generally referred to as the "36-inch West Sherman Water Main – August 2023 – IFC (Amendment 4)" and "Greater Texoma Utility Authority on behalf of City of Sherman Bidding Documents for 36-in West Sherman Water Main – Bid Package 5.00 – August 2023."

It is possible that design revisions will be made as the project progresses from the bid documents through Construction. Any revisions to these plans and specifications, and cost adjustments associated with those revisions, will be captured either through allowances or as a Change Order to the CMAR Contract, as directed by GTUA, City of Sherman, and in accordance with the Agreement.

This Amendment includes the Construction Manager at Risk's Fees and Expenses, the estimated Cost of the Work, and expenditures as outlined in the Contract Documents and Agreement.

Please contact Garney directly if there are any questions regarding this GMP Proposal.

Sincerely,
GARNEY COMPANIES, INC.



Sam Marston
Preconstruction Manager

CC: Toby Flinn – Pape Dawson
Bill Williams – Garney
Wayne Lee – City of Sherman
Paul Sigle – Greater Texoma Utility District

Bidding documents:

36-inch West Sherman Water Main – August 2023 – IFC (Amendment 4)
Greater Texoma Utility Authority on behalf of City of Sherman Bidding Documents for 36-in
West Sherman Water Main – Bid Package 5.00 – August 2023
Addendum 1 for Bid Package 5.00
Addendum 2 for Bid Package 5.00

Greater Texoma Utility Authority on behalf of City of Sherman

36" West Sherman Water Main



Amendment 5.00
Bid Package 5.00
Material Procurement
Link to Bid Documents



Contract Documents per Bid Package 5.00

The West Water Main Bid Package 5.00 contract bid documents can be accessed via the following link. On this site, we have posted the following documents.

- IFC Drawings and Specifications
- Addendum 1
- Addendum 2

IFC Drawings and Specifications utilized at time of Bid.

To access the Bid Package 5.00 Contract Documents:

1. Navigate to the following Website: <https://www.civcastusa.com/>
2. Click "Browse Bids"
3. In the filters drop down list to the right select "All (Archives)"
4. In the filters type the project name into the dialogue box
5. Select the link to the project documents

Greater Texoma Utility Authority on behalf of City of Sherman

36" West Sherman Water Main



Amendment 5.00 Bid Package 5.00 Work Procurement Clarifications



Description of Variations, Substitutions Proposed Bid Package 5.00

1. **Specifications** (See hyperlink provided to gain access to the contract documents that accompanied Bid Package 5.00). Per this Amendment 5.00, submittal is "as per specifications" at time of Bid Package 5.00.
 - a. Qualifications and Assumptions (See Below)
 - b. Exclusions (See Below)
2. **Assumptions and Clarifications**
 - a. This is strictly procurement per plans and specifications available at time of bid.
 - b. Amendment pricing contingent upon GTUA and City of Sherman January 2024 Board Approval.
 - c. Permits are to be provided by others.
 - d. Amendment assumes access to easements throughout the duration of the project.
 - e. Amendment does not include an alternative access to the easement from roads or other thoroughfares.
 - f. Amendment does not include permits, utility encroachment agreement, etc. to be obtained by Others.
 - g. Amendment does not include continuity survey for corrosion protection, this scope is to be provided by others.
 - h. Amendment assumes water for hydrostatic testing will be provided.
 - i. Amendment includes the direct cost of work, allowances, and contingency for the scopes of Work herein as agreed upon with GTUA/City of Sherman, these costs will remain in the CMAR budget, reallocated as necessary, to complete the entirety of the project. Funds that remain unused or unallocated will be reconciled, and credited to the District, at the completion of the Contract.
 - j. Amendment does not reflect abnormal cost escalations incurred due to pandemics, changes in law or regulations by the State or Federal Government, or Global affairs that directly or indirectly affect the procurement, schedule, or construction of the conveyance system.
 - k. Amendment assumes all lands and easements will have clearance for construction in a timely manner that will not delay the Substantial Completion of the conveyance system. Contingencies have been included to consider specific areas during onsite construction.
 - l. Amendment includes GCs, Overhead Expenses, and CMAR cost of work through the Final Completion date provided. Any extension of the project and Garney's CMAR services, outside of Garney's scope of work, is excluded.
3. **Value Analysis**
 - a. Opportunities for value to the program can be negotiated based on team consensus. Items identified specifically with this bid package will be discussed, modified, and tracked through the start of construction.
4. **Allowance Schedule (Not applicable)**
5. **Schedule of Unit Prices**
 - a. As included in the schedule of values provided by the proposers.
6. **All other information (Not applicable)**

Greater Texoma Utility Authority on behalf of City of Sherman

36" West Sherman Water Main



Amendment 5.00
Bid Package 5.00
Work Procurement
Concurrence of Award/Evaluation



12/21/2023

RE: Greater Texoma Utility District on behalf of City of Sherman – Bid Package 5.00

In accordance with the Agreement between Garney Companies, Inc. and Greater Texoma Utility District on behalf of City of Sherman, Garney is providing the below information for the recommendation of award for the City of Sherman 36" West Water Main – Bid Package 5.00 – Pipe Installation Procurement. This includes the tabulation of bids received in response to the solicitation and associated scoring for each bid package.

Bid package 5.00 included the following procurement items:

SOV 5.10 – Pipe Installation: Segment 1

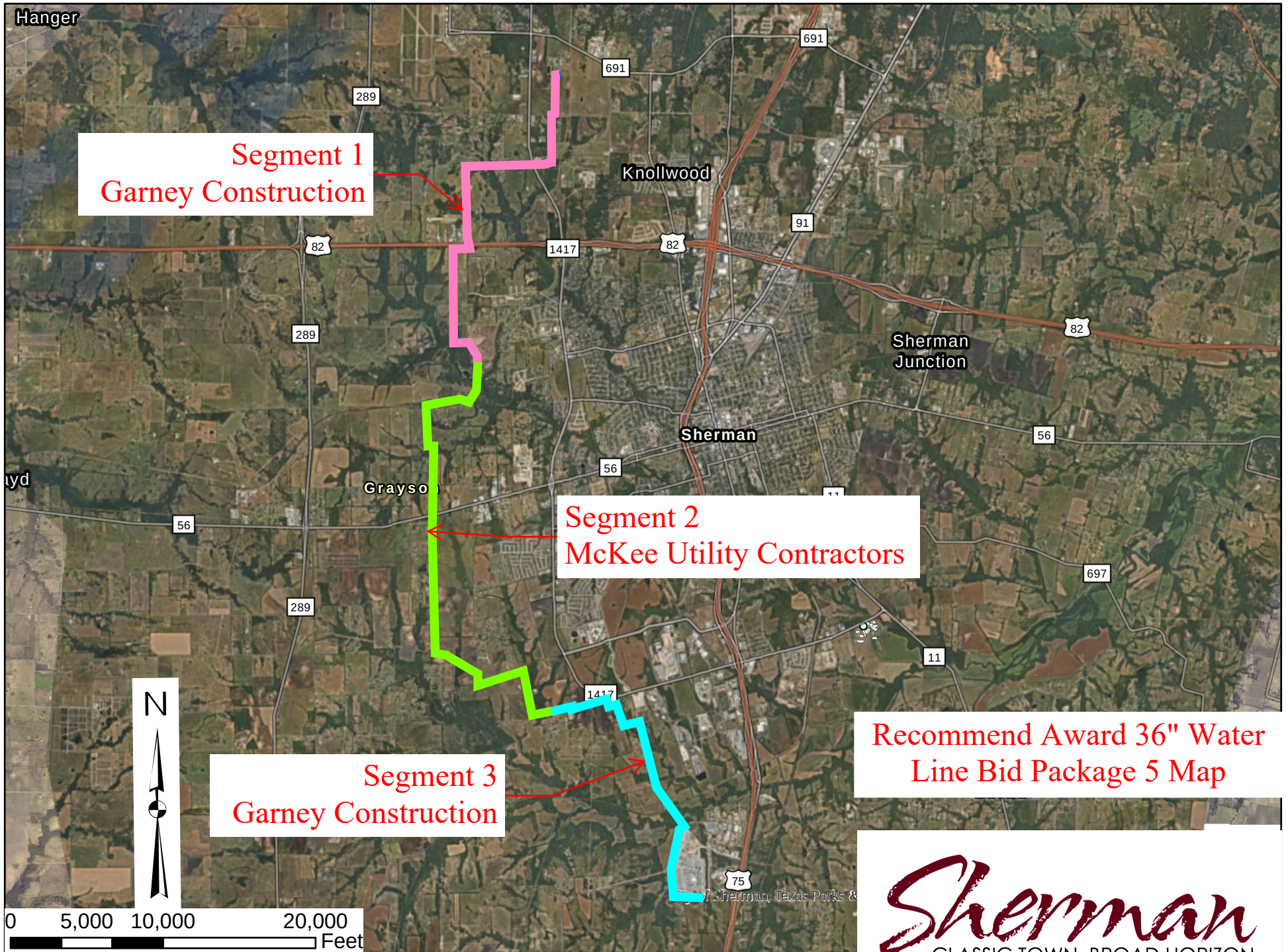
SOV 5.20 – Pipe Installation: Segment 2

SOV 5.30 – Pipe Installation: Segment 3

The proposals for the above bid packages were received 11/30/2023 for review and evaluation. The City, GTUA, Program Manager, and CMAR evaluated the proposals received on 12/7/2023. Neither the CMAR or any Garney personnel were included in the evaluation or scoring of proposals provided by Garney Construction. Interviews were held on 12/20/2023 to inquire more about the proposals provided clarifying specific items discussed. A consensus was made, to recommend award the above-mentioned scopes to the respective proposers.

SOV	Scope	Company	Total Awarded Points
5.10	Pipe Installation Segment 1	Garney	97.11
5.10	Pipe Installation Segment 1	Belt	90.63
5.10	Pipe Installation Segment 1	Carstensen	90.01
5.20	Pipe Installation Segment 2	Mckee	99.67
5.20	Pipe Installation Segment 2	Belt	86.70
5.20	Pipe Installation Segment 2	Garney	83.83
5.20	Pipe Installation Segment 2	Carstensen	83.70
5.30	Pipe Installation Segment 3	Garney	97.11
5.30	Pipe Installation Segment 3	Belt	96.72

City of Sherman - GMP 5.00 Summary						
BID PACKAGE	SYSTEM / CONTRACT	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	EXTENSION
BP - 5.10	COSF	Pipe Installation Segment 1	1.00	Lump Sum	\$ 10,065,262.00	\$ 10,065,262.00
BP - 5.20	COSF	Pipe Installation Segment 2	1.00	Lump Sum	\$ 8,634,208.00	\$ 8,634,208.00
BP - 5.30	COSF	Pipe Installation Segment 3	1.00	Lump Sum	\$ 14,417,104.00	\$ 14,417,104.00
BP - 2.30	COSF	Tunnel Installation	1.00	Lump Sum	\$ 584,142.00	\$ 584,142.00
BP - 1.20	COSF	Butterfly Valves	1.00	Lump Sum	\$ 32,000.00	\$ 32,000.00
BP - 1.30	COSF	Air Valves	1.00	Lump Sum	\$ 7,700.00	\$ 7,700.00
						\$ -
SUBTOTAL:						\$ 33,740,416.00
	CMAR Contract	Allowance	1.00	Lump Sum	\$ 3,374,040.00	\$ 3,374,040.00
	CMAR Contract	Extra Work Items	1.00	Lump Sum	\$ 2,438,000.00	\$ 2,438,000.00
SUBTOTAL:						\$ 5,812,040.00
TOTAL DIRECT COST OF WORK AND ALLOWANCES						\$ 39,552,456.00
	CMAR Contract	Construction Services (CMAR) GC Multiplier	6.50%	Percent	\$ 39,552,456.00	\$ 2,570,909.64
	CMAR Contract	Construction Services (CMAR) Fee	9.50%	Percent	\$ 39,552,456.00	\$ 3,757,483.32
	CMAR Contract	CMAR Contingency	3.00%	Percent	\$ 39,552,456.00	\$ 1,186,573.68
GMP 3.00 TOTAL WITH ALLOWABLE FEES						\$ 47,067,422.64





City Council Regular Meeting

Agenda Item No. F.3.

Meeting Date: 1/16/2024

Prepared By: Tom Pruitt, Utility Engineer

Approved By: Robby Hefton, City Manager

Caption:

RESOLUTION NO. 7244

Authorizing Execution of Amendment No. 2 to the Professional Services Agreement with Plummer Associates, Inc. for Engineering Services for Design of the Wastewater Treatment and Water Reuse Master Plan

Issue:

To consider an amendment to the contract for Professional Services with Plummer Associates, Inc. for engineering services for the design of the Wastewater Treatment and Water Reuse Master Plan

Background:

The City has selected Plummer Associates, Inc. (Plummer) to provide engineering consulting services for planning, design and construction administration associated with the wastewater treatment facilities needed to support semiconductor chip manufacturing facilities expansion and continued growth of the industrial and domestic wastewater system in the City.

Phase 1 of this effort, master planning services, is ongoing and includes data analysis and wastewater process modeling. Results from preliminary modeling indicate that the increases in industrial wastewater (from the TI facility and the GlobalWafer facility) flows and loads, in conjunction with projected increases in domestic wastewater flows, may exceed the capacity of the Post Oak WWTP as early as 2025.

Amendment No.1 included design services for expanding the North Post Oak WWTP, the acquisition of long-lead equipment, and procurement of a Construction Manager at Risk (CMAR). The tasks specifically associated with the North Post Oak WWTP expansion were included in Amendment No. 1.

After consideration of additional data and further development of the Master Plan, the decision was made by the City and recommended by Plummer to move forward with a new South Membrane Bioreactor (MBR) treatment train in lieu of an expanding the conventional process train.

Amendment No. 2 includes the following tasks and replaces the work for Amendment No. 1 as described below.

Preliminary / Final Design

Equipment Preselection

Construction Manager at Risk (CMAR) Coordination

Regulatory & Permitting

Construction Management Services and Resident Project Representation

Origination:

Engineering Department

Financial Consideration:

The total funding needed for Amendment No. 2 is \$8,474,247 for a total contract value of \$21,917,189. This will be funded by GTUA 2023 and 2024 Bond Funds.

Staff Recommendation:

It is recommended that the Council approves the design services in the aforementioned amount to Plummer Associates, Inc.

Alternatives:

As may be directed by the City Council

Attachments:

1. Resolution No. 7244
2. Amendment No 2 to Plummer Associates - South WWTP MBR Version 6-PlummerExecuted
3. Resolution No. 7065
4. Resolution No. 6902
5. WWTP Map

RESOLUTION NO. 7244

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT WITH PLUMMER ASSOCIATES, INC. FOR ENGINEERING SERVICES FOR DESIGN OF THE WASTEWATER TREATMENT AND WATER REUSE MASTER PLAN PROJECT; 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 Amendment No. 2 to the Professional Services Agreement with Plummer Associates, Inc. for engineering services for the design of the Wastewater Treatment and Water Reuse Master Plan Project, 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.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS on this the 16th day of January 2024.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
DAVID PLYLER, MAYOR

**APPROVED AS TO FORM AND
CONTENT:
THE LAW FIRM OF ABERNATHY,
ROEDER, BOYD & HULLETT, P.C.**

BY: _____
RYAN D. PITTMAN, CITY ATTORNEY

AMENDMENT NO. 2

TO THE PROFESSIONAL SERVICES AGREEMENT FOR ENGINEERING DESIGN SERVICES BETWEEN
THE CITY OF SHERMAN ("OWNER") AND PLUMMER ASSOCIATES, INC. ("CONSULTANT")
FOR THE WASTEWATER TREATMENT AND WATER REUSE MASTER PLAN PROJECT

Dated June 6, 2022 ("Original Agreement")

This Amendment No. 2 serves to increase the original contract fees under the Original Agreement (\$2,073,011) and Amendment No. 1 (11,369,931) based on the following **changes** to the project scope as detailed in the attached Exhibit A2: "Amendment 2 - Scope of Services." The new total professional services shall now be \$ 21,917,189.

The contract amount under the Original Agreement and Amendment No. 1 shall be increased by a fee not to exceed \$ 8,474,247 as presented in the attached Exhibit B2: "Amendment No. 2 – Project Design Budget Summary."

I. Basic Services (Lump Sum)

	Scope Item – South WWTP MBR Design & Construction Services	Fee
A	Preliminary Design	\$ 566,044
B	Equipment Preselection	\$ 566,845
C	CMAR Coordination	\$ 313,282
D	Final Design	\$ 3,521,542
E	PM & Meetings	\$ 257,627
F	Regulatory & Permitting	\$ 0
Total Basic Services Amendment No. 2:		\$ 5,225,340

II. Special Services (Time & Materials)

	Scope Item – South WWTP MBR Design & Construction Services	Fee
G	Construction Administration Services	\$ 302,407
H	Support Services - Geotech, Survey	-\$ 53,500
I	Construction Management and Resident Project Representative Services (through first 12 months of construction)	\$ 3,000,000
Total Special Services Amendment No. 2:		\$ 3,248,907

TOTAL AMENDMENT NO. 2 NOT TO EXCEED	\$ 8,474,247
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This Amendment No. 2 shall be effective on the date it is executed by the last party to execute it. The OWNER and CONSULTANT hereby agree to amend the Proposed Fees section of this Original Agreement to read as follows:

Proposed Fees

Consultant shall be compensated on the following lump sum basis. Special and Additional Services shall be performed based on the rate schedule included in the Original Agreement.

Basic Services	Fee
Wastewater Treatment and Water Reuse Master Plan	\$ 1,488,011
Amendment 1 - Post Oak WWTP Improvements	\$ 7,156,818
Amendment 2 - South WWTP – MBR	\$ 5,225,340
Total Basic Services:	\$ 13,870,169
Special Services	Fee
Wastewater Treatment and Water Reuse Master Plan	\$ 585,000
Amendment 1 – Post Oak WWTP Improvements	\$ 4,213,113
Amendment 2 – South WWTP – MBR	\$ 3,248,907
Total Special Services:	\$ 8,047,020
TOTAL NOT TO EXCEED (LUMP SUM)	\$ 21,917,189

The parties hereby ratify and confirm all of the terms, provisions, covenants and conditions of the Original Agreement and acknowledge and agree that the Original Agreement remains in full force and effect, except as amended in this Amendment No. 1 and Amendment No. 2. To the extent that any provision contained herein conflicts with the Original Agreement, the provision contained herein shall supersede such conflicting provision contained in the Original Agreement and Amendment No. 1. This Amendment No. 2, the Original Agreement, and Amendment No. 1 contain the entire agreement of the parties with respect to the matters contained herein. This Amendment No. 2 may not be modified or terminated except upon the provisions hereof or by the mutual written agreement of the Parties hereto.

[Rest of page left intentionally blank]

EXECUTED in three (3) counterparts (each of which is an original) on behalf of CONSULTANT shown below, and on behalf of the OWNER by its City Manager (thereunto duly authorized) this _____ day of _____, 2024.

OWNER:
CITY OF SHERMAN, TEXAS

CONSULTANT:
PLUMMER ASSOCIATES, INC

Robby Hefton, City Manager



Alan E. Davis, P.E., Principal

ATTEST:

ATTEST:

Linda Ashby
City Clerk



Marshall Plunk, PE
Team Leader

APPROVAL RECOMMENDED:

Wayne E. Lee, P.E., CFM / Director Engineering

APPROVED AS TO FORM:
THE LAW FIRM OF ABERNATHY,
ROEDER, BOYD & HULLETT, P.C.

BY: _____

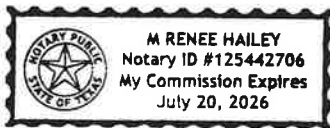
NAME: _____
CITY ATTORNEY

CORPORATE ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Alan E. Davis of Plummer Associates, Inc. known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Plummer Associates, Inc., a corporation, that (s)he was duly authorized to perform the same by appropriate resolution of the board of directors of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 3rd day of January, A.D. 2024.



M. R. Hailey
Notary Public In and For Tarrant County, Texas

My Commission Expires:

July 20, 2026

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

PROJECT DESCRIPTION

The City has selected Plummer Associates, Inc. (Plummer) to provide engineering consulting services for planning, design and construction administration associated with the wastewater treatment and water reuse facilities needed to support continued growth of the industrial and domestic wastewater system in the City. Phase 1 of this effort, master planning services, is ongoing and includes data analysis and wastewater process modeling. Results from modeling indicate that the increases in industrial wastewater flows and loads, in conjunction with projected increases in domestic wastewater flows, may exceed the capacity of the Post Oak WWTP as early as 2025.

Amendment No.1 included design services for expanding the North Post Oak WWTP, the acquisition of long-lead equipment, and procurement of a Construction Manager at Risk (CMAR). The tasks specifically associated with the North Post Oak WWTP expansion were included in Amendment No. 1. After consideration of additional data and further development of the Master Plan, the decision was made by the City and recommended by Plummer to move forward with a new South Membrane Bioreactor (MBR) treatment train located across Post Oak Road on property owned by the City in lieu of an expanding the conventional process train. Although more expensive than the conventional treatment process, the MBR treatment train would be more suited to the semiconductor industry wastewater and would provide the City with better redundancy and less risk of plant upsets during and after construction.

Amendment No. 2 includes the following tasks and replaces the work for Amendment No. 1 as described below. The fee shown for Amendment No. 2 is in addition to the approved fee for Amendment No. 1. Table 1 at the end of Exhibit A2 provides a summary of the changes between Amendment No. 1 and Amendment No. 2:

- Preliminary Design
- Equipment Preselection
- Construction Manager at Risk (CMAR) Coordination
- Final Design
- Meetings, Workshops, and Project Management
- Regulatory & Permitting
- Construction Services
- Support Services (e.g. Survey, Geotech, Subsurface Utility Engineering)
- Construction Management and Resident Project Representation

I. ASSUMPTIONS

A. Flow from the City's MEMC interceptor will be routed to the South WWTP – MBR

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

(Membrane Biological Reactor) train. Phase 1 of the South WWTP – MBR will be designed for an annual average flow (AAF) of 4 MGD and peak day flow of 8 MGD.

- B.** Beyond year 2025 expected flows and mass loading, additional wastewater treatment facilities will be constructed.
- C.** Semiconductor industries will be ramping up flows from their facilities beginning in 2024. During this interim period prior to the new plant coming on line, the conventional North WWTP will be treating the wastewater from these industries. This project includes some improvements to the conventional train to help process these initial wastewater flows from the industries.
- D.** The alternative project delivery Construction Manager at Risk (CMAR) approach will be utilized.
- E.** Both the new MBR train along with the conventional train will operate under the existing TCEQ discharge permit requirements. The 5-year permit will expire in 2025. The permit application is not included in this amendment. The MBR train will be designed with 20% spare capacity.
- F.** Solids disposal is assumed to be via landfill.
- G.** The design will consider Chapter 210 reuse potential, cooling water reuse, and reuse via discharge that flows to a downstream reservoir, but it will not include any advanced treatment (TDS treatment, advanced oxidation processes, adsorption, etc). The South treatment plant site will be planned for adding future advanced treatment and the treatment technologies in this project will be suitable pretreatment for those advanced treatment technologies. Chemical feed points will be planned for improving future nutrient removal.
- H.** Major equipment will have early procurement packages based on equipment pre-selection. Front end documents for pre-selection to be coordinated with CMAR.
- I.** Initial Conceptual Opinion of Probable Construction Cost (OPCC) will be developed by the Design Engineer for the Post Oak facility improvements. A cost model will be prepared by the Construction Manager at Risk (CMAR). Engineer will provide an updated OPCC at the 60% and 90% design milestones.
- J.** In the first phase, the plant will use potable water for service water and no plant water pumping will be provided.
- K.** Stormwater will be routed from the new MBR site into the northwest earthen basin, and the southwest earthen basin will be used for emergency wastewater storage with piping into and out of it from the diversion structure and influent pump station.
- L.** No odor control treatment is included in this project

II. TASK SUMMARY, BASIC SERVICES

A. TASK A: PRELIMINARY DESIGN

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

- a. **Delete** the evaluation of additional convention treatment facilities (Task A.a) and the preliminary design of the conventional treatment processes (Task A.b) of Amendment No. 1.
- b. Perform preliminary and process design for the following facilities.
 - i. South WWTP – MBR train:
 - a. Diversion Structure – Design new diversion structure to collect influent flow from the South Interceptors. Design a parallel raw water diversion pipeline (approximately 1500 LF) from a connection at the western boundary of the City’s property to collect influent from the southwest industrial interceptor and Luella interceptor prior to connecting to the southern interceptor (MEMC) pipeline. Design a diversion pipeline from the MEMC pipeline to the diversion structure (approximately 300 LF). The diversion structure will be designed for 32 MGD capacity and have provision for emergency overflow to the existing wet weather basins and to the Post Oak WWTP.
 - b. Screening Facility – Design new coarse screening facility (1/4-inch spacing) ahead of the raw wastewater pumps. Channels and screens for 16 MGD will be included in this design.
 - c. Influent Pump Station – Design new influent pump station to pump influent flow to the new Preliminary Treatment Unit facility. The pump station will be designed for 8 MGD firm pumping capacity initially and the ability to expand capacity by adding pumps to 32 MGD firm capacity. Design chemical storage, feed equipment, and mixing to provide alkalinity adjustment to the raw wastewater.
 - d. Influent Pump Station Electrical Structure – The electrical equipment serving the influent pump station and screening facility will be designed on a slab on grade with canopy cover.
 - e. Preliminary Treatment Unit (PTU) Facility – Design new PTU structure to house fine screens (1 mm opening), vortex grit removal, screenings compactor, and grit classifier/washer. The facility will be designed for a peak flow of 8 MGD.
 - f. Primary Clarifiers (PC) – No primary clarifiers are included in the design, but the site layout will include space for adding primary clarifiers in the future.
 - g. Daily Flow Equalization Basin – Design new 4-million-gallon basin with cover and mixing system. Flow control will be provided with a motor operated valve in a vault. Diversion piping around the basin will be provided with isolation gates at the Headworks facility and valves downstream of the basin.

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

- h. Biological Reactor Basins – Design new basins associated with the MBR facility including mixing for anoxic zones, diffusers for aerobic zones, and new blower building and blowers serving the biological reactor basins and MBR facility. The blower building will include an electrical building serving the blowers and a canopy covered area for the blowers. Design for chemical storage, feed equipment, and mixing to add carbon to the influent wastewater will be provided.
- i. Membrane Bioreactor Facility – Design new 4MGD MBR average daily flow (ADF) facility with space planned to immediately expand to 8 MGD.
- j. Membrane Support Pipe Gallery and Building – Design membrane basin pipe gallery to house the permeate pumps, WAS pumps, chemical feed, permeate tank, backpulse piping and valves, and clean in place (CIP) piping and valves. Design membrane support building to house HVAC equipment, electrical equipment, restrooms, and operations facilities. Facility shall be designed to house the equipment for 8 MGD.
- k. RAS Pumping – Design new RAS pumping facility to support MBRs and biological reactors.
- l. Sludge Storage Basin – Design a new tank to store WAS from the MBR facility. The tank will include aeration and pumping facilities to deliver WAS to the existing dewatering building.
- ii. Conventional North Post Oak WWTP train:
 - a. Disc Filters – Design new filters for 10 MGD average flow, design will include considerations for the existing Biological Clarifier loadings.
 - b. Relift Pump Station – Design new pump station to lift flow to the filter facility at the North Post Oak WWTP.
- c. Develop liquids and solids process drawings based on above scope. Include process design information. Develop liquids and solids mass balance, and incorporate recycle streams into liquids process. Utilize biological model results developed in the master plan project.
- d. Develop P&IDs, Operating and Control descriptions, and equipment lists for above facilities. Up to 25 P&IDs are estimated.
- e. Develop equipment list with electrical loads. Coordinate electrical loads with the ongoing electrical rehabilitation project.
- f. Develop preliminary sizing and layouts for facilities in above list. Determine new buildings needed for mechanical equipment and electrical equipment. The City will provide input on building space criteria for operations and maintenance.
- g. Develop Piping Schedule with pipe sizes and materials for piping systems based on process and peak flow capacities.

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

- h. Develop Site Plan based on above facilities with roads, parking areas, and drainage concepts.
- i. Perform biological modeling for the plant to develop treatment requirements. Up to 24 modeling scenarios will be performed. Develop headworks loadings and constituent mass balances.
- j. Perform hydraulic modeling for the plant and develop a hydraulic profile drawing. Assess flow splitting for new facilities. Develop system head curves for each modified pump station and perform pump selections. Determine piping sizes and materials. Develop plant drain and plant water schematics.
- k. Perform alternative evaluations for the following items – other facility’s equipment will be designed to match existing facilities.
 - i. Blowers for the biological reactors (centrifugal vs. positive displacement)
 - ii. MBRs (Four manufacturers)
 - iii. Cloth Disc Filters (Two manufacturers)
- l. Prepare Preliminary Design Report
 - i. Include wastewater flow, concentration, and load analysis from Master Plan.
 - ii. Include biological model inputs, results, and assumptions from Master Plan.
- m. Prepare Preliminary Design Report and submit to TCEQ. Coordinate with TCEQ for approvals using CMAR construction
- n. Prepare 30% design drawings and specification list.

Deliverables: *Draft and Final Preliminary Design Report, 30% drawings, P&IDs*

B. TASK B: EQUIPMENT PRESELECTION

- a. In conjunction with Task C below, develop up to five equipment preselection or early procurement front-end document packages in coordination with City and CMAR to assist in obtaining equipment proposals for up to 20 equipment packages, including the following equipment. Additional packages may be added to the list based on input from the CMAR relative to market conditions at the time of design.
 - i. Preselection Package:
 - a. Coarse and Fine Screens
 - b. Grit Removal Equipment
 - c. Precast Wire Wound Prestressed Concrete Tanks
 - d. Bioreactor Mixers, Blowers, and Diffusers
 - e. Membrane Bioreactor Equipment
 - f. Effluent Filters
 - g. Chemical Storage and Feed Equipment
 - h. Electrical Switchgear

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

- i. Variable Speed Drives
- j. Mixing system for EQ Basin
- k. Mixing system for Sludge Storage Tanks
- l. Sludge Pumps (Positive Displacement)
- m. Influent and Sludge Pumps (Submersible)
- n. Programmable Logic Controller (PLC) Panels
- b. Develop equipment specifications for above equipment items. Develop performance requirements and information necessary for evaluation of proposals.
- c. Prepare opinions of probable construction costs for preselection materials
- d. Assist in solicitation of prospective material providers.
- e. Assist the City and CMAR during advertisement of equipment proposals. Respond to requests for information and prepare addendum items.
- f. Attend one prebid meeting and one proposal evaluation meeting with the City.
- g. Perform proposal reviews for conformance with the specifications and contract documents.
- h. Prepare proposal review summary and selection recommendation letters for each equipment item.
- i. Prepare notice of award letters and coordinate award with the CMAR. The CMAR will issue notice to proceed for shop drawing preparation and coordinate shop drawing submittals.
- j. Incorporate preselected equipment in the plans and specifications for the expansion.

Deliverables: *Pre-procurement Packages, RFI Response Documents during Bid Period,, Proposal Review Summaries, Vendor Recommendation Letters, Notice of Award, Meeting Minutes.*

C. TASK C: CMAR COORDINATION, EARLY OUT PACKAGES/SEQUENCING

- a. It is the City's intent based on Engineer's recommendation to deliver the Project using the CMAR delivery method. The CMAR will be initially contracted to provide pre-construction phase [Design Phase] services, including but not necessarily limited to the following efforts:
 - i. CMAR will develop and progressively update a detailed "open book" cost model based on current market conditions to confirm budgets and help guide design decisions.
 - ii. CMAR will develop a construction management plan and schedule in advance of construction.

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

- iii. CMAR will perform evaluations of cost, constructability, schedule, materials availability, etc. to be included in alternative system evaluations and provide constructability reviews.
- iv. CMAR will develop long-lead procurement strategies, including the pre-selected equipment, and initiate early procurement of these long-lead items in conjunction with Task B above.
- v. CMAR will provide any potholing or laser scanning activities required to support development of accurate design information, as identified by the Engineer.
- vi. CMAR will assist in the design and construction phase permitting processes, as required.
- vii. CMAR will provide procurement services for selection of key subcontractors and suppliers.
- viii. CMAR will develop a guaranteed maximum price (GMP) for construction for City review and consideration.
- b. Assuming City acceptance of the GMP, the CMAR will then provide all services required of a general contractor, including self-performance and subcontractor procurement and management, during subsequent construction and post-construction phases of the Project.
- c. The relationship between the CMAR and Engineer is intended to be collaborative and proactive, with both participating as advisors to the City during the pre-construction phase [Design Phase]. It is the City's desire and Engineer's recommendation to incorporate a contractor's perspective and input into the Project planning and design decisions, and to leverage the ability for early procurement and phased construction prior to full completion of design.
- d. CMAR Design Phase – The following tasks define the specific efforts to be performed and completed by the Engineer during the pre-construction phase [Design Phase] of the Project.
 - i. Cost Model and GMP Review.
 - a. Coordinate with CMAR, Program Manager, and City to provide input and information on materials, appurtenances and other major capital cost items throughout design phase. Review and comment on the initial cost model and subsequent cost model updates (based on 60% and 90% design submittals) developed by CMAR. Cost review activities will include a review

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

of direct and indirect costs, CMAR fee and CMAR contingency; review supplier and subcontractor quotes and request supplemental quotes, as necessary; compare costs with other applicable projects; and perform review of risk analysis model and/or cost contingencies developed by the CMAR. Indirect costs included in the CMAR cost model will include applicable general conditions and general requirements, bonds, insurance and sales tax. Using the cost models and GMP(s) as the basis for the total construction cost(s), coordinate with the City and program manager regarding additional City administrative costs, engineering fees, construction administration and inspection fees, and (if applicable) City contingency to develop a Total Construction Cost Estimate (TCCE).

- b. A parallel opinion of probable construction cost will be prepared by the Engineer at the 30%, 60% and 90% design milestones. Written recommendation(s) to City regarding opinion of GMP(s) acceptance (Electronic format only) will be provided by the Engineer.
- e. Early Procurement Activities: Coordinate with CMAR and City to develop an equipment and materials procurement plan, including identification of items to be selected and/or procured early based on “best value” or low-bid strategies, and define the parameters associated with “best value” selection as applicable. For those items selected for early procurement, specify the acceptable manufacturers and identify associated Bid Document requirements and incorporate into the preselected equipment packages.
 - i. Coordinate with CMAR to develop the preselection equipment packages and supporting design drawings for early procurement of major long-lead equipment items with the specific acceptable manufacturers. Coordinate with CMAR as part of the bidding process and prepare any addenda as required. Assist the City and CMAR with the review of the supplier proposals and bid packages and the subsequent selection process.
 - ii. CMAR shall be responsible for the packaging of front-end documents, technical specifications and applicable design drawings developed by Engineer; submittal of packages to applicable manufacturers and/or vendors; coordination of vendor proposals; pre-selection of equipment and appurtenances (with City and Engineer input); delivery of detailed design criteria and documents of selected equipment to Engineer for further use and incorporation into detailed design documents; and coordination of delivery, storage, and payment of procured items accordingly.

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

- iii. Early Procurement Design Document Packages (Electronic “PDF” format only) will be provided by the Engineer. Twenty “early-out” packages are included in this scope of service.
- f. General CMAR Coordination: In addition to efforts above, general coordination with CMAR during the pre-construction phase [Design Phase] will include, but not necessarily be limited to:
 - i. Coordination with City and Program Manager regarding development of the CMAR Construction and/or Post- Construction Phase contract, applicable City front-end documents, and Engineer’s Division 1 specifications.
 - ii. Soliciting input from CMAR during design development as appropriate.
 - iii. Coordinating any potholing or laser scanning activities by the CMAR required to support accurate development of design documents.
 - iv. Providing input to construction management plan and schedule development.
 - v. Evaluating alternative systems and materials proposed or suggested by CMAR.
 - vi. Responding to constructability review comments.
 - vii. Providing input to Maintenance of Plant Operations (MOPO) plan and schedule.
 - viii. *NOTE: Should the City be unable or unwilling to accept the CMAR GMP and instead decide to procure and deliver the Project using a traditional “design-bid-build” delivery method, subsequent modifications to the front-end documents, technical specifications, and associated design drawings specifically applicable to the City delivery method will be handled as Additional Services. Additional services for bidding, including preparation of Bid Document sets, participation on a pre-bid conference, responding to Bidder questions, preparing applicable addenda, attendance at the Bid opening, assistance in evaluation of Bids, and participation in a pre-construction conference with the selected General Contractor will also be handled as Additional Services, if desired by the City.*
- g. CMAR Advertisement/Selection Phase: Provide assistance and support City and Program Manager in selecting a CMAR.
 - i. Request for Qualifications: The Engineer shall review the CMAR Request for Qualifications (RFQ) document as part one of the two-step CMAR procurement process. This task includes one (1) coordination meeting with City to finalize the documents and establish minimum contractor qualifications.

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

- ii. Request For Proposals: The Engineer shall review the CMAR Request For Proposals (RFP) document and scoring rubric as part two of the two-step CMAR procurement process. This task includes one (1) coordination meeting with City to finalize the documents and establish selection criteria by which to evaluate the submitted CMAR proposals.
- iii. Selection Assistance: The Engineer shall provide City technical assistance for the two-step CMAR procurement process to support City in the review and selection of the CMAR. This task includes one (1) coordination meeting with City to review the scoring of submittals.
- iv. Contract Development: The Engineer shall review the CMAR contract document using the Engineers Joint Contract Documents Committee (EJCDC) contract template as a basis. This task includes one (1) coordination meeting with City to review the documents. City will provide legal review of the contract documents and provide the Engineer with any applicable legal opinions needed during the contract development process.

D. TASK D: FINAL DESIGN

- a. **Delete** the design drawings and specifications for the expansion of the Post Oak WWTP as provided in Amendment No. 1.
- b. Based on the Preliminary Design, Equipment Preselection, and Coordination with the CMAR, the Engineer shall prepare for approval by the City Drawings and Specifications that set forth in detail the requirements for the construction of the Project and comply with applicable laws, statutes, ordinances, codes, and regulations.
- c. Contract Documents: The Engineer shall assist the City and CMAR in preparation of necessary bidding information, and bidding forms. Engineer will use the City's "front-end" and EJCDC documents for the Project. Engineer will use the Engineer's technical specifications.
- d. Opinion of Probable Construction Cost: The Engineer shall provide updates to the opinions of cost prepared during preliminary design and compare it with the opinion of cost prepared by the CMAR prior to early out packages and at the 30-percent, 60-percent, and 90-percent phases.
- e. Submit plans, specifications, and contract documents to the applicable federal and state agency(s) for approval, where required.

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

- f. Coordinate with utility companies and furnish such information necessary to utility companies whose facilities may be affected, or services may be required for the Project.

Deliverables: 60%, 90% and 100% (Issued for Construction/IFC) documents, Engineer review comments on CMAR cost estimates, meeting minutes.

E. TASK E: MEETINGS AND WORKSHOPS AND PROJECT MANAGEMENT

- a. Meetings and Workshops:
 - i. Schedule and direct regular coordination meetings with the design team to coordinate project task assignments, action items, and to prepare for progress meetings with the City. Engineer will maintain an Action Item Log and Decision Log to monitor project activity. Coordinate with subconsultants to confirm all project elements are compatible, integrated, and meet City performance requirements.
 - ii. Schedule and direct weekly progress meetings with the City, Program Manager, CMAR, and design team to review and discuss design development progress with plant operations staff, discuss deliverable status, schedule, outstanding action items, and decisions made. Coordinate with the selected CMAR contractor during progress meetings. Engineer will prepare draft meeting minutes to include action lists and decision lists.
 - iii. Discipline Design Coordination Meetings: Participate in up to 30 meetings with subconsultants to coordinate specific discipline requirements (such as structural, architectural, building mechanical) for design.
 - iv. Additional Site Visits: Attend up to twelve (12) additional visits to the plant site, not associated with the Review Workshops.
 - v. Task Force Meetings: Participate in up to 8 task force meetings per week through 60-percent design related to project areas such as document management, project management, procurement, process design, etc. Task force meetings will be scheduled and conducted by the CMAR.
 - vi. QC Review Meetings: plan and participate in two internal QC meetings with the design team. The meetings will be held at approximately the 60 percent and 90 percent project completion stages.

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

- vii. Review Workshops: Plan and participate in two (2) review workshops with the design team, Program Manager, and City to review the 60 percent and 90 percent deliverables.
- b. Project Management:
 - i. Project administration will include but not be limited to developing and implementing a project management plan; tracking and managing internal schedules of work; monitoring and addressing issues related to the scope of work, budget and deliverables; preparing and processing monthly billings; providing labor resources necessary to fulfill scoped work; scheduling and participating in quality control reviews; and providing updates to the City on a regular basis. A standard monthly invoice and progress reports will be prepared for all services.

F. TASK F: REGULATORY & PERMITTING

- a. Coordinate with ongoing permitting projects and comply with any applicable state and local limits.
- b. Coordinate with the City, CMAR, Program Manager and the TCEQ to expedite review and approval of design packages. This coordination will require both formal and informal meetings, by phone, virtual MS Teams meetings or in-person meetings. This activity includes the following tasks:
- c. Coordination with City and Program Manager
 - i. Meet with the City and Program Manager at the initiation of the project and, at the discretion of the City and Program Manager, periodically during the duration of the project. The purpose of the initial meeting is to present the regulatory approach for coordinating with the TCEQ and obtaining approval of the plans and specifications. Subsequent meetings will be conducted to discuss status of approvals and to prepare for meetings with the TCEQ. Meetings may be convened either by phone, MS, Teams or in-person. In-person meetings will occur at the City's offices.
- d. Coordination with TCEQ
 - i. Prepare for and attend one review meeting with the TCEQ's Plan Review Team in Austin. The TCEQ review meeting will be held when the process design for the new facilities is approximately 90% complete and will include a review of the project design criteria, projected wastewater flow and load increases, and potential variances to TCEQ design criteria for wastewater treatment plants. The

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

purpose of the meeting will be to inform TCEQ of the treatment plant improvement scope and schedule, and prepare the TCEQ for an unconventional project delivery method (CMAR) of the facilities.

- ii. The scope of work also includes up to four (4) additional coordination meetings with the TCEQ during the design and construction phases corresponding with the CMAR's phases of construction (e.g. facilities requiring early completion, facilities requiring normal completion, and the remaining facilities). The purpose of the review meetings is to coordinate and answer questions related to the design packages and the overall schedule of the construction project. Meetings will be convened either by phone, MS Teams, or in person. In-person meetings will be convened at the TCEQ offices in Austin.

e. Coordination with the CMAR

- i. Prepare for and attend periodic meetings with the CMAR to coordinate regulatory approval for construction. Meetings will be convened either by phone, MS Teams, or in-person. Coordinate meetings with the City and Program Manager.

Deliverables: *Meeting agendas, draft meeting notes, revised meeting notes.*

III. TASK SUMMARY, SPECIAL SERVICES

G. TASK G: CONSTRUCTION ADMINISTRATION SERVICES

a. General Construction Administration Phase services

- i. The scope of Construction Administration Services is based on a construction timeframe of eighteen (18) months from construction Notice to Proceed to construction substantial completion and twenty-one (21) months from construction Notice to Proceed to construction final completion.
- ii. Construction Phase duties, responsibilities, and limitations of the Engineer shall not be restricted, modified, or extended without agreement of the City and Engineer in writing.
- iii. The City's approval, acceptance, use of, or payments for all or any part of Engineer's services hereunder or the Project itself shall in no way alter the Engineer's obligations to the City's rights herein.
- iv. The Engineer shall be a representative of and shall advise and consult the City during construction. The Engineer shall have the authority to act on behalf of the

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

City only to the extent provided in this Agreement, unless otherwise modified by written instrument.

b. Engineer's Personnel at the Construction Site

- i. The presence and duties of Engineer's personnel at a construction site, whether as onsite representative or otherwise, do not make the Engineer or its personnel in any way responsible for those duties that belong to the City and/or construction contractors or other entities, and do not relieve the construction contractors or any other entity from their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the contract documents and any health and/or safety precautions related to such construction work.
- ii. Engineer and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health and/or safety precautions related to such work and have no duty for inspecting, noting, observing, correcting, or reporting on health and/or safety deficiencies of the construction contractors or other persons at the site except Engineer's own personnel.
- iii. The presence of the Engineer's personnel at a construction site is for the purpose of providing the Engineer and the City a greater degree of confidence that the completed work will conform generally to the contract documents and that the integrity of the design concept, as reflected in the contract documents, has been implemented and preserved. The Engineer neither guarantees the performance of any construction contractor nor assumes responsibility for contractor's failure to perform the work in accordance with the contract documents.

c. Internet-based Construction Management

- i. The Engineer will utilize the management software provided by the CMAR contractor for this project.

d. Pre-Construction Conference

- i. The Engineer shall conduct a pre-construction conference for the Project. Meeting shall be conducted with the City and contractor at the City's facility. At a minimum, the following items will be discussed at the pre-construction conference:

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

- a. The construction schedules prepared by the contractor;
- b. Schedule of values and payment procedures and schedules;
- c. Designation of key personnel and their duties; and
- d. Procedures for the construction administration of the Project.
- e. Construction Progress Meetings
 - i. The Engineer 's project manager and project engineer will participate in monthly construction progress meetings for the Project.
 - ii. The Engineer will prepare and distribute agendas and meetings notes for each meeting.
 - iii. Additional site visits beyond those listed will be a Special Service and the Engineer shall be entitled to additional compensation.
- f. Shop Drawings and Submittal Review
 - i. The Engineer will review samples; catalog data; schedules; shop drawings; laboratory, shop, and mill tests of materials and equipment; and other data pursuant to the general conditions of the construction contract. Review quality related documents provided by the contractor such as test reports, equipment installation reports, or other documentation required by the construction contract documents. This review is for the benefit of the City and covers only general compliance with the information given by the construction contract documents. This review does not relieve the contractor of any responsibilities such as dimensions to be confirmed and correlated at the job site, appropriate safety measures to protect the workers and the public, or the necessary to construct and complete a workable facility in accordance with the construction contract documents.
 - ii. The fee is based on review of up to five hundred (500) submittals.
 - iii. Additional submittal reviews beyond those listed will be a Special Service and the Engineer shall be entitled to additional compensation.
- g. Requests for Information
 - i. The Engineer will interpret the intent of the plans and specifications and respond to requests for information (RFIs) for the City and contractors.
 - ii. The fee is based on processing up to four hundred (400) RFIs.

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

- iii. Additional RFI responses beyond those listed will be a Special service and the Engineer shall be entitled to additional compensation.
- h. Contract Modifications
 - i. The Engineer will review contract modification requests (CMRs) and prepare proposed contract modifications (PCMs) for items identified during construction that are necessary or requested by the City or contractor but are not in accordance with the construction documents.
 - ii. The Engineer will prepare documentation for construction modifications required to implement modifications in the design of the Project.
 - iii. The fee is based on processing up to a total of one hundred twenty (120) CMRs, PCMs, field/change orders, and work change directives (WCDs).
 - iv. Additional contract modifications beyond those listed will be a Special service and the Engineer shall be entitled to additional compensation.
 - v. Investigations, analyses, studies, or design for substitutions of equipment or materials, corrections of defective or deficient work of the contractor or other deviations from the construction contract documents requested by the contractor and approved by the City are a Special Service. Substitutions of materials or equipment or design modifications requested by the City are a Special Service and the Engineer shall be entitled to additional compensation.
- i. Pay Estimates
 - i. The Engineer will review and comment on a maximum of twenty-one (21) estimates for payment to contractor, pursuant to the general conditions of the construction contract. Recommendations by the Engineer to the City for periodic construction progress payments to the construction contractor will be based on the Engineer's knowledge, information, and belief from selective sampling that the work has progressed to the point indicated. Such recommendations do not represent: that continuous or detailed examinations have been made by the Engineer to ascertain that the construction contractor has completed the work in accordance with the contract documents; that the final work will be acceptable in all aspects; that the Engineer has made an examination to ascertain how or for what purpose the construction contractor has used the monies paid; that title to any of the work, materials, or equipment passed to the City free and clear of liens, claims, security interested, or encumbrances; or that there are no other matters

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

at issue between the City and the construction contractor that affect the amount that should be paid.

j. Substantial and Final Review

- i. The Engineer will conduct, in the company of the City's representative, a substantial completion review for the project for conformance with the design concept of the project and general compliance with the contract documents and provide a list of deficiencies to the contractor. Three (3) interim phase and one overall substantial review site visits are anticipated.
- ii. The Engineer will conduct, in the company of the City's representative, a final review for the project for conformance with the design concept of the project and general compliance with the contract documents, verify that items identified on the deficiency list from the substantial completion review have been completed, and make recommendation for final payment to the contractor. Three (3) interim phase and one overall final review site visits are anticipated.

k. Record Drawings

- i. The contractor will provide to the Engineer red-line drawings for use in the development of the record drawings. In the event that the contractor does not provide adequate red-line drawings and the Engineer must develop the record drawings based on in-depth investigation and research will be considered a Special Service.
- ii. The Engineer will revise the construction drawings in accordance with the information furnished by the contractor reflecting changes to the project made during construction. Record drawings are defined as the drawings produced by the Engineer's modifications to the original design drawings to reflect the changes during the construction.
- iii. The Engineer shall prepare record drawings, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the project was finally constructed.
- iv. The Engineer is not responsible for any errors or omissions in the information from others that are incorporated into the record drawings.

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

- v. Record drawings for the project will be issued by the ENGINEER within sixty (60) days after the comments and markups are provided by the contractor, and the City.
- vi. The Engineer will provide the City with digital copies in Adobe PDF on compact disc, two (2) half-sized (11" x 17") sets of plans (bound, bond), and two digital copies on USB drives to the City. No technical specification books will be provided in paper but will be on USB drives.

H. TASK H: SUPPORT SERVICES – SURVEY AND GEOTECH (IF NEEDED FOR EXISTING SITE)

- a. Surveying Services: Engineer with coordinate surveying services for the following:
 - i. Engineer will provide and coordinate land survey at location for the WWTP sites as required to perform the design.
 - ii. The survey will base horizontal and vertical control on the treatment plant benchmark coordinates and datum. Survey measurements will be based on NAD 83 state plane coordinates.
 - iii. Survey will produce a topographical survey of project area to map utilities and existing structures. The survey will include contours shown at one-foot intervals, plotted locations of structures, paving, visible improvements, and utility information based on surface evidence.
- b. Geotechnical Engineering: Engineer will coordinate and subcontract Geotechnical services for the collection and analysis of up to twelve (12) locations and provide a draft and final geotechnical report for foundation design recommendations.
 - i.

I. TASK I: CONSTRUCTION MANAGEMENT AND RESIDENT PROJECT REPRESENTATIVE SERVICES

- a. General services:
 - i. Represent the City's interests in administering a CMAR contract with both overall construction oversight and daily on-site representation for the CMAR contractor's construction activity. The requested services include documentation and reporting to the City and Program Manager the issues and status relating to the CMAR contractor's work.
 - ii. Provide the staff necessary to perform the construction management and on-site representation as outlined below and for the Project. Construction Manager and subconsultants will provide these services for an anticipated period of 21 months.

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

Services assumed to begin December 2023 and end in August 2025. Initial planning level assumption is for the following contract positions:

- a. Senior Construction Manager (CM) – Overall oversight and representative of the Construction Management firm in contractual and performance issues. Responsible in charge of day-to-day inspection, schedule review, and coordinating quality assurance testing of contractor, and construction activity. Detailed task coordination with CMAR contractor, the City's project manager, the Program Manager (PM), construction observation staff, and the Construction Materials Testing (CMT) firm.
- b. Assistant CM and Document Support – Work directly under the CM and assist with CM duties as required on the project and administer movement and proper filing of project documents handled by Construction Manager.
- c. On-site representatives – Work directly under the CM, and in coordination with City's Project Manager and Program Manager, observe and document construction performance in accordance with the Contract Documents. Also provide comments and advice to the City and Program Manager on the CMAR contractor's performance with regard to industry standard practices. This scope includes up to 6 full-time inspectors across the following disciplines: civil, mechanical, electrical, and instrumentation and controls.
- d. Construction Materials Testing (CMT) – The CMT will not be subcontracted to the CM, but the CM will coordinate with the CMT, city Project Manager, Program Manager and CMAR to provide quality assurance testing in accordance with the Contract Documents.
- iii. Establish and manage the Construction Management Team.
- iv. Develop and maintain a Construction Management Plan.
- v. Store all project related records in the CMAR Project Management Information System (PMIS), for required document retention purposes.
- vi. Quality Assurance and Quality Control:
 - a. Disseminate pertinent project information internally and externally, implement Quality Assurance (QA) and Quality Control (QC) measures, and submit deliverables as required per the agreed-upon project schedule.
- vii. Communication:
 - a. Establish communication procedures and protocol with the City, Contractor, Inspectors, Engineer of Record (EOR), and CMT.
 - b. Conduct weekly construction progress meetings with City, CM, Contractor to exchange information regarding progress of construction, safety or quality concerns, status of submittals, status of modifications, and to

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

address any project related issues. Prepare agenda and minutes related to these meetings. One of the weekly construction progress meetings will serve as the monthly project meetings with City, EOR, Contractors, and CM Team for the benefit of the City Staff to provide overview of progress of construction and to discuss any major project issues. Intent of this meeting is for additional City and other staff to attend as desired without having to be involved in the bi-weekly meetings where specific project details are discussed.

- c. Develop and distribute meeting agendas, workshop planning information and handouts, and other applicable information pertaining to each specific meeting or workshop.
- d. Record meeting minutes, send a draft to meeting attendees for review, and distribute final meeting minutes after incorporating changes and comments.
- e. Provide weekly emails to City and EOR summarizing the work completed for the week including photos as appropriate and outlining work to be completed the following week.

viii. Cost Management:

- a. Review proposed schedule of values and payment requests prepared by CMAR Contractor. CM will review pay requests monthly and recommend payments at the intervals required by the Program Manager.
- b. Coordinate with City, Program Manager, and CMAR Contractor to establish a basis and procedure for review of monthly quantities of work in place and payment requests.

ix. Schedule Management:

- a. Review approved baseline schedules, "look-ahead" schedules, and monthly construction progress schedules prepared by the CMAR Contractor.
- b. Monitor progress of actual work completed relative to planned progress and address any identified schedule slippage or other anomalies with Contractor. Collaborate with the Contractor to develop a recovery schedule if tasks on the critical path continue to slip.
- c. Review each monthly schedule submittal and provide comments related to the requirements of the Contract Documents. Analyze each schedule to identify changes over the previous month's schedule, including tasks that are behind schedule, tasks that have not yet started, changes in float, critical path, and task relationships.

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

- d. Develop a monthly Schedule Review Memo that identifies any significant changes to the schedule (critical path, float, reporting relationships, etc.), tasks that are behind schedule, and tasks that are at risk of falling behind schedule. The memo will be transmitted to the Contractor followed by a discussion with the Contractor during the monthly coordination meetings.
 - e. The memo will be transmitted electronically to the City and saved to the program PMIS site.
- x. Project Status Reports and Invoicing:
 - a. Provide written project status reports to the City once per month throughout the duration of the project. Project status reports will include, at a minimum, a summary description of activities completed, description of activities planned for the next 30 days, financial status of the project, status of schedule for the project, and identification of any technical or other issues which may have an impact on the overall project budget and/or schedule. Project status reports will be provided to the City with each invoice.
 - b. Submit invoices monthly along with the project status report referenced above.
- xi. Issues Management:
 - a. Provide initial interpretation of the drawings and specifications and coordinate with EOR to develop official interpretation for City and CMAR Contractor. Track and coordinate the resolution of all project and program related issues. An Issues Log will be saved to the Program PMIS site.
- xii. Change Management:
 - a. Establish procedures for administering constructive changes to the construction contracts, which will be documented in the Construction Management Plan.
 - b. Prepare documentation for contract modifications required to implement modifications in the design of the project, including the summary memo. Coordinate with the EOR for technical review and approval of any design modifications, and all design modifications will have the EOR seal affixed.
 - c. Process contract modifications and negotiate with the Contractor in conjunction with and on behalf of the City to determine the cost and time impacts of these changes. Prepare change order documentation for approved changes for execution by the City.
 - d. Receive and evaluate notices of Contractor claims and make recommendations to the City on the merit and value of the claim on the basis of information submitted by the Contractor or available in project

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

documentation. Endeavor to negotiate a settlement value with the Contractor in conjunction with and on behalf of the City.

xiii. Project Completion:

- a. When Contractor requests that substantial completion be granted for the Project (or applicable portions thereof), the Construction Manager will conduct, in company with City's representative, a review of the Project for conformance with the design concept of the Project and general compliance with the construction contract documents. Coordinate with EOR as appropriate regarding any reviews of the work that are deemed necessary. Support the EOR in the development of a list of deficiencies to be corrected by the Contractor before recommending Substantial Completion be granted and/or any partial release or reduction of retainage is made.
- b. Support the EOR in conducting a final review of the Project for conformance with the design concept of the Projects and general compliance with the construction contract documents.
- c. Support the EOR in obtaining legal releases, permits, warranties, spare parts, O&M manuals, as-built drawings, and keys from the Contractor. Review closeout submittals and other documents and make recommendation for final payment to Contractor when appropriate.

xiv. Record Documents

- a. Receive and review record drawings from Contractor. Transmit drawings and other documents as needed to EOR for preparation of "Record Drawings," indicating locations of project elements and final built conditions of project components. Drawings prepared by incorporating notes, Contractor field notes and City field notes taken at the project during the construction process.

b. Construction Management Roles

i. Construction Manager / Assistant Construction Manager:

- a. Construction Managers will manage and administer the day-to-day requirements of the Projects and coordinate regularly with the City's Program Manager.
- b. CM will serve as the liaison between the City, the CMAR/Contractor, and the EOR. The CM provide leadership to the assigned Inspectors in the performance of their inspection duties.
- c. Primary responsibilities of CM include the following:
 - 1) Serve as the primary point of contact, with primary responsibility for construction contract administration and quality assurance.

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

- 2) Provide direction and manage the efforts of Inspectors. Manage Inspectors as a resource across construction tasks.
- 3) Manage the quality of services provided by Inspectors to determine that their duties are performed in a timely manner.
- 4) Work with City staff when needed to coordinate construction activities that may impact the City's ongoing operations. Coordinate upcoming shut-downs at the plant site and coordinate with the City's Project Manager to prepare a Shut-Down Request Form following the City's policies and procedures.
- 5) Attend progress meetings and report on project progress.
- 6) Review daily construction reports prepared by the Inspectors and discuss any issues noted with the Inspector and other parties as required.
- 7) Monitor overall construction of the project and determine that construction is in conformance with Contract Documents. Recognize when an issue might impact or improve scheduling or construction operation on another known efforts and bring this to the attention of the City's Project Manager.
- 8) Coordinate with Contractor to resolve any issues or disputes related to construction. Support the City's Project Manager in the resolution of any disputes or claims that cannot be resolved at the field level.
- 9) Support administration and negotiations of claims with Contractor with support from the EOR.
- 10) Recognize risk elements of the risk management plan and initiate countermeasures as directed.
- 11) Provide progress reports to the City Project Manager for updating and presentation purposes to City upper management and the Board.
- 12) Manage the efforts of the construction materials testing laboratories and technicians.
- 13) Coordinate with document management staff to verify that all documentation is filed properly in both digital and hard copy files as required.
- 14) Verify that the inspectors have reviewed the quantities of work in place, review the payment requests and supporting documentation, and recommend the amount the CMAR/Contractor be paid on monthly and final payment requests.
- 15) Administer Construction Contracts: Prepare project documentation in accordance with the contract documents.

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

- 16) Manage the receipt, logging, control, tracking, and timely processing of all Project documents using the CMAR's Project Management Information System (PMIS).
- 17) Schedule and conduct construction progress meetings with CMAR/Contractor, City, EOR, and other staff.
- 18) Attend other on-site project related construction meetings, as needed.
- 19) Review Shop Drawings received from the Contractor for conformance with the Contract Documents' submittal requirements and administrative completeness. Distribute shop drawings to the appropriate EOR staff and monitor the responsiveness of the EOR during the review process.
- 20) Work directly with the EOR to see that documentation and submittals provided for review are returned with adequate and timely written review comments. Determine that design issues related to requests for information on construction documents, Shop Drawing reviews, and proposed contract modifications are adequately addressed.
- 21) Consolidate written comments on Shop Drawings and other submittals by the EOR and return to the Contractor.
- 22) Review Contractor Requests for Information. Distribute requests to inspectors, City PM, other appropriate staff, and EOR when applicable and coordinate timely response. Review answers and prepare formal response to Contractor pursuant to contract documents.
- 23) Prepare notices of defective work. Coordinate the resolution of non-compliant work with the Contractor, and the City. Document and follow up on non-conforming work to determine that acceptable correction of defects is accomplished.
- 24) Initiate and review field orders. Record the changes in the record contract documents.
- 25) Coordinate evaluation of product substitution requests with City staff, and the EOR.
- 26) Administer and manage resolution of day-to-day construction issues. Coordinate with the CITY PM, EOR, and Contractor on technical issues and concerns working to resolve disputes at the Project level and keep Construction Manager informed of issues.
- 27) Review schedules presented in accordance with the Contract Documents. Coordinate with a P6 schedule analyst monthly to review and report on the contractor's P6 schedule.

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

- 28) Review and coordinate approval of a Schedule of Values. Conduct monthly schedule and progress payment meetings with the Contractor. Work with the Contractor to have pay requests ready for City processing in accordance with the Contract Documents. Determine that documentation required for measurement for payment of work is in place and that the materials on hand are accurate.
- 29) Implement the Change Management process in accordance with the Contract Documents. Prepare Requests for a Change Proposals for City initiated changes to the work. Respond to Contractor's Change Proposals. Prepare written justification statements and include cost estimates for each Change Proposal. Include a description of the background explaining the reason for the change, resolution alternatives, and resolution recommendation for action by the City. Prepare and submit Change Request Form and the justification memo with all of the appropriate back-up information in accordance with the Contract Documents and City Policy. Change Orders and Contract Amendments require approval from the City.
- 30) Maintain a working set of record documents. Determine that measurements required for record documents are taken before work is covered.
- 31) Take photographs to document differing site conditions, change order and claim items, and any special or unique conditions as they arise.
- 32) Manage Project completion activities as required by the Contract Documents.
- 33) Manage the process of closing out the construction contract.
- 34) Recommend acceptance of the work in writing in preparation of issuance of the Certificate of Substantial Completion, recommendation to the Board, Notice of Completion, and the City's Internal Notice of Completion.
- 35) Prepare final Change Orders as required. Classify and summarize the change orders and include in the final construction summary report.
- 36) Prepare an Internal Notice of Completion addressed to the City's Operations and Maintenance Department.
- 37) Coordinate with the City's Project Manager to assist with the development of a list of deficiencies to be corrected by the Contractor before recommendation of final payment.

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

- 38) Coordinate with the Contractor to provide O&M Manuals to the City and training is developed and delivered to City Staff in a timely manner.
- ii. On-Site Representatives:
- a. Provide Civil, Structural, Electrical, and Instrumentation & Controls inspection services.
 - b. Primary responsibilities of Inspectors include the following:
 - 1) Serve as point of contact for the CM, with primary responsibility for construction quality assurance.
 - 2) Observe construction work daily to determine that construction is in conformance with Construction Contract Documents. In this effort the On-Site Representatives will endeavor to protect the City against defects and deficiencies in the work of contractor.
 - 3) Prepare Daily Construction Reports (DCRs) documenting daily construction activities in PMIS, number of construction staff on site, equipment staged and/or operating on site, visitors to the site, discussions of any field issues with any parties, and any other information pertinent to or potentially impacting the Project.
 - 4) Assist the CM and the CITY staff when needed to coordinate construction activities that may impact the CITY's ongoing operations.
 - 5) Coordinate the efforts of CMT laboratories and technicians.
 - 6) Verify quantities of work in place and assist CM in the review of the payment requests and supporting documentation.
 - 7) Attend periodic project coordination meetings (semi-monthly or monthly) when requested by the CM to provide updates and inputs on construction progress and issues as appropriate.
 - 8) Attend other project related construction meetings as needed.
 - 9) Assist CM in preparation of notices of defective work. Assist in coordinating the resolution of non-compliant work with the contractor. Document and follow up on non-conforming work to determine that acceptable correction of defects is accomplished.
 - 10) Maintain a working set of record documents. Determine that measurements required for record documents are taken before work is covered.
 - 11) Take photographs to document differing site conditions, change order and claim items, and any special or unique conditions as they arise.
- iii. Administrative Assistant (AA):

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

- a. The Administrative Assistant will provide administrative support for the Construction Manager and On-site Project Representatives.
- b. Edits, formats, and finalizes project-related documents, including outsourcing where necessary for binding and/or copying services.
- c. Assist CM with on-boarding new on-site representatives.
- d. Helps maintain inventory of office supplies.
- e. Primary responsibilities of AA include the following:
 - 1) Assist CM with scheduling and coordinating meetings and video calls. Attend progress meetings and other on-site meetings in support of the CM to assist with the development of agendas and the preparation and distribution of meeting notes.
 - 2) Assist in the preparation of daily reports. Review reports and correct for formatting and work with RPRs and CMs to provide missing information as necessary.
 - 3) Assist CM with development of progress reports.
 - 4) Assist CM with contacting and coordinating CMT services.
 - 5) Assist document management staff to verify that all documentation is filed properly in both digital and hard copy files as required at the project level and the program level (SharePoint).
 - 6) Assist CM with the receipt, logging, control, tracking, and timely processing of all Project documents using the CMAR's PMIS at the project level and the Program Manager at the program level (SharePoint).
 - 7) Assist CM with collecting submittal review comments from reviewers.
 - 8) Assist CM in preparation of notices of defective work.
- c. Limitations of Authority of Construction Management:
 - i. The CM will not authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items), unless authorized by City and EOR via Change Order, Field Order, or other written authorization for or-equal items.
 - ii. The CM will not exceed the authority as set forth in Agreement or the Contract Documents.
 - iii. The CM will not undertake any of the responsibilities of CMAR Contractor, Subcontractor, Suppliers, or CMAR Contractor's superintendent.
 - iv. On site representative services do not relieve the CMAR Contractor of its contractual responsibility for construction quality.
 - v. The CM will not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences, or procedures of

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

construction unless such advice or directions are specifically required by the Contract Documents.

- vi. The CM will not advise on; issue directions regarding or assume control over safety precautions and programs in connection with the Work or any activities or operations of City or Contractor.
- d. Schedule:
 - i. Refer to the enclosed schedule for the assumed "Construction Management On-Site Personnel". The following list is a summary of the enclosed schedule.

Position	Budgeted Hours this Amendment*	Calculated Total Hours**
Construction Manager/Lead Inspector	2220	3600
Assistant CM	2400	4140
On-Site Representative 1	2050	3360
On-Site Representative 2	1850	3140
On-Site Representative 3	1850	2850
On-Site Representative 4 (EI&C)	950	2050
On-Site Representative (Seasonal) 1	0	800
On-Site Representative (Seasonal) 2	0	800
On-Site Engineer – Part Time	680	984
On-Site Administrative Assistant	1320	2160

*Assumes a work schedule of 5 days per week, 10 hours per day, and 12 months of the construction period and does not include additional seasonal shift work during the summer.

**Assumes a work schedule of 6 days per week and 10 hours per day, and 21 month duration.

- ii. CM will include a summary of hours worked in each monthly report. The CM will notify the City and Program Manager if longer or additional shifts are required causing the actual work hours to exceed the total estimated hours in this proposal. CM will prepare an amendment to the contract for compensation for additional hours.
- e. Deliverables:
 - i. Construction Management Plan (saved electronically and/or the Program PMIS site).
 - ii. Documentation and Summary Memos for Allowance, Contingency, and Change Order Requests.
 - iii. Monthly Schedule Review Memos (submitted electrically by email and saved to PMIS and/or the Program PMIS site).

EXHIBIT A2
AMENDMENT NO. 2 - SCOPE OF SERVICES

- iv. Monthly invoices and Project Status Reports (submitted electrically by email and saved to PMIS and/or the Program PMIS site).
- v. Meeting Agendas and Meeting Minutes.
- vi. Daily Construction Reports, including photos, will be loaded into PMIS.
- f. Recurring Meetings:
 - i. Bi-weekly construction progress meetings with City, CM, Contractor to discuss construction specific topics.
 - ii. Monthly project meetings with City, Contractor, EOR, and CM Team for the benefit of the City Staff to provide overview of progress of construction and to discuss any major project issues.

EXHIBIT B1
AMENDMENT NO. 2 - PROJECT DESIGN BUDGET SUMMARY

I. Basic Services (Lump Sum)

	Scope Item – South WWTP MBR	Fee
A	Preliminary Design	\$ 566,044
B	Equipment Preselection	\$ 566,845
C	CMAR Coordination	\$ 313,282
D	Final Design	\$ 3,521,542
E	PM & Meetings	\$ 257,627
F	Regulatory & Permitting	\$ 0
Total Basic Services Amendment No. 2:		\$ 5,225,340

II. Special Services (Time & Materials)

	Scope Item – South WWTP MBR	Fee
G	Construction Administration Services	\$ 302,407
H	Support Services - Geotech, Survey	-\$ 53,500
I	Construction Management and Resident Project Representative Services (through first 12 months of construction)	\$ 3,000,000
Total Special Services Amendment No. 2:		\$ 3,248,907

TOTAL AMENDMENT NO. 2 NOT TO EXCEED	\$ 8,474,247
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RESOLUTION NO. 7065

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH PLUMMER ASSOCIATES, INC. FOR ENGINEERING SERVICES FOR DESIGN OF THE WASTEWATER TREATMENT AND WATER REUSE MASTER PLAN PROJECT; 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 Amendment No. 1 to the Professional Services Agreement with Plummer Associates, Inc. for engineering services for the design of the Wastewater Treatment and Water Reuse Master Plan Project, 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.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS on this the 1st day of May 2023.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: Linda Ashby
LINDA ASHBY, CITY CLERK

BY: David Plyler
DAVID PLYLER, MAYOR

APPROVED AS TO
FORM AND CONTENT:
THE LAW FIRM OF ABERNATHY,
ROEDER, BOYD & HULLETT, P.C.

BY: Ryan D. Pittman
RYAN D. PITTMAN, CITY ATTORNEY

AMENDMENT NO. 1

TO THE PROFESSIONAL SERVICES AGREEMENT FOR ENGINEERING DESIGN SERVICES BETWEEN
THE CITY OF SHERMAN (OWNER) AND PLUMMER ASSOCIATES, INC. (ENGINEER)
FOR THE WASTEWATER TREATMENT AND WATER REUSE MASTER PLAN PROJECT

Dated June 6, 2022 ("Original Agreement")

This Amendment No. 1 serves to increase the original contract fees under the Original \$2,073,011 Agreement based on the following **additional** work to the project scope as detailed in the attached Exhibit A1: "Amendment 1 - Scope of Services." The new total professional services shall now be \$13,442,942.

The contract amount under the Original Agreement shall be increased by a fee not to exceed \$11,369,931 as presented in the attached Exhibit B1: "Amendment 1 – Project Design Budget Summary."

I. Basic Services

	Scope Item – Post Oak WWTP Improvements	Fee
A	Preliminary Design	\$ 1,083,059
B	Equipment Preselection	\$ 346,557
C	CMAR Coordination	\$ 337,530
D	Final Design	\$ 4,143,375
E	PM & Meetings	\$ 1,109,023
F	Regulatory & Permitting	\$ 137,274
Total Basic Services Amendment No. 1:		\$ 7,156,818

II. Special Services

	Scope Item – Post Oak WWTP Improvements	Fee
G	Construction Administration	\$ 4,000,000
H	Support Services - Geotech, Survey, SUE	\$ 213,113
Total Special Services Amendment No. 1:		\$ 4,213,113

TOTAL AMENDMENT NO. 1 NOT TO EXCEED (LUMP SUM)	\$ 11,369,931
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The contract completion date shall be extended to March 31, 2026.

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This Amendment No. 1 shall be effective on the date it is executed by the last party to execute it. The OWNER and ENGINEER hereby agree to amend the Proposed Fees section of this Original Agreement to read as follows:

Proposed Fees

Engineer shall be compensated on the following lump sum basis. Additional Services shall be performed based on the attached 2023 rate schedule.

Basic Services	Fee
Wastewater Treatment and Water Reuse Master Plan	\$ 1,488,011
Amendment 1 -Post Oak WWTP Improvements	\$ 7,156,818
Total Basic Services:	\$ 8,644,829
Special Services	Fee
Wastewater Treatment and Water Reuse Master Plan	\$ 585,000
Amendment 1 – Post Oak WWTP Improvements	\$ 4,213,113
Total Special Services:	\$ 4,798,113
TOTAL NOT TO EXCEED (LUMP SUM)	\$ 13,442,942

The parties hereby ratify and confirm all of the terms, provisions, covenants and conditions of the Original Agreement and acknowledge and agree that the Original Agreement remains in full force and effect, except as amended in this Amendment No. 1. To the extent that any provision contained herein conflicts with the Original Agreement, the provision contained herein shall supersede such conflicting provision contained in the Original Agreement. This Amendment No. 1 and the Original Agreement contain the entire agreement of the parties with respect to the matters contained herein. This Amendment No. 1 may not be modified or terminated except upon the provisions hereof or by the mutual written agreement of the Parties hereto.

[Rest of page left intentionally blank]

EXECUTED in three (3) counterparts (each of which is an original) on behalf of ENGINEER shown below, and on behalf of the OWNER by its City Manager (thereunto duly authorized) this 12 day of May, 2023.

OWNER:
CITY OF SHERMAN, TEXAS

ENGINEER:
PLUMMER ASSOCIATES, INC



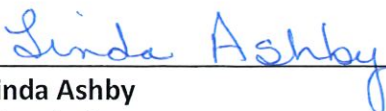
Robby Hefton, City Manager



Ellen McDonald, Principal

ATTEST:

ATTEST:



Linda Ashby
City Clerk



APPROVAL RECOMMENDED:



Wayne E. Lee, P.E., CFM / Director Engineering

APPROVED AS TO FORM:
THE LAW FIRM OF ABERNATHY,
ROEDER, BOYD & HULLETT, P.C.

BY: 
NAME: 

CITY ATTORNEY

CORPORATE ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Ellen McDonald of Plummer Associates, Inc. known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Plummer Associates, Inc., a corporation, that (s)he was duly authorized to perform the same by appropriate resolution of the board of directors of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 30 day of March, A.D. 2023.

Cylena Eason
Notary Public In and For Tarrant County, Texas

My Commission Expires:

July 5, 2025

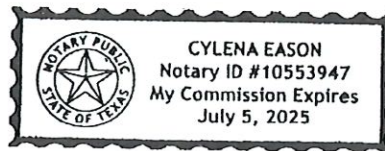


EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

PROJECT DESCRIPTION

The City has selected Plummer Associates, Inc. (Plummer) to provide engineering consulting services for planning, design and construction administration associated with the wastewater treatment and water reuse facilities needed to support the Texas Instruments (TI) semiconductor chip manufacturing facility expansion and continued growth of the industrial and domestic wastewater system in the City. Phase 1 of this effort, master planning services, is ongoing and includes data analysis and wastewater process modeling. Results from preliminary modeling indicate that the increases in industrial wastewater (from the TI facility and the GlobalWafer facility) flows and loads, in conjunction with projected increases in domestic wastewater flows, may exceed the capacity of the Post Oak WWTP as early as 2025. To complete an expansion of the Post Oak facilities in 2025, the initial design, acquisition of long-lead equipment, and procurement of a construction manager at risk (CMAR) need to begin and proceed concurrently with the completion of the master plan project. This Phase 2 scope of services includes the following tasks specifically associated with the Post Oak WWTP expansion:

- Preliminary Design
- Equipment Preselection
- Construction Manager at Risk (CMAR) Coordination
- Final Design
- Meetings, Workshops, and Project Management
- Regulatory & Permitting
- Construction Administration
- Support Services (e.g. Survey, Geotech, Subsurface Utility Engineering)

I. ASSUMPTIONS

- A.** Size facilities at Post Oak for 2025 flows and loads (less than 16 mgd).
- B.** Beyond 2025 flows and loads (by 2026) additional facilities will be brought online, likely as a dedicated Industrial Wastewater Treatment Plant with location to be determined.
- C.** CMAR approach will be utilized for both facilities.
- D.** This amendment is for design and construction phase services of the Post Oak WWTP and does not include the Industrial Treatment Plant facilities.
- E.** A separate amendment will be developed for the Industrial Treatment Plant discharge permit efforts. The permit could be associated with a new location or an amendment to existing permit.
- F.** The Post Oak facilities will be designed to treat wastewater flows and loads through 16 MGD of projected industrial and municipal contributions to meet the current discharge permit requirements.

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

- G.** Solids disposal is assumed to be via landfill.
- H.** The Post Oak facility design will consider 210 reuse potential, cooling water reuse, and reuse via discharge that flows to a downstream reservoir, but it will not reflect or include any advanced treatment (TDS treatment, advanced oxidations, adsorption, etc).
- I.** Major equipment will have early procurement packages based on equipment pre-selection. Front end documents for pre-selection to be coordinated with CMAR.
- J.** Initial Conceptual Opinion of Probable Construction Cost (OPCC) will be developed by the Design Engineer for the Post Oak facility improvements. A cost model will be prepared by the Construction Manager at Risk (CMAR). Engineer will provide an updated OPCC at the 60% and 90% design milestones.
- K.** The construction of the electrical upgrades currently under design under a separate contract for the Post Oak WWTP will be included in the work performed for this project:

II. TASK SUMMARY, BASIC SERVICES

A. TASK A: PRELIMINARY DESIGN

- a.** Evaluate and select an approach for the additional facilities by considering the following three alternatives:
 - i.** Conventional treatment within the footprint of the existing process facilities (i.e. adding new basins adjacent to the existing basins).
 - ii.** Conventional treatment train located south of Post Oak Rd. that could be incorporated into the process train of a future industrial facility.
 - iii.** Conversion of the existing process to an integrated fixed film activated sludge (IFAS) - or other similar technology. If this alternative is selected as the preferred approach, new basins for primary clarifiers, aeration basins, and final clarifiers may not be required for treating the flows and loads in 2025.
- b.** Perform Post Oak Wastewater Treatment Plant preliminary and process design for the following facilities:
 - i.** Primary Clarifiers (PC) – rehab existing PC3 and design new PC4. Evaluate chemical addition to support silica removal. Provide odor control for the primary clarifier weir areas. PC4 may not be required for IFAS alternative.
 - ii.** Daily Flow Equalization Basin – new basin with mixing. Assumes the existing basin is reserved for wet weather – peak flow storage.
 - iii.** Equalization Basin Blower Building – rehab existing blower building and mixing for the existing EQ/Peak Storage basin.
 - iv.** Anaerobic/Anoxic Basins – Demolish Trickling Filters and construct new basins at that location for the purpose of improving biological system performance.

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

- v. Aeration Basins (AB) – new ABs or modified ABs for IFAS. Evaluate increasing air supply to existing ABs.
- vi. Blowers for new AB – Evaluate increasing air to existing ABs and air to new AB.
- vii. Biological Clarifier – new Biological Clarifier if required.
- viii. RAS for anoxic zone/WAS for new Biological Clarifier and Primary sludge for new Primary Clarifier if required. Evaluate new sludge pump station for PC3 & PC4 if required.
- ix. Disc Filters – new filters for 16 MGD design flow and the associated peak flowrate, design will include considerations Biological Clarifier loadings, reuse potential, and silica removal.
- x. Grit Building – NFPA improvements per Condition Assessment.
- xi. UV and Headworks Lift Station (HLS) – No improvements are identified for this project. The capacity of the system will be evaluated during preliminary design.
- xii. WAS Thickening – Add thickener w/polymer system, feed pump and thickened sludge pump.
- xiii. Anaerobic Digester (AD) – Rehabilitate two (2) ADs per Condition Assessment with mixing system and auxiliary facilities. Evaluate the capacity of the dewatering system. No improvements to the solids dewatering capacity are assumed for this phase of the project.
- xiv. Raw Wastewater Pump Station, Bar Screens, Fine Screens and Grit Removal Units, and dewatering equipment – No capacity improvements are identified for these facilities. The capacity of the existing facilities will be evaluated during preliminary design.
- c. Develop liquids and solids process drawings based on above scope. Include process design information. Develop liquids and solids mass balance and incorporate recycle streams into liquids process. Utilize biological model results developed in the master plan project.
- d. Develop P&ID's, Operating and Control descriptions, and equipment lists for above facilities. Up to 25 P&ID's are estimated.
- e. Develop equipment list with electrical loads. Coordinate electrical loads with the ongoing electrical rehabilitation project.
- f. Develop preliminary sizing and layouts for facilities in above list. Determine new buildings needed for mechanical equipment and electrical equipment. The City will provide input on building space criteria for operations and maintenance.
- g. Develop Piping Schedule with pipe sizes and materials for all piping systems based on process and peak flow capacities.
- h. Develop Site Plan based on above facilities with roads, parking areas, and drainage concepts.

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

- i. Perform hydraulic modeling for the plant and develop a hydraulic profile drawing. Assess flow splitting for new facilities. Develop system head curves for each modified pump station and perform pump selections. Determine piping sizes and materials. Develop plant drain and plant water schematics.
- j. Perform alternative evaluations for the following items – other facility’s equipment will be designed to match existing facilities.
 - i. Blowers for Aeration Basins (Turbo vs Multi-stage vs Single stage)
 - ii. Cloth Disc Filters (Four manufacturers)
 - iii. Anaerobic Digester – mixing system, gas utilization
- k. Prepare Preliminary Design Report
 - i. Include wastewater flow, concentration, and load analysis from Master Plan.
 - ii. Include biological model inputs, results, and assumptions from Master Plan.
 - iii. Incorporate other selected Immediate and Near-term improvements recommended in the Condition Assessment.
 - iv. Assist City with the phasing of improvements in coordination with the funding available for improvements.
- l. Prepare Basis of Design Memorandum.

Deliverables: *Draft and Final Preliminary Design Report*

B. TASK B: EQUIPMENT PRESELECTION

- a. In conjunction with Task C below, develop up to four equipment preselection or early procurement front-end document packages in coordination with City and CMAR to assist in obtaining equipment proposals for up to 13 equipment packages, including the following equipment. Additional packages may be added to the list based on input from the CMAR relative to market conditions at the time of design.
 - i. Preselection Package:
 - a. Primary clarifier mechanisms
 - b. Precast Wire Wound Prestressed Concrete Tanks
 - c. Aeration Blowers
 - d. Electrical Switchgear
 - e. Variable Speed Drives
 - f. Mixing system for EQ Basin
 - g. Mixing system for Anoxic Basins
 - h. Mixing system for Sludge Storage Tanks
 - i. Sludge Pumps (Centrifugal)
 - j. Sludge Pumps (Positive Displacement)
 - k. Mixing system for Digesters.

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

- I. Programmable Logic Controller (PLC) Panels
- b. Develop equipment specifications for above equipment items. Develop performance requirements and information necessary for evaluation of proposals.
- c. Assist the City and CMAR during advertisement of equipment proposals. Respond to requests for information and prepare addendum items.
- d. Attend prebid meeting and proposal evaluation meeting with the City.
- e. Perform proposal reviews for conformance with the specifications and contract documents.
- f. Prepare proposal review summary and selection recommendation letters for each equipment item.
- g. Prepare notice of award letters and notice to proceed for shop drawing preparation and coordinate award with the CMAR.
- h. Incorporate preselected equipment in the plans and specifications for the expansion.

Deliverables: *Preprocurement Packages, RFI Response Documents, Proposal Review Summaries, Vendor Recommendation Letters, Notice of Award/Notice to Proceed Letters, Meeting Minutes, Decision Logs.*

C. TASK C: CMAR COORDINATION, EARLY OUT PACKAGES/SEQUENCING

- a. It is the City's intent based on Engineer's recommendation to deliver the Project using the CMAR delivery method. The CMAR will be initially contracted to provide pre-construction phase [Design Phase] services, including but not necessarily limited to the following efforts:
 - i. CMAR will develop and progressively update a detailed "open book" cost model based on current market conditions to confirm budgets and help guide design decisions.
 - ii. CMAR will develop a construction management plan and schedule in advance of construction.
 - iii. CMAR will perform evaluations of cost, constructability, schedule, materials availability, etc. to be included in alternative system evaluations and provide constructability reviews.
 - iv. CMAR will develop long-lead procurement strategies, including the pre-selected equipment, and initiate early procurement of these long-lead items in conjunction with Task B above).
 - v. CMAR will provide any potholing or laser scanning activities required to support development of accurate design information, as identified by the Engineer.

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

- vi. CMAR will assist in the design and construction phase permitting processes, as required.
- vii. CMAR will provide procurement services for selection of key subcontractors and suppliers.
- viii. CMAR will develop a guaranteed maximum price (GMP) for construction for City review and consideration.
- b. Assuming City acceptance of the GMP, the CMAR will then provide all services required of a general contractor, including self-performance and subcontractor procurement and management, during subsequent construction and post-construction phases of the Project.
- c. The relationship between the CMAR and Engineer is intended to be collaborative and proactive, with both participating as advisors to the City during the pre-construction phase [Design Phase]. It is the City's desire and Engineer's recommendation to incorporate a contractor's perspective and input into the Project planning and design decisions, and to leverage the ability for early procurement and phased construction prior to full completion of design.
- d. CMAR Design Phase – The following tasks define the specific efforts to be performed and completed by the Engineer during the pre-construction phase [Design Phase] of the Project.
 - i. Cost Model and GMP Review.
 - a. Coordinate with CMAR, Program Manager, and City to provide input and information on materials, appurtenances and other major capital cost items throughout design phase. Review and comment on the initial cost model and subsequent cost model updates (based on 60% and 90% design submittals) developed by CMAR. Cost review activities will include a review of direct and indirect costs, CMAR fee and CMAR contingency; review supplier and subcontractor quotes and request supplemental quotes, as necessary; compare costs with other applicable projects; and perform review of risk analysis model and/or cost contingencies developed by the CMAR. Indirect costs included in the CMAR cost model will include applicable general conditions and general requirements, bonds, insurance and sales tax. Using the cost models and GMP(s) as the basis for the total construction cost(s), coordinate with the City and program manager regarding additional City administrative costs, engineering fees,

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

- construction administration and inspection fees, and (if applicable) City contingency to develop a Total Construction Cost Estimate (TCCE).
- b. A parallel opinion of probable construction cost will be prepared by the Engineer at the 60% and 90% design milestones. Written recommendation(s) to City regarding opinion of GMP(s) acceptance (Electronic format only) will be provided by the Engineer.
 - e. Early Procurement Activities: Coordinate with CMAR and City to develop an equipment and materials procurement plan, including identification of items to be selected and/or procured early based on “best value” or low-bid strategies, and define the parameters associated with “best value” selection as applicable. For those items selected for early procurement, specify the acceptable manufacturers, and identify associated Bid Document requirements and incorporate into the preselected equipment packages.
 - i. Coordinate with CMAR to develop the preselection equipment packages and supporting design drawings for early procurement of major long-lead equipment items with the specific acceptable manufacturers. Coordinate with CMAR as part of the bidding process and prepare any addenda as required. Assist the City and CMAR with the review of the supplier proposals and bid packages and the subsequent selection process.
 - ii. CMAR shall be responsible for the packaging of front-end documents, technical specifications and applicable design drawings developed by Engineer; submittal of packages to applicable manufacturers and/or vendors; coordination of vendor proposals; pre- selection of equipment and appurtenances (with City and Engineer input); delivery of detailed design criteria and documents of selected equipment to Engineer for further use and incorporation into detailed design documents; and coordination of delivery, storage, and payment of procured items accordingly.
 - iii. Early Procurement Design Document Packages (Electronic “PDF” format only) will be provided by the Engineer. Eight “early-out” packages are included in this scope of service.
 - f. General CMAR Coordination: In addition to efforts above, general coordination with CMAR during the pre-construction phase [Design Phase] will include, but not necessarily be limited to:

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

- i. Coordination with City and Program Manager regarding development of the CMAR Construction and/or Post- Construction Phase contract and applicable City front-end documents and Engineer's Division 1 specifications.
- ii. Soliciting input from CMAR during design development as appropriate.
- iii. Coordinating any potholing or laser scanning activities by the CMAR required to support accurate development of design documents.
- iv. Providing input to construction management plan and schedule development.
- v. Evaluating alternative systems and materials proposed or suggested by CMAR.
- vi. Responding to constructability review comments.
- vii. Providing input to Maintenance of Plant Operations (MOPO) plan and schedule; and
- viii. Attending subcontractor pre-selection meetings conducted by CMAR as appropriate.
- ix. *NOTE: Should the City be unable or unwilling to accept the CMAR GMP and instead decide to procure and deliver the Project using a traditional "design-bid-build" delivery method, subsequent modifications to the front-end documents, technical specifications, and associated design drawings specifically applicable to the City delivery method will be handled under Additional Services, if desired by the City. Additional services for bidding, including preparation of Bid Document sets, participation on a pre-bid conference, responding to Bidder questions, preparing applicable addenda, attendance at the Bid opening, assistance in evaluation of Bids, and participation in a pre-construction conference with the selected General Contractor will also be handled under Additional Services, if desired by the City.*
- g. CMAR Advertisement/Selection Phase: Provide assistance and support City and Program Manager in selecting a CMAR.
 - i. Request for Qualifications: The Engineer shall review the CMAR Request for Qualifications (RFQ) document as part one of the two-step CMAR procurement process. This task includes one (1) coordination meeting with City to finalize the documents and establish minimum contractor qualifications.
 - ii. Request For Proposals: The Engineer shall review the CMAR Request For Proposals (RFP) document and scoring rubric as part two of the two-step CMAR procurement process. This task includes one (1) coordination meeting with City to

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

finalize the documents and establish selection criteria by which to evaluate the submitted CMAR proposals.

- iii. Selection Assistance: The Engineer shall provide City technical assistance for the two-step CMAR procurement process to support City in the review and selection of the CMAR. This task includes one (1) coordination meeting with City to review the scoring of submittals.
- iv. Contract Development: The Engineer shall review the CMAR contract document using the Engineers Joint Contract Documents Committee (EJCDC) contract template as a basis. This task includes one (1) coordination meeting with City to review the documents. City will provide legal review of the contract documents and provide the Engineer with any applicable legal opinions needed during the contract development process.
- v. Negotiation Assistance: The Engineer shall provide assistance in negotiations for the initial CMAR contract. This task includes one (1) negotiation meeting with the City and CMAR.

D. TASK D: FINAL DESIGN

- a. Based on the Preliminary Design, Equipment Preselection, and Coordination with the CMAR, the Engineer shall prepare for approval by the City Drawings and Specifications that set forth in detail the requirements for the construction of the Project and comply with applicable laws, statutes, ordinances, codes, and regulations.
- b. Contract Documents: The Engineer shall assist the City and CMAR in preparation of necessary bidding information, bidding forms, the conditions of the contract, and the form of agreement between the City and general contractor. Engineer will use the City's "front-end" documents for the Project. Engineer will use the Engineer's technical specifications.
- c. Opinion of Probable Construction Cost: The Engineer shall provide updates to the opinions of cost prepared during preliminary design and compare it with the opinion of cost prepared by the CMAR prior to early out packages and at the 60-percent and 90-percent phases.
- d. Submit plans, specifications, and contract documents to the applicable federal and state agency(s) for approval, where required.

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

- e. Coordinate with utility companies and furnish such information necessary to utility companies whose facilities may be affected, or services may be required for the Project.

Deliverables: 60%, 90% and 100% (Issued for Construction/IFC) documents, Engineer review comments on CMAR cost estimates, meeting minutes, decision logs.

E. TASK E: MEETINGS AND WORKSHOPS AND PROJECT MANAGEMENT

a. Meetings and Workshops:

- i. Schedule and direct regular coordination meetings with the design team to coordinate project task assignments, action items, and to prepare for progress meetings with the City. Engineer will maintain an Action Item Log and Decision Log to monitor project activity. Coordinate with subconsultants to confirm all project elements are compatible, integrated, and meet City performance requirements.
- ii. Schedule and direct progress weekly meetings with the City, Program Manager, and design team to review and discuss design development progress with plant operations staff, discuss deliverable status, schedule, outstanding action items, and decisions made. Coordinate with the selected CMAR contractor during progress meetings. Engineer will prepare draft meeting minutes to include action lists and decision lists.
- iii. QC Review Meetings: plan and participate in two internal QC meetings with the design team. The meetings will be held at approximately the 60 percent and 90 percent project completion stages. Review Workshops: Plan and participate in two (2) review workshops with the design team, Program Manager, and City to review the 60 percent and 90 percent deliverables.

b. Project Management:

- i. Project administration will include but not be limited to developing and implementing a project management plan; tracking and managing internal schedules of work; monitoring and addressing issues related to the scope of work, budget and deliverables; preparing and processing monthly billings; providing labor resources necessary to fulfill scoped work; scheduling and participating in quality control reviews; and providing updates to the City on a regular basis. A standard monthly invoice and progress reports will be prepared for all services.

F. TASK F: REGULATORY & PERMITTING

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

- a. Coordinate with ongoing permitting projects and comply with any applicable state and local limits.
- b. Coordinate with the City, CMAR, Program Manager and the TCEQ to expedite review and approval of design packages. This coordination will require both formal and informal meetings, by phone, virtual “MSTEAMS” meetings or in-person meetings. This activity includes the following tasks:
- c. Coordination with City and Program Manager
 - i. Meet with the City and Program Manager at the initiation of the project and, at the discretion of the City and Program Manager, periodically during the duration of the project. The purpose of the initial meeting is to present the regulatory approach for coordinating with the TCEQ and obtaining approval of the plans and specifications. Subsequent meetings will be conducted to discuss status of approvals and to prepare for meetings with the TCEQ. Meetings may be convened either by phone, MS, Teams or in-person. In-person meetings will occur at the City’s offices.
- d. Coordination with TCEQ
 - i. Prepare for and attend one review meeting with the TCEQ's Plan Review Team in Austin. The TCEQ review meeting will be held when the process design for the new facilities is approximately 90% complete and will include a review of the project design criteria, projected wastewater flow and load increases, and potential variances to TCEQ design criteria for wastewater treatment plants. The purpose of the meeting will be to inform TCEQ of the treatment plant improvement scope and schedule, and prepare the TCEQ for an unconventional project delivery method (CMAR) of the facilities.
 - ii. The scope of work also includes up to four (4) additional coordination meetings with the TCEQ during the design and construction phases corresponding with the CMAR’s phases of construction (e.g. facilities requiring early completion, facilities requiring normal completion, and the remaining facilities). The purpose of the review meetings is to coordinate and answer questions related to the design packages and the overall schedule of the construction project. Meetings will be convened either by phone, MS Teams, or in person. In-person meetings will be convened at the TCEQ offices in Austin.
- e. Coordination with the CMAR

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

- i. Prepare for and attend periodic meetings with the CMAR to coordinate regulatory approval for construction. Meetings will be convened either by phone, MS Teams, or in-person. Coordinate meetings with the City and Program Manager.

Deliverables: *Meeting agendas, draft meeting notes, revised meeting notes.*

III. TASK SUMMARY, ADDITIONAL SERVICES

G. TASK G: CONSTRUCTION ADMINISTRATION

- a. General Construction Administration Phase services
 - i. The scope of Construction Administration Services is based on a construction timeframe of twenty-four (24) months from construction Notice to Proceed to construction substantial completion and thirty (30) months from construction Notice to Proceed to construction final completion.
 - ii. Construction Phase duties, responsibilities, and limitations of the ENGINEER shall not be restricted, modified, or extended without agreement of the City and Engineer in writing.
 - iii. The City's approval, acceptance, use of, or payments for all or any part of Engineer's services hereunder or the Project itself shall in no way alter the Engineer's obligations to the City's rights herein.
 - iv. The Engineer shall be a representative of and shall advise and consult the City during construction. The Engineer shall have the authority to act on behalf of the City only to the extent provided in this Agreement, unless otherwise modified by written instrument.
- b. Engineer's Personnel at the Construction Site
 - i. The presence and duties of Engineer's personnel at a construction site, whether as onsite representative or otherwise, do not make the Engineer or its personnel in any way responsible for those duties that belong to the City and/or construction contractors or other entities, and do not relieve the construction contractors or any other entity from their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the contract documents and any health and/or safety precautions related to such construction work.

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

- ii. Engineer and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health and/or safety precautions related to such work and have no duty for inspecting, noting, observing, correcting, or reporting on health and/or safety deficiencies of the construction contractors or other persons at the site except Engineer 's own personnel.
 - iii. The presence of the Engineer 's personnel at a construction site is for the purpose of providing the Engineer and the City a greater degree of confidence that the completed work will conform generally to the contract documents and that the integrity of the design concept, as reflected in the contract documents, has been implemented and preserved. The Engineer neither guarantees the performance of any construction contractor nor assumes responsibility for contractor's failure to perform the work in accordance with the contract documents.
- c. Internet-based Construction Management
- i. The Engineer will provide, for use by the City and the selected contractor, an internet-based construction management system, including the following items:
 - ii. Establish and maintain the project construction management system consistent with the requirements of the construction contract documents. Monitor the processing of contractor's submittals and provide for filing and retrieval of project documentation. Produce monthly reports indicating the status of all submittals in the review process.
 - iii. Monitor the progress of the contractor in sending and processing submittals to see that documentation is being processed in accordance with schedules.
- d. Pre-Construction Conference
- i. The Engineer shall conduct a pre-construction conference for the Project. Meeting shall be conducted with the City and contractor at the City's facility. At a minimum, the following items will be discussed at the pre- construction conference:
 - a. The construction schedules prepared by the contractor;
 - b. Schedule of values and payment procedures and schedules;
 - c. Designation of key personnel and their duties; and

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

- d. Procedures for the construction administration of the Project.
- e. Construction Progress Meetings
 - i. The Engineer 's project manager and project engineer will participate in monthly construction progress meetings for the Project.
 - ii. The Engineer will prepare and distribute agendas and meetings notes for each meeting.
 - iii. Additional site visits beyond those listed will be a Special Service and the Engineer shall be entitled to additional compensation.
- f. Shop Drawings and Submittal Review
 - i. The Engineer will review samples; catalog data; schedules; shop drawings; laboratory, shop, and mill tests of materials and equipment; and other data pursuant to the general conditions of the construction contract. Review quality related documents provided by the contractor such as test reports, equipment installation reports, or other documentation required by the construction contract documents. This review is for the benefit of the City and covers only general compliance with the information given by the construction contract documents. This review does not relieve the contractor of any responsibilities such as dimensions to be confirmed and correlated at the job site, appropriate safety measures to protect the workers and the public, or the necessary to construct and complete a workable facility in accordance with the construction contract documents.
 - ii. The fee is based on review of up to five hundred (500) submittals.
 - iii. Additional submittal reviews beyond those listed will be a Special Service and the Engineer shall be entitled to additional compensation.
- g. Requests for Information
 - i. The Engineer will interpret the intent of the plans and specifications and respond to requests for information (RFIs) for the City and contractors.
 - ii. The fee is based on processing up to four hundred (400) RFIs.
 - iii. Additional RFI responses beyond those listed will be a Special service and the Engineer shall be entitled to additional compensation.
- h. Contract Modifications

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

- i. The Engineer will review contract modification request (CMRs) and prepare proposed contract modifications (PCMs) for items identified during construction that are necessary or requested by the City or contractor but are not in accordance with the construction documents.
 - ii. The Engineer will prepare documentation for construction modifications required to implement modifications in the design of the Project.
 - iii. The fee is based on processing up to a total of one hundred twenty (120) CMRs, PCMs, and field/change orders.
 - iv. Additional contract modifications beyond those listed will be a Special service and the Engineer shall be entitled to additional compensation.
 - v. Investigations, analyses, studies, or design for substitutions of equipment or materials, corrections of defective or deficient work of the contractor or other deviations from the construction contract documents requested by the contractor and approved by the City are a Special Service. Substitutions of materials or equipment or design modifications requested by the City are a Special Service and the Engineer shall be entitled to additional compensation.
- i. Pay Estimates
- i. The Engineer will review and comment on a maximum of thirty (30) estimates for payment to contractor, pursuant to the general conditions of the construction contract. Recommendations by the Engineer to the City for periodic construction progress payments to the construction contractor will be based on the Engineer's knowledge, information, and belief from selective sampling that the work has progressed to the point indicated. Such recommendations do not represent: that continuous or detailed examinations have been made by the Engineer to ascertain that the construction contractor has completed the work in exact accordance with the contract documents; that the final work will be acceptable in all aspects; that the Engineer has made an examination to ascertain how or for what purpose the construction contractor has used the monies paid; that title to any of the work, materials, or equipment passed to the City free and clear of liens, claims, security interested, or encumbrances; or that there are no other matters at issue between the City and the construction contractor that affect the amount that should be paid.
- j. Substantial and Final Review

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

- i. The Engineer will conduct, in the company of the City's representative, a substantial completion review for the project for conformance with the design concept of the project and general compliance with the contract documents and provide a list of deficiencies to the contractor. Three (3) interim phase and one overall substantial review site visits are anticipated.
 - ii. The Engineer will conduct, in the company of the City's representative, a final review for the project for conformance with the design concept of the project and general compliance with the contract documents, verify that items identified on the deficiency list from the substantial completion review have been completed, and make recommendation for final payment to the contractor. Three (3) interim phase and one overall final review site visits are anticipated.
- k. Record ("As-Built") Drawings
 - i. The contractor will provide to the Engineer red-line drawings for use in the development of the record drawings. In the event that the contractor does not provide adequate red-line drawings and the Engineer must develop the record drawings based on in-depth investigation and research will be considered a Special Service.
 - ii. The Engineer will revise the construction drawings in accordance with the information furnished by the contractor reflecting changes to the project made during construction. Record drawings are defined as the drawings produced by the Engineer's modifications to the original design drawings to reflect the changes during the construction.
 - iii. The Engineer prepare record drawings, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the project was finally constructed.
 - iv. The Engineer is not responsible for any errors or omissions in the information from others that are incorporated into the record drawings.
 - v. Record drawings for the project will be issued by the ENGINEER within sixty (60) days after the comments and markups are provided by the contractor, and the City.
 - vi. The Engineer will provide the City with digital copies in Adobe PDF on compact disc five (5) half-sized (11" x 17") sets of plans (bound, bond), and two (2) full-

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

sized (22" x 34") sets of plans (bound, bond) to the City. No technical specification books will be provided.

H. TASK H: SUPPORT SERVICES – SURVEY, SUE, AND GEOTECH (IF NEEDED FOR EXISTING SITE)

- a. Surveying Services: Engineer with coordinate surveying services for the following:
 - i. Engineer will provide and coordinate land survey at location for the WWTP sites as required to perform the design.
 - ii. The survey will base horizontal and vertical control on the treatment plant benchmark coordinates and datum. Survey measurements will be based on NAD 83 state plane coordinates.
 - iii. Survey will produce a topographical survey of project area to map utilities and existing structures. The survey will include contours shown at one-foot intervals, plotted locations of structures, paving, visible improvements, and utility information based on surface evidence.
 - iv. CCTV inspection of the biological clarifier effluent piping.
- b. Geotechnical Engineering: Engineer will coordinate and subcontract Geotechnical services for the collection and analysis of up to twelve (12) locations and provide a geotechnical report for foundation design recommendations.
- c. Subsurface Utility Engineering
 - i. Engineer will perform up to twenty (15) nondestructive SUE Quality Level A "locates" of up to 15 feet deep for use within the project construction limits.

EXHIBIT B1
AMENDMENT NO. 1 - PROJECT DESIGN BUDGET SUMMARY

I. Basic Services

	Scope Item	Fee (Lump Sum)
A	Preliminary Design	\$ 1,083,059
B	Equipment Preselection	\$ 346,557
C	CMAR Coordination	\$ 337,530
D	Final Design	\$ 4,143,375
E	PM & Meetings	\$ 1,109,023
F	Regulatory & Permitting	\$ 137,274
Total Basic Services Amendment No. 1:		\$ 7,156,818

II. Special Services

	Scope Item	Fee
G	Construction Administration	\$ 4,000,000
H	Support Services - Geotech, Survey, SUE	\$ 213,113
Total Special Services Amendment No. 1:		\$ 4,213,113

TOTAL AMENDMENT NO. 1 NOT TO EXCEED (LUMP SUM)	\$ 11,369,931
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**EXHIBIT B1
PLUMMER ASSOCIATES, INC.
HOURLY FEE SCHEDULE
2023**

Staff Description	Staff Code	Range of Billing Rates
Admin Staff	A1-A3	\$ 85.00 - \$ 115.00
Senior Admin Staff	A4	\$ 100.00 - \$ 125.00
Designer/Technician	C1-C2	\$ 80.00 - \$ 120.00
Designer/Technician III	C3	\$ 110.00 - \$ 140.00
Senior Designer/Technician	C4	\$ 130.00 - \$ 180.00
Engineer/Scientist Intern	ES0	\$ 50.00 - \$ 95.00
Engineer-in-Training/Scientist-in-Training	ES1-ES2	\$ 95.00 - \$ 150.00
Engineer-in-Training/Scientist-in-Training III	ES3	\$ 100.00 - \$ 170.00
Project Engineer/Scientist	ES4	\$ 120.00 - \$ 190.00
Senior Project Engineer/Scientist	ES5	\$ 135.00 - \$ 210.00
Project Manager	ES6	\$ 180.00 - \$ 290.00
Senior Project Manager	ES7	\$ 220.00 - \$ 300.00
Principal I	ES8	\$ 275.00 - \$ 350.00
Principal II	ES9	\$ 325.00 - \$ 430.00
Electrical Engineer in Training I	EE1	\$ 95.00 - \$ 130.00
Electrical Engineer in Training II	EE2	\$ 110.00 - \$ 150.00
Electrical Engineer in Training III	EE3	\$ 130.00 - \$ 180.00
Electrical Specialist	EE4	\$ 150.00 - \$ 210.00
Programmer	EE5	\$ 165.00 - \$ 240.00
Programmer II	EE6	\$ 170.00 - \$ 260.00
Senior Electrical Engineer	EE7	\$ 260.00 - \$ 330.00

RESOLUTION NO. 6902

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH PLUMMER ASSOCIATES, INC. FOR ENGINEERING SERVICES FOR DESIGN OF THE WASTEWATER TREATMENT AND WATER REUSE MASTER PLAN PROJECT; 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 Plummer Associates, Inc. for engineering services for the design of the Wastewater Treatment and Water Reuse Master Plan Project, 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.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS on this the 6th day of June, 2022.

CITY OF SHERMAN, TEXAS

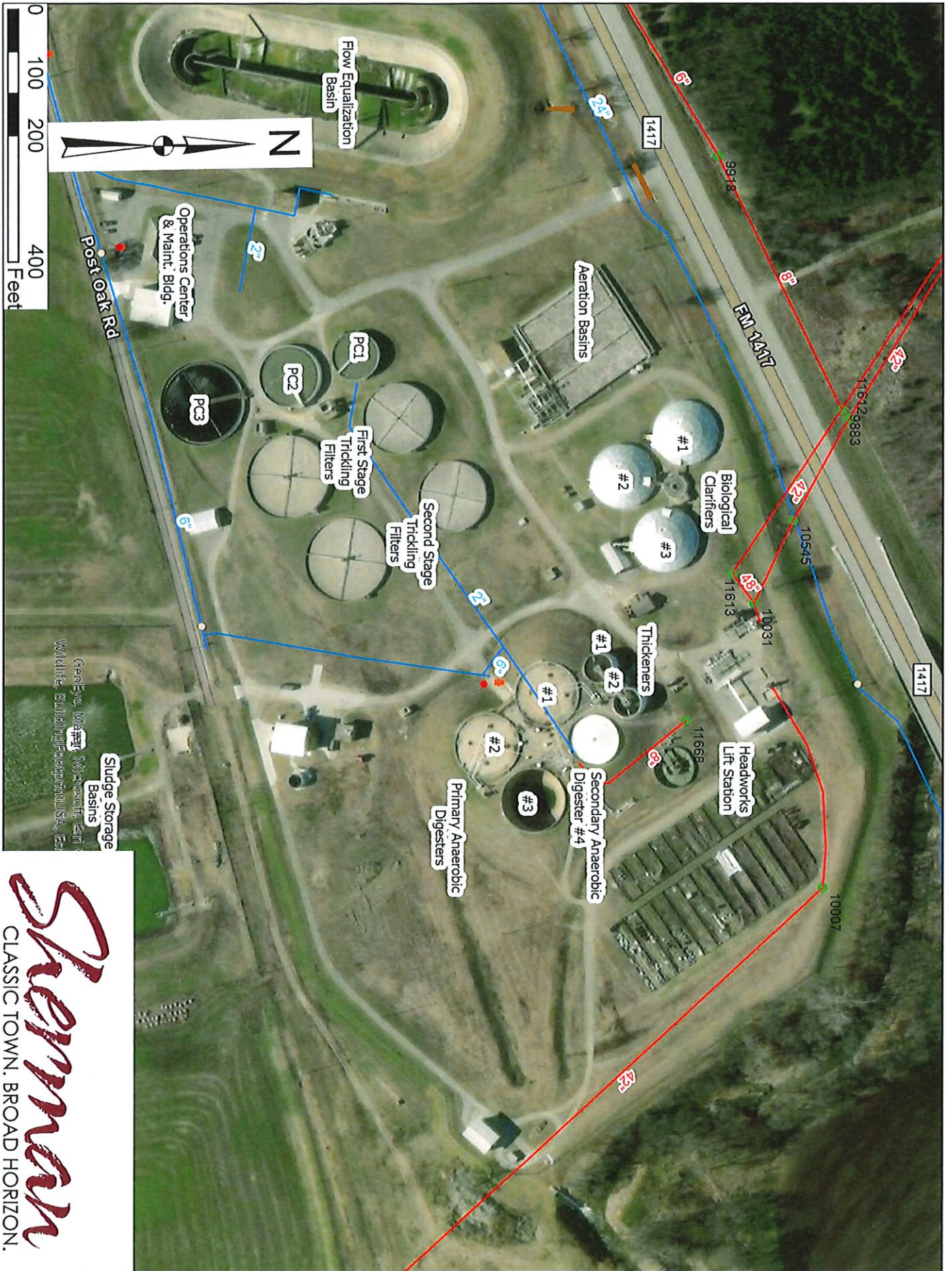
ATTEST:

BY: 
LINDA ASHBY, CITY CLERK

BY: 
DAVID PLYLER, MAYOR

APPROVED AS TO
FORM AND CONTENT:
THE LAW FIRM OF ABERNATHY,
ROEDER, BOYD & HULLETT, P.C.

BY: 
RYAN D. PITTMAN, CITY ATTORNEY



Sherman
CLASSIC TOWN. BROAD HORIZON.

AGREEMENT
BETWEEN
THE CITY OF SHERMAN, TEXAS AND
PLUMMER ASSOCIATES, INC.
FOR
PROFESSIONAL SERVICES

Made as of the 6th day of June, 2022:

Between City: **The City of Sherman, Texas**
 220 W. Mulberry Street
 Sherman, Texas 75090
 Telephone: (903) 892-7208

and Consultant: **Plummer Associates, Inc.**
 1320 South University Dr. Suite 300
 Fort Worth, TX 76182
 Telephone: 817.806.1700

for the following Project: **Wastewater Treatment and Water Reuse Master Plan**

THIS AGREEMENT ("Agreement") is made and entered into by and between the City of Sherman, Texas, a home-rule municipality ("City"), and Plummer Associates, Inc., a Texas corporation ("Consultant"), to be effective from and after the date as provided above. City and Consultant are at times each referred to herein as a "party" or collectively as the "parties."

WHEREAS, City desires to engage Consultant to provide professional civil engineering services for the Wastewater Treatment and Water Reuse Master Plan Project ("Project"); and

WHEREAS, Consultant desires to render such professional services ("Services") for City on the terms and conditions provided herein.

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:

That for and in consideration of the covenants contained herein, for the mutual benefits to be obtained hereby and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 CONSULTANT'S SERVICES

- 1.1 **Employment of Consultant** – City hereby agrees to retain Consultant to perform the Services in connection with the Project. Consultant agrees to perform the Services in accordance with the terms and conditions of this Agreement. Consultant further agrees that if any employee of Consultant who is performing the day-to-day Services under this Agreement for the Project is separated, for any reason, from employment with Consultant, Consultant shall provide City with written notice thereof at least five (5) business days' prior to said separation unless circumstances reasonably warrant a shorter notice period, which shall not exceed two (2) business days following the separation.
- 1.2 **Scope of Services** – The parties agree that Consultant shall perform the Services as are set forth and described in **Exhibit A**, attached hereto and incorporated herein by reference for all purposes ("**Scope of Services**"). The parties understand and agree that deviations or modifications to the Scope of Services described in **Exhibit A**, in the form of written amendment to this Agreement, may be authorized from time to time by City ("**Amendment(s)**").
- 1.2.1 **Requirement of Written Amendment** – "Extra" work, "claims" invoiced as "extra" work or "claims" which have not been issued as a duly executed, written Amendment by the Sherman Director of Engineering or designee will not be authorized for payment and/or shall not become part of this Agreement. A duly executed, written Amendment requiring additional funding of \$50,000 or more of the original contract shall be preceded by the Sherman City Council's authorization for the Sherman City Manager to execute said Amendment.
- 1.2.2 **CONSULTANT SHALL NOT PERFORM ANY "EXTRA" WORK AND/OR ADDITIONAL SERVICES WITHOUT A DULY EXECUTED, WRITTEN AMENDMENT ISSUED BY THE CITY.**
- 1.3 **Schedule of Work** – Consultant agrees to commence work immediately on the execution of this Agreement, and to proceed diligently with said work to completion as described in the Project Engineering Budget Summary, attached hereto as **Exhibit B** and incorporated herein by reference for all purposes.
- 1.4 **Standard of Care** – Consultant shall perform the Services required hereunder in accordance with the prevailing engineering standard of care by exercising the skill and care ordinarily utilized by engineers performing the same or similar services under the same or similar circumstances in the State of Texas.

ARTICLE 2 CITY'S RESPONSIBILITIES

City shall do the following in a timely manner so as not to delay the Services of Consultant:

- 2.1 **Project Data** – City shall furnish required information that is reasonably requested by Consultant and that City has in its possession at the time of Consultant's request, as expeditiously as necessary for the orderly progress of the Project, and Consultant shall be entitled to rely upon the accuracy and completeness of the information furnished by City under this Article 2.1.
- 2.2 **City Project Manager** – When necessary in City's sole discretion, City shall designate a representative authorized to act on City's behalf with respect to the Project ("Project Manager"). City, the Project Manager and/or his or her authorized designee shall examine the documents submitted by Consultant and shall render any required decisions pertaining thereto as soon as practicable to avoid unreasonable delay in the progress of Consultant's Services.

ARTICLE 3 CONSULTANT'S COMPENSATION

- 3.1 **Compensation for Consultant's Services** – As described in "Article 1, Consultant's Services" of this Agreement, compensation for this Project shall be: (a) for Basic Services, on a lump sum basis in an amount not to exceed one million four hundred eighty-eight thousand eleven dollars (**\$1,488,011.00**); (b) for Special Services, on a cost-plus basis in an amount not to exceed five hundred eighty-five thousand dollars (**\$585,000.00**) (collectively, "Consultant's Fee"); and (c) paid in accordance with this Article 3 and the Project Design Budget Summary as set forth in Exhibit B.
- 3.1.1 **Completion of Record Documents** – City and Consultant agree that the completion of Record Documents and/or "As-Built" Documents, including hard copy formatting and electronic formatting, shall be completed, submitted to, and accepted by City prior to payment. Completion of the Record Documents and/or "As-Built" documents shall be included in the Consultant's Fee and considered to be within the Scope of Services defined under this Agreement." The electronic formatting shall be consistent with the standards established in Exhibit C, Guidelines for Computer Aided Design and Drafting ("CADD"), which is attached hereto and incorporated herein by reference for all purposes.
- 3.1.2 **Disputes between City and Construction Contractor** – If the Project involves Consultant performing Construction Administration Services relating to an agreement between a Construction Contractor ("Contractor") and City, and on receipt of a written request by City, Consultant shall research previous and existing conditions of the Project, and make a

determination whether or not to certify that sufficient cause exists for City to declare Contractor in default of the terms and conditions of the Agreement. Consultant shall submit his findings in writing to City, or submit a written request for a specific extension of time (including the basis for such extension), within fifteen (15) calendar days of receipt of the written request from City. City and Consultant agree that if requested by City, completion of this task shall be included in the Consultant's Fee and considered to be within the Scope of Services as defined under this Agreement.

3.1.3 **Consultation and Approval by Governmental Authorities and Franchised Utilities** – Consultant shall be solely responsible for identifying and analyzing the requirements of governmental agencies and all franchise utilities involved with the Project, and for consulting with such agencies and utilities to assist the City in obtaining all applicable necessary approvals and/or permissions. Consultant shall be responsible for preparation and timely submittal of documents required for review, approval and/or recording by such agencies and/or utilities. Consultant shall be solely responsible for making such changes in the construction documents ("Construction Documents") as may be required by existing written standards promulgated by such agencies and/or utilities at no additional charge to City. City shall be responsible for permitting and approval fees.

3.2 **Direct Expenses** – Direct Expenses ("Direct Expenses") are included in Consultant's Fee as described in Article 3.1 of this Agreement and include actual reasonable and necessary expenditures made by Consultant and Consultant's employees and subcontractors in the interest of the Project. All submitted Direct Expenses are to be within the amounts as stated in the Project Engineering Budget Summary set forth in Exhibit B, and consistent with Exhibit D, Guidelines for Direct Expenses; General and Administrative Markup; Travel and Subsistence Expenses, which is attached hereto and incorporated herein by reference for all purposes. Consultant shall be solely responsible for the auditing and accuracy of all Direct Expenses, including those of its subcontractors, prior to submitting to City for reimbursement. Any over-payment by City for errors in submittals for reimbursement may be deducted from Consultant's subsequent payment for Services; provided, however, that this shall not be City's sole and exclusive remedy for said over-payment.

3.3 **Additional Services** – Consultant shall provide the Services as described in the Scope of Services set forth in Exhibit A of this Agreement. If authorized in writing by City, Consultant shall provide additional services, to be compensated as provided in an Amendment to the Contract on a cost not to exceed sum or hourly basis in accordance with this paragraph ("Additional Services") and a mutually agreed estimate of man-hours and expenses. These services may include, but are not limited to:

- 33.1 Additional meetings, hearings, work-sessions or other similar presentations which are not provided for or contemplated in the Scope of Services described in Exhibit A.
- 33.2 Additional drafts and revisions to the Project which are not provided for or contemplated in the Scope of Services as described in Exhibit A.
- 33.3 Additional copies of final reports and construction plans which are not provided for or contemplated in the Scope of Services as described in Exhibit A.
- 33.4 Photography, professional massing models which are not provided for or contemplated in the Scope of Services as described in Exhibit A.
- 33.5 Compensation for Additional Services authorized by City shall be in addition to Consultant's Fee and shall be based on direct billable labor rates and expenses.
- 33.6 Compensation for Additional Services authorized by City shall be in addition to Consultant's Fee and shall be based on an hourly basis according to the following personnel rates. The rates set forth in this chart are subject to reasonable change provided prior written notice of said change is given to and approved by City.

Hourly Billable Rates by Position

Staff Description	Range of Billing Rates
Admin Staff	\$ 85.00 - \$ 105.00
Senior Admin Staff	\$ 90.00 - \$ 130.00
Designer/Technician	\$ 75.00 - \$ 115.00
Designer/Technician III	\$ 100.00 - \$ 130.00
Senior Designer/Technician	\$ 125.00 - \$ 160.00
Engineer/Scientist Intern	\$ 50.00 - \$ 95.00
Engineer-in-Training/Scientist-in-Training	\$ 95.00 - \$ 130.00
Engineer-in-Training/Scientist-in-Training III	\$ 115.00 - \$ 145.00
Project Engineer/Scientist	\$ 120.00 - \$ 155.00
Senior Project Engineer/Scientist	\$ 135.00 - \$ 195.00
Project Manager	\$ 180.00 - \$ 250.00
Senior Project Manager	\$ 225.00 - \$ 295.00
Principal I	\$ 250.00 - \$ 330.00
Principal II	\$ 290.00 - \$ 400.00
Electrical Engineer in Training I	\$ 85.00 - \$ 110.00
Electrical Engineer in Training II	\$ 100.00 - \$ 115.00
Electrical Engineer in Training III	\$ 120.00 - \$ 150.00
Electrical Specialist	\$ 130.00 - \$ 165.00
Programmer	\$ 135.00 - \$ 170.00
Programmer II	\$ 140.00 - \$ 175.00
Senior Electrical Engineer	\$ 260.00 - \$ 295.00

- 3.4 **Invoices** – No payment to Consultant shall be made until Consultant tenders an invoice to City. Consultant shall submit monthly invoices for Services rendered, based upon the actual percentage of work complete at the time the invoice is prepared, or shall submit invoices to City immediately upon completion of each individual task listed in **Exhibit B**. On all submitted invoices for Services rendered, Consultant shall include appropriate background materials to support the submitted charges on said invoice. Upon request, such background material may include, but is not limited to, employee timesheets, invoices for work obtained from other parties, and receipts and/or log information relating to Direct Expenses. All invoices shall provide a summary methodology for administrative markup and/or overhead charges.

- 3.5 **Timing of Payment** – City shall make payment to Consultant for said invoices within thirty (30) days following receipt and acceptance thereof. The parties agree that payment by City to Consultant is considered to be complete upon mailing of payment by City. Furthermore, the parties agree that the payment is considered to be mailed on the date that the payment is postmarked.
- 3.6 **Disputed Payment Procedures** – In the event of a disputed or contested billing by City, only that portion so contested may be withheld from payment, and the undisputed portion will be paid. City shall notify Consultant of a disputed invoice, or portion of an invoice, in writing by the twenty-first (21st) calendar day after the date City receives the invoice. City shall provide Consultant an opportunity to cure the basis of the dispute. If a dispute is resolved in favor of Consultant, City shall proceed to process said invoice, or the disputed portion of the invoice, within the provisions of Article 3.5 of this Agreement. If a dispute is resolved in favor of City, Consultant shall submit to City a corrected invoice, reflecting any and all payment(s) of the undisputed amounts, documenting the credited amounts, and identifying outstanding amounts on said invoice to aid City in processing payment for the remaining balance. Such revised invoice shall have a new invoice number, clearly referencing the previous submitted invoice. City agrees to exercise reasonableness in contesting any billing or portion thereof that has background materials supporting the submitted charges.
- 3.7 **Failure to Pay** – Failure of City to pay an invoice, for a reason other than on written notification as stated in the provisions of Article 3.6 of this Agreement, to Consultant within sixty (60) days from the date of the invoice shall grant Consultant the right, in addition to any and all other rights provided, to, upon written notice to City, suspend performance under this Agreement, and such act or acts shall not be deemed a breach of this Agreement. However, Consultant shall not suspend performance under this Agreement prior to the tenth (10th) calendar day after written notice of suspension was provided to City, in accordance with Chapter 2251, Subchapter “D” of the TEX. GOV’T CODE. City shall not be required to pay any invoice submitted by Consultant if Consultant breached any provision(s) herein.
- 3.8 **Adjusted Compensation** – If the Scope of the Project (“Scope of the Project”) or if the Services are materially changed due to no error by Consultant in the performance of Services under this Agreement, the amounts of Consultant’s compensation shall be equitably adjusted as approved by City in its sole discretion. Any additional amounts paid to Consultant as a result of any material change to the Scope of the Project shall be authorized by written Change Order duly executed by both parties before the Services are performed.
- 3.9 **Project Suspension** – If the Project is suspended or abandoned in whole or in part for more than three (3) months, Consultant 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 suspension or abandonment. In the event of such suspension or abandonment, Consultant shall deliver to City all finished or

unfinished documents, data, studies, drawings, maps, models, reports, photographs and/or any other items prepared by Consultant in connection with this Agreement prior to Consultant receiving final payment. If the Project is resumed after being suspended for more than three (3) months, Consultant's compensation shall be equitably adjusted as approved by City. Any additional amounts paid to Consultant after the Project is resumed shall be agreed upon in writing by both parties before the services are performed.

ARTICLE 4 OWNERSHIP OF DOCUMENTS

- 4.1 **Documents Property of City** – The Project is the property of City, and Consultant may not use the documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs and/or any materials for any other purpose not relating to the Project without City's prior written consent. City shall be furnished with such reproductions of the Project, plans, data, documents, maps, and any other information as defined in **Exhibit A**. Upon completion of the work, or any earlier termination of this Agreement under **Article 3** and/or **Article 8** of this Agreement, Consultant will revise plans, data, documents, maps, and any other information as defined in **Exhibit A** to reflect changes while working on the Project through the date of completion of the work, as solely determined by City, or the effective date of any earlier termination of this Agreement under **Article 3** and/or **Article 8** of this Agreement, and promptly furnish the same to City in an acceptable electronic format. All such reproductions shall be the property of City who may use them without Consultant's permission for any purpose relating to the Project, including, but not limited to, completion of the Project, and/or additions, alterations, modifications, and/or revisions to the Project. Any reuse of the documents not relating to the Project shall be at City's own risk.
- 4.2 **Documents Subject to Laws Regarding Public Disclosure** – Consultant acknowledges that City is a governmental entity and that all documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs and/or any items prepared or furnished by Consultant (and Consultant's professional associates and/or sub-consultants) under this Agreement are instruments of service in respect of the Project and property of City. Upon completion of the Project, all of the documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs and/or any items prepared or furnished by Consultant (and Consultant's professional associates and/or sub-consultants) shall thereafter be subject to the Texas Public Information Act (Chapter 552, TEX. GOV'T CODE, as amended) and any other applicable laws requiring public disclosure of the information contained in said documents.

ARTICLE 5
CONSULTANT'S INSURANCE REQUIREMENTS

- 5.1 **Required General Liability Insurance** – Consistent with the terms and provisions of **Exhibit E**, Contractor Insurance Guidelines, which is attached hereto and incorporated herein by reference for all purposes, Consultant shall procure and maintain throughout the term of this Agreement, at no expense to City, a general liability insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s), and is authorized to transact business in the State of Texas, in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) for each occurrence, and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. Such policy shall name City, its officers, agents, representatives, and employees as additional insureds as to all applicable coverage. Such policy shall provide for a waiver of subrogation against City for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to City at least thirty (30) days prior to cancellation or non-renewal of any policies, evidenced by return receipt or United States Certified Mail. Consultant shall furnish City with certificates and required endorsement(s) evidencing such coverage prior to commencing work on the Project.
- 5.2 **Required Professional Liability Insurance** – Consistent with the terms and provisions of **Exhibit E**, Consultant shall procure and maintain throughout the term of this Agreement, at no expense to City, a professional liability (errors and omissions) insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s), and is authorized to transact business in the State of Texas, in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) for each claim, and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. Such policy shall require the provision of written notice to City at least thirty (30) days prior to cancellation or non-renewal of any policies, evidenced by return receipt or United States Certified Mail. Consultant shall furnish City with certificates and required endorsement(s) evidencing such coverage prior to commencing work on the Project.
- 5.3 **Required Workers Compensation Insurance** – Consistent with the terms and provisions of **Exhibit E**, Consultant shall procure and maintain throughout the term of this Agreement, at no expense to City, all Statutory Workers Compensation Insurance as required by the laws of the State of Texas. Such insurance policy shall be with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent service(s), and is authorized to transact business in the State of Texas. Such policy shall require the provision of written notice to City at least thirty (30) days prior to cancellation or non-renewal of any policies, evidenced by return receipt or United States Certified Mail. Consultant shall furnish

City with certificates and required endorsement(s) evidencing such coverage prior to commencing work on the Project.

- 5.4 **Circumstances Requiring Umbrella Coverage or Excess Liability Coverage** – If the Project's size and scope warrant, and if identified on the checklist located in **Exhibit E**, Consultant shall procure and maintain throughout the term of this Agreement, at no expense to City, an umbrella coverage or excess liability coverage insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s), and is authorized to transact business in the State of Texas, in an amount of Two Million and 00/100 Dollars (\$2,000,000.00). Such policy shall require the provision of written notice to City at least thirty (30) days prior to cancellation or non-renewal, of any policies, evidenced by return receipt or United States Certified Mail. Consultant shall furnish City with certificates and required endorsement(s) evidencing such coverage prior to commencing work on the Project.

ARTICLE 6 CONSULTANT'S ACCOUNTING RECORDS

Records of Direct Expenses and expenses pertaining to services performed in conjunction with the Project shall be kept on the basis of generally accepted accounting principles. Invoices will be sent to City as indicated in Article 3.4 of this Agreement. Copies of employee time sheets, receipts for direct expense items and other records of Project expenses will be made available if requested.

ARTICLE 7 AUDITS AND RECORDS/VENDOR DISCLOSURE

Consultant agrees that at any time during normal business hours and as often as City may deem necessary, Consultant shall make available to representatives of City for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of City to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, and for a period of four (4) years from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

Consultant agrees that it is further aware of the vendor disclosure requirements set forth in Chapter 176, TEX. LOC. GOV'T CODE, as amended, and will abide by the same. In this connection, a lawful representative of Consultant shall execute and deliver to City the Conflict of Interest Questionnaire, Form CIQ, attached hereto as **Exhibit F** and incorporated herein for all purposes, no later than the Effective Date of this Agreement.

ARTICLE 8 TERMINATION OF AGREEMENT/REMEDIES

City may, upon thirty (30) days written notice to Consultant, terminate this Agreement, for any reason or no reason at all, before the termination date hereof, without prejudice to any other remedy it may have. If City terminates this Agreement due to a default of and/or breach by Consultant and the expense of finishing the Project exceeds Consultant's Fee at the time of termination, Consultant waives its right to any portion of Consultant's Fee as set forth in Article 3 of this Agreement and agrees to pay any costs over and above the fee which City is required to pay in order to finish the Project. On any default and/or breach by Consultant, City may elect not to terminate the Agreement, and in such event it may make good the deficiency in which the default consists, and deduct the costs from Consultant's Fee due Consultant as set forth in Article 3 of this Agreement. If City terminates this Agreement and Consultant is not in default of the Agreement, Consultant 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 of any termination, Consultant shall deliver to City all finished and/or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs and/or any items prepared by Consultant in connection with this Agreement prior to Consultant receiving final payment.

The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its rights to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

ARTICLE 9 DISPUTE RESOLUTION/MEDIATION

In addition to all remedies at law, the parties may agree to attempt to resolve any controversy, claim or dispute arising out of or relating to the interpretation or performance of this Agreement, or breach thereof, by voluntary mediation to be conducted by a mutually acceptable mediator. However, if both parties do not agree to voluntarily mediate any such controversy, claim or dispute, mediation shall not be required.

ARTICLE 10 INDEMNITY

CONSULTANT SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ITS CITY COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES (COLLECTIVELY REFERRED TO AS "CITY") FOR PURPOSES OF THIS ARTICLE 10) FROM AND AGAINST ALL DAMAGES, INJURIES (WHETHER IN CONTRACT OR IN TORT, INCLUDING PERSONAL INJURY AND DEATH), CLAIMS, PROPERTY

DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS (REGARDLESS OF WHETHER THE ALLEGATIONS ARE FALSE, FRAUDULENT OR GROUNDLESS), SUITS, ACTIONS, JUDGMENTS, LIENS, COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEY'S FEES AND EXPENSES INCURRED IN ENFORCING THIS ARTICLE 10), THAT IN WHOLE OR IN PART ARISE OUT OF OR ARE CONNECTED WITH, OR THAT ARE ALLEGED TO HAVE ARISEN OUT OF OR CONNECTED WITH, GOODS AND/OR SERVICES PROVIDED BY CONSULTANT, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FOR WHOM CONSULTANT IS LEGALLY RESPONSIBLE (COLLECTIVELY REFERRED TO AS "CONSULTANT" FOR PURPOSES OF THIS ARTICLE 10) PURSUANT TO THIS AGREEMENT AND/OR THE NEGLIGENT, GROSSLY NEGLIGENT AND/OR INTENTIONAL WRONGFUL ACT AND/OR OMISSION OF CONSULTANT IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OR STRICT LIABILITY OF THE CITY (COLLECTIVELY, "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT IS NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST CITY BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CONSULTANT AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH THE CONSULTANT, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE. CONSULTANT IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS; PROVIDED, HOWEVER, THAT IF A COURT OF COMPETENT JURISDICTION SIGNS A JUDGMENT THAT BECOMES FINAL AND NON-APPEALABLE, DETERMINING THAT THE CITY (WITHOUT WAIVING ANY

GOVERNMENTAL IMMUNITY) HAS JOINT, CONCURRENT OR SOLE NEGLIGENCE FOR THE CLAIMS IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS ("JUDGMENT"), THEN CONSULTANT IS NOT REQUIRED TO INDEMNIFY OR DEFEND CITY TO THE EXTENT OF THE NEGLIGENCE APPORTIONED TO CITY FOR EACH CAUSE(S) OF ACTION IDENTIFIED IN THE JUDGMENT. IN THE EVENT THE JUDGMENT PROVIDES THAT CITY IS JOINTLY, CONCURRENTLY OR SOLELY NEGLIGENT FOR THE CLAIMS REFERRED TO THEREIN, CITY AGREES TO REIMBURSE CONSULTANT FOR ALL REASONABLE AND NECESSARY COSTS INCURRED AND PAID BY CONSULTANT THAT ARE ATTRIBUTABLE TO CITY'S PERCENTAGE OF JOINT, CONCURRENT OR SOLE NEGLIGENCE, AS SET FORTH IN THE JUDGMENT, INCLUDING REASONABLE AND NECESSARY ATTORNEY'S FEES AND EXPENSES, WITHIN SIXTY (60) DAYS OF THE DATE THE JUDGMENT BECOMES FINAL AND NON-APPEALABLE. IF THIS AGREEMENT IS A CONTRACT FOR ENGINEERING OR ARCHITECTURAL SERVICES, THEN CONSULTANT'S INDEMNITY AND DEFENSE OBLIGATIONS UNDER THIS ARTICLE 10 ARE LIMITED BY, AND TO BE READ AS COMPLYING WITH, SECTION 271.904 OF THE TEXAS LOCAL GOVERNMENT CODE.

IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY CONSULTANT IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY CITY, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. 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 CONSULTANT'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF CONSULTANT'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. CONSULTANT SHALL RETAIN CITY-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO DEFENSE OR INDEMNIFICATION UNDER THIS AGREEMENT. IF CONSULTANT FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND CONSULTANT SHALL BE LIABLE FOR ALL COSTS INCURRED BY CITY. THE RIGHTS AND OBLIGATIONS CREATED BY THIS ARTICLE SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

ARTICLE 11 NOTICES

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing the same in the United States Mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt requested; by facsimile; by electronic mail, with documentation evidencing the addressee's receipt thereof; or by delivering the same in person to such party a via hand-delivery service, or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notification, the addresses of the parties shall be as follows:

If to City, addressed to:

Wayne E. Lee, P.E., CFM
Director of Engineering
City of Sherman
220 W Mulberry St.
Sherman, TX 75091
Telephone: (903) 892-7327
Email: waynel@cityofsherman.com

With a copy to:

Abernathy, Roeder, Boyd & Hullett, P.C.
Attention: Ryan D. Pittman
1700 Redbud Blvd., Suite 300
McKinney, Texas 75069
Telephone: (214) 544-4000
Facsimile: (214) 544-4054
Email: rpittman@abernathy-law.com

If to Consultant, addressed to:

Alan E. Davis
Principal
Plummer Associates, Inc
1320 South University Dr.
Fort Worth, TX 76182
Telephone: 817.806.1700
Email: adavis@plummer.com

ARTICLE 12 MISCELLANEOUS

- 12.1 **Complete Agreement** – This Agreement, including the exhibits hereto labeled "A" through "F," all of which are incorporated herein for all purposes, constitute the entire Agreement by and between the parties regarding the subject matter hereof

and supersedes all prior and/or contemporaneous written and/or oral understandings. This Agreement may not be amended, supplemented, and/or modified except by written agreement duly executed by both parties. The following exhibits are attached below and made a part of this Agreement:

- 12.1.1 Exhibit A, Scope of Services.
- 12.1.2 Exhibit B, Project Engineering Budget Summary.
- 12.1.3 Exhibit C, Guidelines for Computer Aided Design and Drafting (CADD).
- 12.1.4 Exhibit D, Guidelines for Direct Expenses; General and Administrative Markup; Travel and Subsistence Expenses.
- 12.1.5 Exhibit E, Contractor Insurance Guidelines.
- 12.1.6 Exhibit F, Conflict of Interest Questionnaire, Form CIQ.

To the extent that Exhibit A, Exhibit B, Exhibit C, Exhibit D, Exhibit E, or Exhibit F are in conflict with provisions of this Agreement or each other, the provisions of this Agreement, then the provisions of Exhibit C, Exhibit D, Exhibit E, Exhibit F Exhibit B or Exhibit A shall prevail in that order.

- 122 Assignment and Subletting – Consultant agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of City. Consultant 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 Consultant of its full obligations to City as provided by this Agreement. All such approved work performed by assignment or subletting shall be billed through Consultant, and there shall be no third party billing.
- 123 Attorney's Fees – If either party files any action or brings any proceeding against the other arising from this Agreement, then as between City and Consultant, the prevailing party shall be entitled to recover as an element of its costs of suit, and not as damages, reasonable and necessary attorneys' fees and litigation expenses both at trial and on appeal, subject to the limitations set forth in TEX. LOC. GOV'T CODE § 271.153, as it exists or may be amended, if applicable.
- 124 Successors and Assigns – City and Consultant, and their respective partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives and administrators are hereby bound to the terms and conditions of this Agreement.
- 125 Savings/Severability – In the event of a term, condition, or provision of this Agreement is determined to be invalid, illegal, 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 as

if such invalid, illegal, void, unenforceable or unlawful provision had never been contained in this Agreement.

- 12.6 **Governing Law/Venue** – This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to conflict of law principles. The exclusive venue for any action arising out of this Agreement shall be a court of appropriate jurisdiction in Grayson County, Texas.
- 12.7 **Execution/Consideration** – This Agreement is executed by the parties hereto without coercion or duress for any substantial consideration, the sufficiency of which is forever confessed.
- 12.8 **Authority** – The individuals executing this Agreement on behalf of the respective parties below represent to each other that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the other party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.
- 12.9 **Waiver** – Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit, or waive such party's right thereafter to enforce and compel strict compliance.
- 12.10 **Headings** – The headings of the various sections of this Agreement are included solely for convenience of reference and are not to be full or accurate descriptions of the content thereof.
- 12.11 **Multiple Counterparts** – This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. An electronic mail and/or facsimile signature will also be deemed to constitute an original if properly executed and delivered to the other party.
- 12.12 **Immunity** – It is expressly understood and agreed that, in the execution and performance of this Agreement, City has not waived, nor shall be deemed to have waived, any immunity, governmental, sovereign and/or official, or defense that is available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth in this Agreement.
- 12.13 **Incorporation of Recitals** – The representations, covenants and recitations set forth in the foregoing recitals of this Agreement are true and correct and are

incorporated into the body of this Agreement and adopted as findings of City and the authorized representative of Consultant.

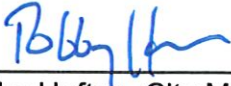
- 12.14 **Additional Representations** – Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had the opportunity to confer with its counsel.
- 12.15 **Miscellaneous Drafting Provisions** – This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply.
- 12.16 **No Third Party Beneficiaries** – Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third party beneficiaries by entering into this Agreement.
- 12.17 **Indemnity** – The parties agree that the Indemnity provision set forth in Article 10 of this Agreement is conspicuous and the parties have read and understood the same.
- 12.18 **Representations** – All representations and covenants made by one party to the other in this Agreement or in any certificate or other instrument delivered by one party to the other under this Agreement shall be considered to have been relied upon by the other party and will survive the satisfaction of any fees under this Agreement, regardless of any investigation made by either party.
- 12.19 **Independent Contractor** – In performing this Agreement, Consultant shall act as an independent contractor with respect to City. In no event shall this Agreement be construed as establishing a partnership, joint venture or similar relationship between the parties and nothing herein shall authorize either party to act as agent for the other. Consultant shall be liable for its own debts, obligations, acts and omissions, including the payment of all required withholding, social security and other taxes and benefits with respect to all of Consultant's officers, directors, partners, employees and representatives, who shall not be considered City employees and shall not be eligible for any employee benefit plan offered by City.
- 12.20 **Debarment/Suspension** – City is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. City, Consultant and Consultant's subcontractors shall comply with federal and state regulations regarding debarment and suspension. Consultant shall include a statement of compliance with federal and state debarment and suspension regulations in all third-party agreements for work on the Project.

- 12.21 **Restrictions on Lobbying** – City and Consultant are prohibited from using funds awarded under the Agreement for lobbying purposes. Consultant shall include a statement of compliance with this provision in applicable procurement solicitations and third-Party agreements for work on the Project.
- 12.22 **Appropriation of Funds** – Funds are not presently budgeted for City's performance under this Agreement beyond the end of City's 2021-2022 fiscal year. City will give Consultant sixty (60) days' notice if funds for City's performance are not budgeted to continue beyond that time. City shall have no liability for payment of any money for services performed after the end of City's 2021-2022 fiscal year unless and until such funds are budgeted.
- 12.23 **Reference to Consultant** – When referring to "Consultant," this Agreement shall refer to and be binding upon Consultant, and its officers, directors, partners, employees, representatives, contractors, subcontractors, licensees, invitees, agents, successors, assignees (as authorized herein), vendors, grantees, trustees, legal representatives and/or any other third parties for whom Consultant is legally responsible.
- 12.24 **Reference to City** – When referring to "City," this Agreement shall refer to and be binding upon City, its Council members, officers, agents, representatives, employees and/or any other authorized third parties for whom City is legally responsible.

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the date set forth in the introductory clause of this Agreement.

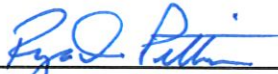
CITY:
City of Sherman, Texas,
a Texas home-rule municipality

CONSULTANT:
Plummer Associates, Inc.
a Texas corporation

By: 
Robby Hefton, City Manager

By: 
Alan Davis, Principal

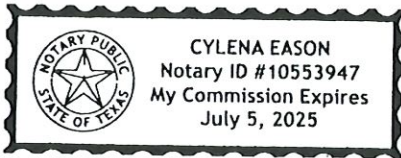
APPROVED AS TO FORM:


Abernathy, Roeder, Boyd & Hullett, P.C.
Ryan D. Pittman, City Attorneys

STATE OF TEXAS §
 §
COUNTY OF Tarrant §

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED **ALAN DAVIS**, KNOWN TO ME TO BE ONE OF THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT; HE ACKNOWLEDGED TO ME THAT HE IS A PRINCIPAL AND DULY AUTHORIZED REPRESENTATIVE FOR **PLUMMER ASSOCIATES, INC.**, AND THAT HE EXECUTED SAID INSTRUMENT FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 1 DAY
OF June 2022.



Cylena Eason
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS
My commission expires: July 5, 2025

EXHIBIT A SCOPE OF SERVICES

I. PROJECT DESCRIPTION

With the recent announcement of a new \$30 Billion Texas Instruments (TI) semiconductor chip manufacturing campus to be located in the City of Sherman (City), the City is developing a comprehensive infrastructure plan to serve the facility and the associated growth. The City has selected Plummer Associates, Inc. (Plummer) to provide engineering consulting services for planning, design and construction administration associated with the wastewater treatment and water reuse facilities needed to support the TI facility and continued growth. It is anticipated that these services will be performed in phases. The first phase will include the initial data/information gathering and master planning that will provide a road map for subsequent design and construction phases. The remainder of this document defines the scope of work for the Phase 1 master planning services.

II. GENERAL REQUIREMENTS

- A. Specific design requirements shall be obtained from the City of Sherman Engineering Design Standards. Consultant will establish and summarize design criteria. The design criteria will be reviewed by the City for approval prior to beginning design work.
- B. Consultant shall coordinate with other engineering consultants, utility companies, franchise utilities, City of Sherman, pipeline companies, and any other entity which has facilities within or adjacent to the Project.
- C. Each time the Consultant submits plans and/or specifications to City, two (2) copies (as well as PDF versions) of each shall be submitted, unless otherwise instructed. These shall be reviewed and checked by City and returned to Consultant for corrections. When the corrected copies of the plans and specifications are returned to City, the original and reviewed plans and specifications shall also be returned to City. All plans, specifications, documents, provisions, attachments, and correspondence provided in accordance with this contract shall be dated.
- D. The Consultant shall submit a monthly report outlining, at a minimum, the work on the project which occurred the previous month, the work expected to be completed the following month, the next major project milestone, and any information needed from the City. The report is to be submitted with monthly invoice.
- E. Communications and Reporting:
 - i Attend a pre-design project kickoff meeting with City staff to confirm and clarify scope, understand City objectives, and ensure economical and functional designs meet City requirements.

EXHIBIT A SCOPE OF SERVICES

- ii Attend review meeting with the City at the end of each design phase.
- iii Prepare and submit monthly invoices in the format acceptable to the City.
- iv Prepare and submit monthly progress reports.
- v Prepare and submit baseline Project Schedule initially, Project Schedule updates, and updated Opinion of Probable Construction Cost with each plan submittal.
- vi Coordinate with other agencies and entities as necessary for the design of the proposed infrastructure and provide and obtain information needed to prepare the design.
- vii With respect to coordination with permitting authorities, Consultant shall communicate with permitting authorities such that their regulatory requirements are appropriately reflected in the designs. Consultant shall work with regulatory authorities to obtain approval of the designs, and make changes necessary to meet their requirements.
- viii Attend additional project coordination meetings, if needed.

III. TASK SUMMARY, BASIC SERVICES

A. Task A: Information Gathering and Review

- a. Kickoff Meeting: Prepare for and facilitate an in-person kickoff meeting in Sherman to review the scope and schedule; identify critical success factors and potential risks; and discuss data/information that will be used in the planning process. Data currently available to Plummer will be identified.
- b. Information Request: Prepare and submit to City a request for information. The City will provide available requested information, and any other related information City is aware of that may benefit the project team. Information to be provided may include, but not be limited to: customer water usage data; historical flow and water quality data, previous design and master plan reports; development and planning information, population and flow projection information, water supply cost and rate information, GIS data layers, existing TPDES permits, and water rights information. A separate information request will also be provided summarizing desired information and data to be obtained from TI. Data to be requested will include information from existing TI facilities with similarities to the one to be constructed in Sherman. In addition, information on the quality of the existing TI discharges and timing of the planned phase-out of the existing TI facility will be requested. Information related to individual process streams and the opportunities for reuse at the TI facility will be requested, such as water quality requirements, potential uses, and reuse water quantity. It is assumed that all data and information will be provided in electronic format. If data from existing TI facilities are not available, special sampling may be required and is included as a special service.

EXHIBIT A SCOPE OF SERVICES

- c. Tour of Existing TI Facilities: Plummer (up to 3 team members) will accompany City of Sherman staff on up to two site visits to facilities that are similar to the facility to be constructed in Sherman. The budget allocated to this task only covers time and travel expenses for Plummer team staff. City staff expenses are not included. Plummer will document information obtained from the site visits. Plummer will contact the municipalities where these facilities are located to schedule a meeting with wastewater and pretreatment staff before each site visit. Plummer will request a copy of the technically based local limits from these municipalities.
- d. Information Review: Review and summarize the information provided by Sherman and TI.
- e. Information Gathering/Review Meetings:
 - i. Coordinate with the City to meet with representatives of TI to obtain additional information and insight into plans for design and operation of the TI facility.
 - ii. Meet with the City to discuss questions related to information provided and any outstanding information needed for completion of the Master Plan.

Deliverables: Summaries to be included in final report, as appropriate; meeting notes.

B. Capacity and Treatability Study

- a. Task B: Wastewater Flow Projections and Quality Characteristics
 - i. Evaluate/Confirm Wastewater Flow Projections: Evaluate flow projections provided in Task A. Modify and augment as appropriate based on information obtained from discussions with TI and any other updated information provided by the City. Flows to be developed include annual average daily; maximum month; peak two-hour; average daily minimum; and extended wet weather influent. Variability in TI flows will be evaluated and documented, including the timing of phasing out the existing TI facility. If required by individual treatment processes, maximum and minimum weekly flows shall also be included. Flow peaking factors (peak two-hour, maximum month, etc.) will be established using available data. The evaluation period for the flow projections will be consistent with the period used in the City's most recent Wastewater Master Plan.
 - ii. Wastewater Characteristics (Quality and Quantity):
 - a. Review five years of historical quality data for biochemical oxygen demand (BOD), ammonia (NH₃), total suspended solids (TSS) and

EXHIBIT A SCOPE OF SERVICES

- potential of hydrogen (pH) from the Post Oak WWTP. This will include all recorded data and sampling locations at the plant.
- b. Predict wastewater characteristics received at Post Oak WWTP after the water purification facility ceases discharging to the collection system.
 - c. Identify potential pollutants of concern that are typically regulated/monitored in facilities with processes similar to the proposed TI facility. Obtain historical water quality and flow data from similar operational TI facilities and summarize water quality characteristics.
 - d. Evaluate water quality from the existing TI facility in Sherman and based on information provided by TI, evaluate the impact of phasing out this facility on the water quality characteristics.
 - e. Based on the evaluation above and other information provided by TI, estimate projected water quality characteristics and quantity for the pollutants of concern for each internal waste stream and the final wastewater discharges from the new TI facility; identify water quality characteristics associated with the new TI discharge that may impact treatment processes and discharge permitting (e.g. biocides, nitrification inhibitors, dissolved solids, potentially hazardous wastes, etc.).
 - f. Identify types of new industries that may come to the City to support TI. Determine if any of the new industries could have significant flows or discharge pollutants of concern at levels that could be problematic.
 - g. Identify direct and indirect industrial users that are located in the vicinity of the new TI facility. Review five years of historical discharge data obtained through the City's pretreatment program or available through EPA Enforcement and Compliance History Online for the industries. Obtain information related to changes that have occurred in the past five years or changes that are proposed for the industrial user's facilities that have or may cause an impact to the characteristics of the discharges to the City's treatment works. The impacts of COVID on the industrial user discharges will be considered in the review.
 - h. Review wastewater quality data with respect to the potable water source (groundwater or surface water). The typical wastewater characteristics for domestic and commercial sources that receive potable water from each source will be reviewed. Any other available relevant water quality data for the Post Oak WWTP will be reviewed.

EXHIBIT A SCOPE OF SERVICES

- i. Define concentrations and loads to be used in projecting future wastewater quality. Loads will include annual average daily; maximum month average daily; peak two-hour; and average daily minimum. If required by the individual treatment processes, maximum and minimum weekly loads shall also be included.
- j. Separately characterize wastewater quality for the following scenarios:
 - Post Oak WWTP commingled with wastewater from the TI facility
 - Post Oak WWTP without wastewater from the TI facility
 - TI facility + nearby industrial dischargers (for potential treatment at a separate industrial treatment facility)
 - Post Oak WWTP without TI facility and without nearby industrial dischargers
- iii. Task B Meetings: The following meetings are anticipated to support Task B activities:
 - a. Prepare for and facilitate one in-person meeting with the City in Sherman to review the results of the Task B evaluation. A PowerPoint summary of results will be provided at the meeting and will serve as the intermediate documentation of the Task B results.
 - b. Prepare for and facilitate up to 3 virtual meetings (with the City and/or TI) to review task progress or obtain additional input/information.

Deliverable: PowerPoint slides summarizing flow projections and water quality characterization; meeting notes.

- b. Task C: Treatment Alternatives Screening Evaluation (Note: This task will be coordinated with and conducted concurrently with Tasks D and E.)
 - i. Treatment Alternative Development: Develop conceptual planning-level treatment scenarios for up to 5 treatment alternatives. Perform a process evaluation and assessment for each alternative. Prepare treatment process diagrams and descriptions for each alternative. Alternatives to be included will be finalized following completion of Task B but may include:
 - a. All flow is commingled and treated at the existing Post Oak WWTP site for the entire planning period.
 - b. Flow is initially commingled and treated at the Post Oak WWTP until capacity of the existing WWTP is reached; A separate industrial

EXHIBIT A SCOPE OF SERVICES

treatment train will be constructed at the Post Oak WWTP site to treat flows from TI (and potentially other nearby industries).

- c. Flow is initially commingled and treated at the Post Oak WWTP until capacity of the existing WWTP is reached; A separate industrial treatment plant will be constructed at a new site located near TI to treat flows from TI (and potentially other nearby industries).
 - d. TI flows are not commingled at the Post Oak WWTP. A separate industrial treatment plant will be constructed at a new site located near TI to treat flows from TI (and potentially other nearby industries) and will be operational when the TI facility comes online.
- ii. Permitting: Identify the type(s) of permits required and the regulations that apply to the discharge/waste streams generated by each alternative. The difficulty of and anticipated schedule for obtaining each authorization will be identified.
 - iii. Discharge Locations and Permit Limits: Perform a desktop evaluation of potential discharge location(s) for each alternative. Using default QUAL-TX model assumptions (for dissolved oxygen), TCEQ screening procedures, and applicable federal industrial regulations, the potential Texas Pollutant Discharge Elimination System (TPDES) permit limits for each alternative will be predicted.
 - iv. Residuals Disposal: If reverse osmosis treatment is required to manage dissolved solids, perform a desktop evaluation of residual disposal options and identification of potential waste stream segregation needs. Options to be considered will include surface water discharge, deep well injection, and up to two other options that may include high recovery options to minimize the amount of liquid waste or emerging technologies. Coordinate with the City's consultant evaluating water treatment plant improvements to determine whether a combined residuals disposal option for water and wastewater treatment is viable.
 - v. Conveyance Evaluation: Determine conveyance improvements required for each treatment alternative
 - a. Coordinate with City's conveyance consultant to define collection system improvements needed for each alternative.
 - b. Define conveyance system improvements required for discharge of treated effluent and residuals disposal for each alternative.

EXHIBIT A SCOPE OF SERVICES

- vi. Planning-Level Costs: Develop planning-level opinions of probable construction cost (OPCCs), operation and maintenance (O&M), and life cycle costs for each alternative. Costs will be developed for the following elements:
 - a. Wastewater collection system and treated effluent conveyance. Conveyance costs will be based on planning level (AACE Level 5) unit cost factors (e.g. \$/linear foot for pipelines or \$/MGD for lift stations) and will be coordinated with the unit cost factors used by the City's conveyance consultant. For operating costs, unit cost factors will be based on linear feet of pipe and pipe type (gravity vs. force main), and \$/HP for lift stations.
 - b. Treatment facility improvements. Facility improvement costs will be based on planning-level unit cost factors (e.g. \$/MGD) for each treatment process category (e.g. conventional treatment, advanced treatment, biosolids treatment, odor control, etc.). For operational costs, unit cost factors generally will be based on gallons of wastewater treated.
- vii. Non-Cost Factors: Define non-cost considerations associated with each alternative. The review of non-cost factors will include legal, regulatory, environmental, social, institutional and public acceptance issues.
- viii. Pretreatment Program: Identify the impacts to the established Pretreatment Program that implementing each alternative will have. This evaluation may involve comparing the predicted loadings discharged to Post Oak WWTP to the allowable headworks loadings and allowable industrial loadings developed for the City's approved and/or proposed pretreatment program. The objective of the evaluation is to determine if and what type of modifications to the program will be required.
- ix. Develop Evaluation Criteria and Matrix: Develop proposed evaluation criteria and scoring matrix to be used to evaluate alternatives. Populate draft scoring matrix.
- x. Task C Meetings: The following meetings are anticipated to support Task C activities:
 - a. Prepare for and facilitate an in-person alternative screening workshop with the City in Sherman. Summary descriptions of each alternative will be provided prior to the workshop. At the workshop, evaluation criteria, weights and scoring will be reviewed and confirmed with the City. The scoring matrix will then be used to rank the alternatives and

EXHIBIT A SCOPE OF SERVICES

select which alternative(s) will move forward with a more detailed evaluation.

- b. Prepare for and facilitate up to 3 virtual meetings (with the City and/or TI) to review task progress or obtain additional input/information.

Deliverables: Summary descriptions of each alternative; final screening scoring matrix; meeting notes.

C. Task D: Water Reuse Alternatives Screening Evaluation

- a. Existing Customer Identification: Identify potential customers for non-potable reclaimed water in the vicinity of the new TI facility and in the vicinity of the Post Oak WWTP.
 - i. Analyze monthly metered water usage data to be provided by the City, to include any separate irrigation meters. For customers with no irrigation meter, seasonal water usage will be used to estimate potential irrigation usage. Rank customers in order of largest likely non-potable water usage. Cross-check with desktop review of aerial imagery to confirm likely irrigated areas.
 - ii. Prepare for and facilitate a meeting with the City to review ranked list of potential largest nonpotable water users and obtain input and feedback.
 - iii. Prepare for and attend up to 5 meetings with potential customers to evaluate interest in using reclaimed water and determine any special water quality or pressure/delivery requirements. If desired by the City, one meeting could be coordinated with pretreatment program customers.
- b. Future Customer Identification: Using available planning and development information, together with other information available from the City, identify potential future development areas that may be candidates for receiving reclaimed water. Estimates of potential demands for future development will be based on available information and are likely to be very approximate.
- c. Reclaimed Water Supply and Water Quality: Summarize reclaimed water supply and water quality requirements.
 - i. Using historical flow data and projections from Task B and in coordination with Task C, document existing and future reclaimed water supply, both from the Post Oak WWTP and a potential future industrial WWTP, as appropriate.
 - ii. Prepare a summary of existing treated effluent quality from the Post Oak WWTP and expected water quality requirements to serve potential reclaimed water customers. Treatment process improvements needed to meet

EXHIBIT A SCOPE OF SERVICES

expected quality requirements will be included in the treatment alternatives for Task C.

- d. Evaluate Reclaimed Water Delivery Options for Nonpotable Reuse: In coordination with Task C, evaluate delivery options for nonpotable reuse for each treatment alternative.
 - i. A hydraulic model will be developed for each alternative. Planning- level demands will be estimated from the information developed in Tasks D.a. and D.b. The model will be used to evaluate pipeline sizing and pumping/storage requirements.
 - ii. GIS maps will be prepared for presentation of each alternative.
 - iii. OPCCs, together with estimated O&M and life cycle costs, will be developed for each alternative.
 - iv. Non-cost considerations, such as regulatory or institutional issues, permitting requirements, barriers to implementation or other similar issues will be summarized.
- e. Summarize Reclaimed Water Delivery Alternatives: In coordination with Task C, prepare a summary of each reclaimed water delivery alternative. Summaries will be incorporated into treatment alternative summaries and included as part of the Task C screening workshop.

Deliverables: Prioritized list of potential customers; hydraulic model of each alternative; summary of reclaimed water delivery alternatives; meeting notes.

D. Task E: Indirect Potable Reuse Alternatives Screening Evaluation

- a. Screening of Potential Discharge Locations:
 - i. In coordination with previous tasks, estimate the quantity of water that may be available for discharge to the Lake Texoma, Lake Ray Roberts, Lake Lewisville, or Lake Lavon watersheds for subsequent indirect reuse.
 - ii. Perform a desktop evaluation of potential discharge locations to evaluate the viability of discharging to other watersheds. Using default QUAL-TX model assumptions (for dissolved oxygen) and TCEQ screening procedures, estimate projected TPDES permit limits for each potential location.
- b. Water Provider Meetings: Working with the City, prepare for and facilitate up to 3 meetings with regional water providers to discuss their interest in purchasing and/or trading return flows from the City. It is anticipated that meetings would be with some or all of North Texas Municipal Water District (NTMWD), Greater Texoma Utility Authority (GTUA), and Dallas Water Utilities (DWU).

EXHIBIT A SCOPE OF SERVICES

- c. Evaluate Indirect Potable Reuse (IPR) Alternatives: Based on input received from meetings in Task E2, develop up to 3 IPR alternatives.
 - i. Develop conceptual plans of required conveyance infrastructure and display on a GIS map.
 - ii. Develop OPCCs together with estimated O&M and life cycle costs for each alternative.
 - iii. Summarize non-cost considerations, such as regulatory or institutional issues, permitting requirements, barriers to implementation or other similar issues.
- d. Summarize IPR Alternatives: In coordination with Task C, prepare a summary of each IPR alternative. Summaries will be incorporated into treatment alternative summaries and included as part of the Task C screening workshop.

Deliverables: Summary of IPR alternatives including maps, costs and review of non-cost factors; meeting notes.

E. Task F: Alternative Evaluation

- a. Alternative Development: Based on the results of the Task C Screening Workshop, evaluate one alternative, including items to address Post Oak WWTP condition assessment needs, treatment alternatives for the TI project, and infrastructure needs associated with water reuse. Evaluation of a second alternative is included as a Special Service.
 - i. Perform treatment process modeling for the alternative.
 - ii. For each proposed discharge location (including discharge of RO concentrate, as appropriate), develop a refined water quality model and assessment of potential TPDES permit limits.
 - iii. Prepare conceptual design:
 - a. Prepare design concept memorandum defining raw wastewater flow and quality characteristics, effluent discharge flow and quality characteristics, odor control concepts, biosolids and residual handling concepts. Develop a conceptual process design drawing including all treatment process units with flow rates.
 - b. Prepare desktop evaluation of potential new WWTP sites near the TI facility. A detail selection of a site would occur in a subsequent project. The desktop evaluation would include up to three sites and criteria such as property size, ownership, and current use, known geology,

EXHIBIT A SCOPE OF SERVICES

- proximity to power, vehicle access, proximity to the TI facility, and proximity to discharge locations.
 - c. Develop conceptual electrical loads for the plant. Coordinate with power company for electrical service for new sites.
 - d. Update conceptual conveyance infrastructure plan based on the selected alternative and selected treatment site and display on a GIS map.
 - e. Identify conceptual communication strategy to other city facilities and plant security requirements.
- b. Alternative Conceptual Costs: Develop OPCCs, O&M, and life cycle costs for each alternative.
 - c. Task F Meetings: The following meetings are anticipated to support Task F activities:
 - i. Prepare for and facilitate an in-person alternative review meeting with the City in Sherman. If more than one alternative has been evaluated, a similar scoring exercise as performed in Task C will be used to rank the alternatives and select the preferred option.
 - ii. Prepare for and facilitate up to 3 virtual meetings to review task progress or obtain additional input/information.
 - d. Finalize Conceptual Alternatives: Incorporate feedback received from City from Task F alternative review meeting and finalize alternative(s) and cost(s).

Deliverables: Conceptual design memorandum and opinions of cost; meeting notes.

F. Task G: Implementation Plan

- a. Document CIP Projects: Document and summarize CIP projects associated with the recommended alternative. Projects will also include the improvements identified during the Post Oak WWTP condition assessment project.
- b. Prepare Implementation Plan: Implementation steps for the recommended alternative identified in Task F will be documented, together with a proposed schedule for implementation.

Deliverables: CIP projects and implementation plan for the recommended alternative.

EXHIBIT A SCOPE OF SERVICES

G. Task H: Report

- a. Draft Report: Document the results of the previous tasks in a draft report. One electronic copy of the report will be provided to the City for review.
- b. Final Report: Prepare a final report that incorporates comments received from City. An electronic (pdf) copy of the final report, together with 3 hard copies, will be provided to City.

Deliverables: Draft and final report.

H. Task I: Project Administration and Additional Meetings

- a. Project Administration: Project administration will include but not be limited to developing and implementing a project management plan; tracking and managing internal schedules of work; monitoring and addressing issues related to the scope of work, budget and deliverables; preparing and processing monthly billings; providing labor resources necessary to fulfill scoped work; scheduling and participating in quality control reviews; and providing updates to the City on a regular basis. A standard monthly invoice and progress reports will be prepared for all services.

Deliverables: Monthly progress reports and invoices

I. Task J: Additional Meetings:

- a. Prepare for and attend up to 2 additional in-person meetings (not included in other tasks) with City staff, TI, City Council or other stakeholders. For budgeting purposes, each meeting will be 4 hours and include 10 people from the consultant team plus meeting preparation, meeting documentation, and travel.

Deliverables: Meeting notes for each meeting.

J. Special Services

- a. Various services incidental to the project, but not within the scope of the Basic Engineering Services covered by basic services, which may be performed or arranged for separately by City, or may be added to the Consultant's responsibilities by mutual agreement and written authorization include but are not necessarily limited to the following items. The scope and compensation for these services will be further defined and agreed to prior to authorization:
 - i. Additional Sampling: Additional sampling at the City's Post Oak WWTP, or an existing TI facility to obtain additional water quality data to support the evaluation.

**EXHIBIT A
SCOPE OF SERVICES**

- ii. Additional alternative evaluation: In accordance with scope Task F: Alternative Evaluation, perform a alternative evaluation, including conceptual design tasks and costs for a second alternative.
- iii. Additional data collection or analysis not included in Basic Services.
- iv. Additional model development or evaluations not included in Basic Services.
- v. Additional meetings not included in Basic Services.
- vi. Design surveying and utility locations:
 - a. Perform preliminary surveying for the wastewater treatment plant sites. These services are based upon survey of the City's Post Oak WWTP and a new plant site. A detailed scope of work will be provided prior to authorization by the City. Perform subsurface utility engineering (SUE) Quality Level A or B services at critical locations.
- vii. Geotechnical Investigation & Report: These services are based upon geotechnical engineering at the City's Post Oak WWTP and a new WWTP site. A detailed scope of work will be provided prior to authorization by the.
 - a. Perform soil borings and install piezometers at select locations on plant site(s)
- viii. Preparation of site visits, report, sketches, drawings, presentations, and permit applications involving environmental, historical, and archaeological considerations. A detailed scope of work will be provided prior to authorization by the City once the pipeline routes and plant site have been established.

EXHIBIT B
PROJECT DESIGN BUDGET SUMMARY

I. Basic Services

A. Information Gathering and Review	\$ 117,221
B. Capacity and Treatability Study	\$ 190,251
C. Treatment Alternatives Screening Evaluation	\$ 339,260
D. Water Reuse Alternatives Screening Evaluation	\$ 102,919
E. Indirect Potable Reuse Alternatives Screening Evaluation	\$ 55,212
F. Detailed Alternative Evaluation	\$ 337,909
G. Implementation Plan	\$ 37,341
H. Report	\$ 117,765
I. Project Administration	\$ 154,053
J. Additional Meetings	\$ 36,080

<i>Total Basic Services (Lump Sum)</i>	<u>\$ 1,488,011</u>
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II. Special Services

A. Additional Sampling	\$ 20,000
B. Additional Detailed Alternative Evaluation	\$ 340,000
C. Additional Data Collection and Analysis	\$ 30,000
D. Additional Model Development & Screening	\$ 50,000
E. Additional Meetings	\$ 50,000
F. Surveying, Easement Preparation, and SUE	\$ 50,000
G. Geotechnical Engineering	\$ 25,000
H. Environmental and Architectural Investigation Services	\$ 20,000

<i>Total Authorized Special Services</i>	<u>\$ 585,000</u>
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<i>Project Budget, Grand Total (Not-To-Exceed)</i>	<u>\$ 2,073,011</u>
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EXHIBIT C
GUIDELINES FOR COMPUTER AIDED DESIGN AND DRAFTING (CADD)

1. Files shall done in DWG/DXF format.
2. Files shall be georeferenced in the State Plane, Texas North Central FIPS 4202 (feet) coordinate system, using a datum of NAD 83 Grid.
3. If a surface adjustment factor is applied to the data, any surface adjustment factors used should be clearly documented on the drawing.
4. If submissions for the Project relate to a plat, the file submitted must match exactly the plat that is submitted for recording.
5. The file shall contain required features for the project type as detailed below:
 - a. Pre-Construction/As-Built Plans and/or Record Documents:
 - i. Layers from Final Plat Requirements as Applicable to Project Type.
 - ii. Water Utility Features.
 - iii. Sanitary Sewer Features.
 - iv. Storm Sewer Features.
6. Each required feature group should be provided as a separate layer within the file.
7. Layer names should be representative of the information contained in the layer.
8. Line work should be done per accepted industry norms.
9. Text should not be smaller than 0.08" on a full size sheet, and should be a font such as Simplex, Calibri, or Arial.

EXHIBIT D
CONSULTANT'S GUIDELINES FOR DIRECT EXPENSES; GENERAL AND
ADMINISTRATIVE MARKUP; TRAVEL AND SUBSISTENCE EXPENSES

- I. **CONSULTANT'S RESPONSIBILITY.** Consultant shall be solely responsible for the auditing and accuracy of all Direct Expenses, approved markup (general and/or administrative), and approved travel and/or subsistence charges, including those of its subcontractors, prior to submitting to City for reimbursement. Any over-payment by City for errors in submittals for reimbursement may be deducted from Consultant's subsequent payment(s) for services; however, this shall not be City's sole and exclusive remedy for said over-payment.

II. **GUIDELINES FOR DIRECT EXPENSES.**

- A. **Local Transportation** – Transportation in connection with the Project, when such transportation is not a function of routine performance of the duties of Consultant in connection with the Project, and when such transportation exceeds beyond fifty (50) miles from the Project site, shall be reimbursed at a standard mileage rate consistent with that as issued, and periodically revised, by the United States Internal Revenue Service (IRS). Under no circumstances shall City reimburse Consultant at a higher standard mileage rate or pay additional markup on charges for local transportation. Completion of City's Standard Mileage Log is required for submittal of these charges for reimbursement, including justification for each submitted expense.

Under no circumstances are charges associated with rental cars for local transportation eligible for reimbursement by City. Toll road subscriptions or toll plaza receipts are not reimbursable. Consultant agrees to place these standards in all subcontracts for work on the Project.

- B. **Supplies, Material, Equipment** – City shall reimburse the actual cost of other similar direct Project-related expenses, which are duly presented in advance and approved by City's Project Manager in writing.
- C. **Commercial Reproduction** – City shall reimburse the actual cost of reproductions, specifically limited to progress prints prepared for presentation to City at each phase of progress, and final Construction Documents prepared for distribution at bidding phase, provided that Consultant has duly obtained at least three (3) quotations from commercial firms and has chosen the best value for City. Consultant shall provide such documentation to City for review prior to submitting these expenses for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.
- D. **In-House Reproduction** – Consultant shall make arrangements with City for prior approval of in-house reproduction rates prior to submitting these expenses for reimbursement. City shall provide Consultant with a standard format for documenting these charges. Completion of City's reproduction log is required as

EXHIBIT D
CONSULTANT'S GUIDELINES FOR DIRECT EXPENSES; GENERAL AND
ADMINISTRATIVE MARKUP; TRAVEL AND SUBSISTENCE EXPENSES

a prerequisite for payment, including the number or reproductions, the date, time, description, the approved standard rate, and a justification for each submitted expense for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.

- E. **Commercial Plotting** – City shall reimburse the actual cost of plots, specifically limited to final documents, provided Consultant has duly obtained at least three (3) quotations from commercial firms and has chosen the best value for City. Consultant shall provide such documentation to City for review prior to submitting these expenses for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.
- F. **In-House Plotting** – Consultant shall make arrangements with City for prior written approval of in-house plotting rates prior to submitting these charges for reimbursement. City shall provide Consultant with a standard format for documenting these charges. Completion of City's reproduction log is required as a prerequisite for payment, including the number of plots, the date, time, description, the approved standard rate, and a justification for each submitted charge for reimbursement.
- G. **Communications** – Reimbursement for expenses relating to electronic communications shall be limited to long-distance telephone or fax toll charges specifically required in the discharge of professional responsibilities related to the Project. Telephone service charges including office or cellular phones, WATTS, or Metro line services or similar charges are not reimbursable.
- H. **Postage, Mail, and Delivery Service** – City shall reimburse the actual cost of postage and delivery of Instruments of Service, provided Consultant duly considers all circumstances (including available time for assured delivery) of the required delivery and selects the best value for City, which may require comparison of delivery costs offered by three (3) or more sources or methods of delivery, which at a minimum shall include U.S. Mail. Courier service is acceptable only in circumstances requiring deadline-sensitive deliveries and not for the convenience of Consultant and/or Consultant's employees. Consultant agrees to place these standards in all subcontracts for work on the Project.
- I. **Meals and Other Related Charges** – Meals or any other related expenses are not reimbursable unless incurred outside a fifty (50) mile radius of the Project, and then only reimbursable for the actual cost subject to compliance with City's currently adopted policy. Non-allowable costs include, but are not limited to, charges for entertainment, alcoholic beverages, and gratuities.

EXHIBIT D
CONSULTANT'S GUIDELINES FOR DIRECT EXPENSES; GENERAL AND
ADMINISTRATIVE MARKUP; TRAVEL AND SUBSISTENCE EXPENSES

III. GUIDELINES FOR GENERAL AND ADMINISTRATIVE MARKUP.

- A. **Requirement of Prior Approval** – Consultant may be allowed to charge a General and/or Administrative Markup on work completed if Consultant can clearly define to City specifically what costs are included in the markup calculation. To apply General and/or Administrative Markup, Consultant must also document to City what costs would be considered direct costs. City shall issue approval in writing to allow Consultant to charge General and/or Administrative Markup. City reserves the right to reject any and all requests for General and/or Administrative Markup.

IV. GUIDELINES FOR TRAVEL AND SUBSISTENCE EXPENSES.

- A. **Requirement of Prior Approval** – City shall reimburse the actual cost of travel and/or subsistence expenses upon prior written approval by City's Project Manager.
- B. **Adherence to Currently Adopted City Travel Policy** – Reimbursements shall be governed by the same travel policies provided for City employees according to current adopted policy. Prior to the event, Consultant shall request, and City's Project Manager shall provide the provisions and the restrictions that apply to out-of-town reimbursements.

EXHIBIT E
CONTRACTOR'S INSURANCE GUIDELINES

I. GENERAL INSURANCE REQUIREMENTS –

- A. All policies shall name the City of Sherman, its officers, agents, representatives and employees as additional insured as to all applicable coverage with the exception of workers compensation insurance and professional liability insurance.
- B. Such policies shall require the provision of written notice to City at least thirty (30) days prior to cancellation or non-renewal of any policies, evidenced by return receipt or United States Certified Mail.
- C. Such policies shall provide for a waiver of subrogation against City for injuries, including death, property damage or any other loss to the extent the same is covered by the proceeds of the insurance.

II. INSURANCE COMPANY QUALIFICATION – All insurance companies providing the required insurance shall be authorized to transact business in the State of Texas, and shall have a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s).

III. CERTIFICATE OF INSURANCE – A Certificate of Insurance and policy endorsement(s) evidencing the required insurance shall be submitted prior to execution of the Agreement. If the Agreement is renewed or extended by City, a Certificate of Insurance and policy endorsement(s) shall also be provided to City prior to the date the Agreement is renewed or extended.

IV. INSURANCE CHECKLIST – "X" means that the following coverage(s) is required for this Agreement.

Coverage Required		Limits
<u> X </u>	1. Worker's Compensation & Employer's Liability	▪ Statutory Limits of the State of Texas
<u> X </u>	2. General Liability	▪ Minimum \$1,000,000.00 each occurrence; ▪ Minimum \$2,000,000.00 in the aggregate
<u> </u>	3. XCU Coverage	▪ Minimum \$1,000,000.00 each occurrence; ▪ Minimum \$2,000,000.00 in the aggregate

EXHIBIT E
CONTRACTOR'S INSURANCE GUIDELINES

-
- | | | |
|---------------|--|--|
| <u> X </u> | 4. Professional Liability | <ul style="list-style-type: none">▪ Minimum \$1,000,000.00 each claim;▪ Minimum \$2,000,000.00 in the aggregate |
| <u> X </u> | 5. Umbrella Coverage of Excess Liability Coverage | <ul style="list-style-type: none">▪ An amount of \$2,000,000.00▪ Minimum \$2,000,000.00 in the aggregate |
| <u> X </u> | 6. City and its officers, agents, representatives and employees named as additional insured on General Liability Policy, as provided above. This coverage is primary to all other coverage City may possess. | |
| <u> X </u> | 7. General Liability Insurance provides for a Waiver of Subrogation against the City for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. All insurance policies that are required to name the City as an additional insured must be endorsed to read as primary and non-contributory coverage regardless of the application of other insurance. | |
| <u> X </u> | 8. Thirty (30) days' notice of cancellation or non-renewal. The words "endeavor to" and "but failure" (to end of sentence) are to be eliminated from the Notice of Cancellation provision on standard ACORD certificates. | |
| <u> X </u> | 9. Insurance company has a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s). | |
| <u> X </u> | 10. The Certificate of Insurance must state the project title and bid number. | |
| <u> </u> | 11. Other Insurance Requirements (State Below): | |

**EXHIBIT F
CONFLICT OF INTEREST QUESTIONNAIRE, FORM CIQ**

CONFLICT OF INTEREST QUESTIONNAIRE For vendor doing business with local governmental entity		FORM CIQ
This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session. This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a). By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code. A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.	OFFICE USE ONLY	
1 Name of vendor who has a business relationship with local governmental entity.		
2 ☐ Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)		
3 Name of local government officer about whom the information is being disclosed. <u>N/A</u> Name of Officer		
4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary. A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor? ☐ Yes ☒ No B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity? ☐ Yes ☒ No		
5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.		
6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).		
7 Signature of vendor doing business with the governmental entity <i>[Signature]</i> Date <u>5-30-2022</u>		

Form provided by Texas Ethics Commission

www.ethics.state.tx.us

Revised 1/1/2021

City of Sherman, Texas – Professional Services Agreement
Wastewater Treatment and Water Reuse Master Plan
 3722815

Page 41 of 41





City Council Regular Meeting

Agenda Item No. F.4.

Meeting Date: 1/16/2024

Prepared By: Teri Fine, Assistant to the City Manager

Approved By: Robby Hefton, City Manager

Caption:

RESOLUTION NO. 7245

Authorizing Execution of a Development Agreement between the City of Sherman and Three Oaks Development and Construction Company for the Construction of Infrastructure Improvements and the conveyance to Sherman of a 22.48 acre tract of land in the Preston Kitchen Survey, Abstract No. 67, City of Sherman, Grayson County, Texas, Generally Located in the 2400-2500 blocks of South East Street

Issue:

To consider and approve a development agreement with Three Oaks Development and Construction Company for the Construction of Infrastructure Improvements and conveyance to the City of a 22.48 acre tract of land

Background:

On April 17, 2023, City Council authorized Staff to advertise for public bids for the conveyance of approximately 12 acres of City-owned land located in the 2400-2500 Blocks of South East Street. The City complied with all applicable requirements related to public notice and bidding.

A public request for competitive, sealed bids resulted in two (2) submittals which were opened on October 24, 2023. City staff reviewed these bids as to each bidder's offer and intended use of the property. Staff is recommending awarding the conveyance of approximately 12 acres of City-owned land located in the 2400-2500 Blocks of South East Street to Three Oaks Development and Construction Company of Sherman, Texas. In addition, Staff is recommending to enter into a development agreement with Three Oaks Development and Construction Company to construct infrastructure improvements on 22.48 acres of land that Three Oaks will convey to the City of Sherman and on 14.91 acres of land that the City of Sherman owns along South East Street. The infrastructure improvements that the Three Oaks Development and Construction company has agreed upon in this development agreement are the following:

- 3,000 linear feet of 10 foot wide hike and bike trail construction (\$180,000 value)
- 48-space parking lot (\$180,000 value)
- Grading improvements (\$154,000)

As part of the development agreement, the above infrastructure improvements are required to be constructed before any building permits can be issued on the 11.69 acres of land that is being conveyed by the City as part of item F.6. in this agenda.

Origination:

Development Services

Financial Consideration:

The approval of this development agreement will result in approximately \$514,000 in infrastructure improvements to be completed by Three Oaks and a conveyance of 22.48 acres of land to the City of Sherman.

Staff Recommendation:

Staff recommends that City Council approve this item.

Alternatives:

As may be directed by the City Council

Attachments:

1. Resolution No. 7245
2. Development Agreement - Three Oaks
3. Location Map

RESOLUTION NO. 7245

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SHERMAN AND THREE OAKS DEVELOPMENT AND CONSTRUCTION COMPANY FOR THE CONSTRUCTION OF PARK IMPROVEMENTS IN AN APPROXIMATE 12 ACRE TRACT OF LAND IN THE PRESTON KITCHEN SURVEY, ABSTRACT NO. 67, CITY OF SHERMAN, GRAYSON COUNTY, TEXAS, GENERALLY LOCATED IN THE 2400-2500 BLOCKS OF SOUTH EAST 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 all contract documents being properly completed and approved as to form and content by the City Attorney, to execute a Development Agreement with Three Oaks Development and Construction Company for the construction of park improvement in an approximate 12 acre tract of land in the Preston Kitchen Survey, Abstract No. 67 in the City of Sherman, Texas, 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.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS on this the 16th day of January 2024.

CITY OF SHERMAN, TEXAS

**BY: _____
DAVID PLYLER, MAYOR**

ATTEST:

**BY: _____
LINDA ASHBY, CITY CLERK**

**APPROVED AS TO FORM AND
CONTENT:
THE LAW FIRM OF ABERNATHY,
ROEDER, BOYD & HULLETT, P.C.**

**BY: _____
RYAN D. PITTMAN, CITY ATTORNEY**

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 DRIVERS' LICENSE NUMBER.

After Recording Return to:
City of Sherman
City Manager
P. O. Box 1106
Sherman, TX 75091-1106

**DEVELOPMENT AGREEMENT BETWEEN
THREE OAKS DEVELOPMENT AND CONSTRUCTION COMPANY
AND THE CITY OF SHERMAN, TEXAS**

This DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between the CITY OF SHERMAN, TEXAS, a home-rule municipality ("Sherman"), and THREE OAKS DEVELOPMENT AND CONSTRUCTION COMPANY, a Texas corporation ("Developer"). Sherman and Developer are sometimes referred to collectively as the "parties" or individually as a "party."

WHEREAS, Developer represents and warrants that it is the sole owner of that certain tract of land situated in the City of Sherman, Grayson County, Texas, consisting of 49.497± acres in the Preston Kitchen Survey, Abstract No. 667, as more particularly described in Exhibit A-1, attached hereto and incorporated herein for all purposes ("Property"); and

WHEREAS, Developer agrees to design and construct, at its sole cost and expense, the Developer Improvements (hereinafter defined) under the terms and conditions of this Agreement; and

WHEREAS, Developer represents and warrants to Sherman that it has the capacity, ability, expertise, knowledge and experience necessary to design and construct the Developer Improvements as required by this Agreement; and

WHEREAS, Developer desires to convey to Sherman, at no cost to Sherman, the 22.48-Acre Tract (hereinafter defined) in the manner set forth below; and

WHEREAS, the parties agree that Developer's obligations under this Agreement serve as consideration for Sherman's agreement to convey title to Developer in and to Sherman-owned real property, consisting of 11.69± acres in the Preston Kitchen Survey, Abstract No. 667, as more particularly described in Exhibit A-2, attached hereto and incorporated herein for all purposes (the "11.69-Acre Tract"), generally located in the 2400-2500 blocks of South East Street; and

WHEREAS, Sherman finds that it would be advantageous and beneficial to Sherman and its citizens to enter into this Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the covenants and conditions contained in this Agreement, Sherman and Developer agree as follows:

1. Incorporation of Recitals. The representations, covenants and recitations set forth in the foregoing recitals of this Agreement are true and correct, are incorporated into the body of this Agreement and are adopted as findings of Sherman and the authorized representative of Developer.
2. Land Subject to Agreement. The land that is subject to this Agreement is the Property and the 11.69-Acre Tract. Developer represents and warrants that Developer is the sole owner of the Property and the 11.69-Acre Tract as of the Effective Date (hereinafter defined) of this Agreement.
3. Design and Construction of the Developer Improvements.
 - (a) Developer, at its sole cost and expense, shall cause the design of the following: (1) those certain hike-and-bike trail improvements consisting of 3,000± linear feet of 10-foot-wide concrete hike-and-bike trail and all necessary appurtenances thereto (collectively, the “Trail Improvements”), on the 22.48-Acre Tract, more particularly described in Exhibit D, attached hereto and incorporated herein for all purposes (the “22.48-Acre Tract”), and the Sherman-owned 14.906-Acre Tract, more particularly described in Exhibit A-3, attached hereto and incorporated herein for all purposes (the “14.906-Acre Tract”); (2) a 48-space concrete parking lot with driveway and approach from East Street on the 14.906-Acre Tract along with all necessary striping, curbs, wheel stops and other necessary appurtenances thereto (collectively, the “Lot Improvements”); and (3) all necessary land clearing, terraforming and grading work on the 22.48-Acre Tract, including leveling and drainage paths, thinning of underbrush and selected scrub removals, cleaning and haul out of debris and detritus, pruning and lifting of tree canopies, creation of piped crossings at drainage swales and ditches, creek cleanup and generalized readiness for use (collectively, the “Grading Improvements” and together with the Trail Improvements and the Lot Improvements, the “Developer Improvements”). Developer shall ensure that the design of the Developer Improvements complies with all applicable ordinances, rules, regulations and requirements of Sherman and other applicable laws (collectively, the “Design Requirements”). Developer represents and warrants that the estimated design and construction costs of the Developer Improvements are equal to five hundred fourteen thousand and 00/100 dollars (\$514,000) (“Estimated Developer Improvements Costs”), as more particularly described in the estimated cost analysis set forth in Exhibit B, attached hereto and incorporated herein for all purposes.
 - (b) As a condition of Sherman’s issuance of any building permits on the 11.69-Acre Tract, Developer shall submit to Sherman the designs, plans and specifications for each of the Developer Improvements in compliance with this Agreement and the Design Requirements, as each exists at the time Developer submits such designs, plans and specifications (collectively, “Plans”). Upon Developer’s submission of the Plans, the Plans must be approved, in writing, by Sherman (collectively, “Approved Plans”). Sherman is entitled to withhold approval of the Plans in its sole discretion.
 - (c) Once Sherman issues written approval of the Approved Plans, Developer, at its sole

cost and expense, shall promptly commence construction of the Developer Improvements and diligently pursue completion of the same in accordance with the Approved Plans and pursuant to that certain Three-Party Agreement for Public Improvements, the mutually agreed form of which is attached hereto as Exhibit C. Until Developer provides to Sherman a fully executed version of the Three-Party Agreement for Public Improvements acceptable to Sherman, neither Developer nor its contractor or any other person for whom Developer is legally responsible shall be permitted to commence construction of the Developer Improvements.

- (d) The Developer Improvements must be completed and finally accepted by Sherman as provided herein and in accordance with the Approved Plans and any and all applicable ordinances, rules, regulations and requirements, as they exist, may be amended or in the future arising (collectively, "Sherman's Final Acceptance"). Subject to Section 3(g), Developer must complete the Developer Improvements and obtain Sherman's Final Acceptance of the same before, and as a condition of, Sherman's issuance of the first and each subsequent building permit on the 11.69-Acre Tract. The parties agree that time is of the essence of this Agreement. Upon Sherman's Final Acceptance of the Developer Improvements, they shall become the sole property of Sherman. All construction or work in connection with the Developer Improvements shall be performed in a good and workmanlike manner in accordance with good industry practice for the type of work in question.
- (e) As a condition to Developer receiving Final Acceptance of the Developer Improvements, Developer shall tender to Sherman evidence, in a form acceptable to Sherman, that all of the design and construction costs of the Developer Improvements have been incurred and paid by Developer, including but not limited to, affidavits of payment/affidavits as to debts and liens and any other evidence reasonably required by Sherman ("Evidence of Payments"). The Evidence of Payments shall reflect Developer's final, actual cost to design and construct the Developer Improvements.
- (f) As an additional condition of Sherman's Final Acceptance of the Developer Improvements, Developer shall, at no cost to Sherman, convey by plat or separate instrument in a form acceptable to Sherman the necessary easement rights for the construction, operation, maintenance and use of each of the Developer Improvements constructed by Developer and located on the Property and the 11.69-Acre Tract (collectively, the "Dedication"), as determined by Sherman in its sole discretion. Developer must complete all tasks necessary to make the Dedication promptly after completion of construction of the Developer Improvements (or portion thereof, as applicable). Prior to the Dedication, Developer shall submit to Sherman for approval a proposed legal description and land survey depicting the proposed boundaries of the easements made the subject of this Subsection, and the Dedication shall not be made until said legal descriptions and land surveys are approved, in writing, by Sherman. Sherman's acceptance of the Dedication is a condition of Sherman's Final Acceptance of each of the Developer Improvements and Sherman's issuance of the first building permit for development on the 11.69-Acre Tract. Developer shall: (1) make the Dedication free and clear of any liens, attachments and encumbrances; and (2) secure the authorized signatures of any

person or entity deemed necessary by Sherman to consent to the Dedication. Nothing in this Agreement may be construed or interpreted to waive, minimize, replace, negate, void, invalidate or otherwise modify in any way any requirement or obligation under any Sherman ordinance, regulation or standard, including but not limited to Sherman's Subdivision Regulations, as they exist or may be amended, for the dedication, grant or conveyance of any type of easement rights and/or fee simple right-of-way required as part of any development or redevelopment of the Property, the 11.69-Acre Tract or any portions thereof. Moreover, nothing in this Agreement may be construed or interpreted to waive, minimize, replace, negate, void, invalidate or otherwise modify in any way Sherman's authority and right to require Developer to convey easement rights, fee simple right-of-way or other property interests pursuant to Sherman's condemnation authority.

- (g) Notwithstanding any statement to the contrary in this Agreement, Sherman shall have the option to cancel Developer's rights and obligations to design, construct or complete all or any portion of the Developer Improvements under this Agreement if: (1) Developer fails to submit to Sherman complete Plans for each such Developer Improvement on or before the fifth (5th) anniversary of the Effective Date of this Agreement; (2) Developer fails to commence work or construction on all or a portion of the Developer Improvements on or before the fifth (5th) anniversary of the Effective Date of this Agreement, as determined by Sherman in its sole discretion; or (3) on or after the fifth (5th) anniversary of the Effective Date of this Agreement, Developer commences such work or construction but abandons the project, in whole or in part, for a period of thirty (30) days or more, as determined by Sherman in its sole discretion. Sherman shall exercise such right by providing written notice to Developer of its election. Failure by Sherman to send such notice at any particular time shall not preclude Sherman from having the right to make the election or send the notice at any subsequent time. In the event Sherman elects to so cancel Developer's rights and obligations under this subsection, Developer shall pay to Sherman an amount equal to the sum of the Estimated Developer Improvements Costs attributable to the applicable Developer Improvement(s) multiplied by the percentage change in the Consumer Price Index (all items), as published by the United States Bureau of Labor Statistics, for the time period between the Effective Date of this Agreement and the date of Sherman's written notice. Such payment is due within fourteen (14) days of the date Sherman provides written notice under this subsection. Developer's failure to so pay Sherman shall constitute an event of default under this Agreement.

4. Conveyance of 22.48-Acre Tract.

- (a) Within thirty (30) days of the Effective Date (hereinafter defined) of this Agreement, Developer shall convey fee simple title, free and clear of any liens and encumbrances, and by Special Warranty Deed, in the form attached hereto as Exhibit E, in and to that certain tract of land consisting of 22.48± acres, more particularly described in Exhibit D attached hereto and incorporated herein for all purposes (the "22.48-Acre Tract").

- (b) As additional conditions of Sherman's acceptance of the 22.48-Acre Tract: (1) the 22.48-Acre Tract must be conveyed in accordance with this Agreement and at no cost or expense to Sherman; (2) Developer shall, at its sole cost and expense, obtain and file releases of any liens and encumbrances affecting any portion of the 22.48-Acre Tract, as directed by Sherman, so that the 22.48-Acre Tract may be conveyed free and clear of all liens and encumbrances; (3) Developer shall, at its sole cost and expense, provide to Sherman any existing surveys of the 22.48-Acre Tract in Developer's possession within seven (7) days of the Effective Date of this Agreement; (4) Developer shall, at its sole cost and expense, provide to Sherman, if required by Sherman, a new ALTA land title survey, certified to Sherman and the title company selected by Sherman within twenty (20) days of the date of Sherman's request thereof; (5) Developer shall pay all costs associated with conveying the 22.48-Acre Tract, including the costs of: (A) a title commitment from a title company selected by Sherman along with copies of all exception documents; (B) an owner's title policy for the 22.48-Acre Tract in a form acceptable to Sherman; (C) taxes prorated to date of closing; (D) recording fees; (E) charges or fees collected by the title company; and (F) fees for any other service in connection with the conveyance of the 22.48-Acre Tract to Sherman. The parties agree that the issuance of an owner's title policy for the 22.48-Acre Tract shall be a condition precedent to Sherman's obligations under this Agreement. For purposes of issuance of the title policy to be issued to Sherman, the parties agree that the total value of the 22.48-Acre Tract is one hundred twenty-four thousand and 00/100 Dollars (\$124,000.00).

5. License and Right of Entry.

- (a) Grant of License and Right of Entry. The parties agree that a portion of the Developer Improvements will be constructed on portions of the 22.48-Acre Tract and the 14.906-Acre Tract, as shown on the Approved Plans (collectively, the "Licensed Property"). Sherman hereby grants to Developer a non-exclusive license and right of entry on the Licensed Property for the purpose of allowing Developer and its employees, agents, contractors and representatives to construct the Developer Improvements in accordance with the terms and conditions of this Agreement. Developer's right to enter on and use the Licensed Property shall be limited solely to such uses and none other. Developer's license and right of entry on the Licensed Property under this Agreement shall be effective as of the date Sherman issues its approval of the Approved Plans and shall expire on the earlier of the termination or expiration of this Agreement or the date of Sherman's Final Acceptance of the Developer Improvements. If Developer abandons the Developer Improvements project, the license and right of entry shall automatically terminate.
- (b) Non-Exclusive License. The license and right of entry granted hereunder is non-exclusive and is subject to any and all rights and interests of third parties having

rights under any utility, drainage, communication or other public easement located in, on or under the Licensed Property that exists and is shown of record in the Grayson County Real Property Records as of the Effective Date of this Agreement. Notwithstanding anything to the contrary herein, during the term of the license and right of entry, Sherman shall not convey any other license, easement or conflicting rights within the Licensed Property that materially interferes with the rights granted in this Section; provided, however, Developer expressly acknowledges and agrees that all rights granted to Developer under this Section are inferior and subordinate to Sherman's rights to use the Licensed Property as Sherman in its sole discretion determines to be necessary, useful or advisable.

- (c) Governmental Approvals. Developer, at its sole cost and expense, shall be responsible for and shall obtain any and all licenses, permits or other approvals from any and all governmental agencies, federal, state or local, required to construct the Developer Improvements and use the Licensed Property as contemplated in this Agreement.
- (d) Insurance. During the term of the license and right of entry, Developer shall, at its sole expense, obtain and maintain the following insurance with reputable insurance companies authorized to transact business in the State of Texas, protecting Sherman and Developer: (i) workers' compensation insurance providing statutory coverage under the laws of the State of Texas for all persons employed by Developer in connection with its activities on the Licensed Property and in performance of this Agreement; (ii) employer's liability insurance with limits of liability for injury by accident or disease of \$1,000,000 for all persons employed by Developer in connection with its activities on the Licensed Property and in performance of this Agreement; (iii) commercial general liability insurance, with a broad form commercial liability endorsement (including contractual liability insurance covering its indemnity obligations hereunder), written on an "occurrence basis" for death, bodily injury and property damage occurring upon, in or about or arising out of or connected with the condition or use of the Licensed Property, the Developer Improvements and/or arising out of or connected with performance this Agreement, with coverage limits not less than \$2,000,000 combined single limit; and (v) business automobile insurance with limits of liability not less than \$1,000,000 per accident. Prior to entering onto the Licensed Property for the first time in the performance of this Agreement during the term of the license and right of entry, Developer shall deliver a certificate of insurance and all associated endorsements evidencing such insurance coverage to Sherman, and shall thereafter deliver certificates of insurance and all associated endorsements showing renewal or replacement of such coverage to Sherman not less than thirty (30) days prior to the expiration of the insurance coverage. Each policy described in this subsection shall name Sherman as additional insureds as to all applicable coverage with the exception of worker's compensation insurance, and shall provide for a waiver of subrogation against Sherman for injuries, including death, property damage or any other loss to the extent the same is covered by the proceeds of insurance.
- (1) Application of Proceeds of Property Insurance. All proceeds payable pursuant to any policies of property insurance required to be carried under

the terms of this Agreement (net of reasonable expenses of collection) shall be applied for the following purposes: (A) all such net proceeds shall first be used, subject to any other terms and conditions contained in this Agreement, as a fund for the rebuilding, restoration and repair of the portion of the Licensed Property or Developer Improvements which have become destroyed or damaged for which such proceeds are payable; and (B) following completion of all work under subsection (A) above, any proceeds not disbursed pursuant to subsection (A) above shall be retained by Sherman.

- (e) Maintenance; Temporary Access. During construction of the Developer Improvements, Developer shall not damage any existing trees, buildings, improvements, additions, alterations and fixtures on or about the Licensed Property except as shown on the Approved Plans, and Developer shall not damage any other Sherman-owned property. After Sherman's Final Acceptance of the Developer Improvements, Developer shall not damage any existing trees, buildings, improvements, additions, alterations and fixtures on or about the Licensed Property. Developer shall be wholly responsible for maintaining the Licensed Property and the Developer Improvements in a safe condition during the term of the license and right of entry. Developer shall repair damages to the Licensed Property and to any of the Developer Improvements caused by Developer's use of the Licensed Property or by any person who accesses the Licensed Property during the term of the license and right of entry ("Developer Damages"); provided, however, that the Developer Damages shall not include damage to the Licensed Property or the Developer Improvements to the extent caused by the construction of the Developer Improvements in accordance with the Approved Plans. All repairs necessitated by the Developer Damages shall be made at Developer's sole cost and expense. In addition, Developer shall be responsible for payment of all water, sewer, electric and other utility costs associated with its use of the Licensed Property during the term of the license and right of entry.
- (f) Clean-Up. Upon termination or expiration of the license and right of entry, Developer shall remove from the Licensed Property any personal property and equipment placed on the Licensed Property by, on behalf of, or with the consent of Developer (collectively, "Developer's Personal Property"). Should Developer fail to remove Developer's Personal Property upon the termination or expiration of the license and right of entry in accordance with this subsection, Sherman may, in its sole discretion, remove and dispose of the same without any liability, whatsoever, to Developer, and Developer shall promptly reimburse Sherman upon request for all costs of removal incurred by Sherman. On termination or expiration of the license and right of entry, Developer shall surrender its license to use and enter onto the Licensed Property and fulfill its repair, restoration, and clean-up obligations in accordance with the terms and conditions of this Agreement.
- (g) Holding Over. If Developer or any party claiming a license under this Agreement to use the Licensed Property by, through or under Developer fails to surrender its use of the Licensed Property immediately upon the termination or expiration of the license and right of entry, Sherman may deem the use of the Licensed Property to

be a trespass, and Sherman will be entitled to any and all remedies arising at law, in equity, or under this Agreement with respect to such failure to surrender the use of the Licensed Property

- (h) Disclaimer. Developer acknowledges and agrees that Sherman is not providing any guarantee, representation or warranty, and Sherman hereby disclaims any guarantee, representation or warranty, of the condition or suitability of the Licensed Property, in whole or in part, for the Developer Improvements project during the term of the license and right of entry, and that Developer's entry onto and use of the Licensed Property under the license and right of entry shall be "AS IS" with all faults, including but not limited to, any and all pollutants, asbestos, and/or any other hazardous materials that may be present in, on or under the Licensed Property. The provisions of this subsection shall survive the termination of this Agreement.
- (i) Unpermitted Uses of the Licensed Property. During the term of the license and right of entry, Developer shall not use or occupy, or permit the use or occupation of, the Licensed Property in a manner which would (i) in any way make void or voidable any insurance then in force with respect thereto, (ii) make it impossible to obtain the insurance required to be furnished by Developer hereunder, or (iii) violate any present or future laws, regulations, ordinances or requirements of any governmental authority, including Sherman.

6. Default.

- (a) If Developer fails to comply with any provision of this Agreement, and such failure is not cured within thirty (30) days after Sherman sends written notice of such failure to Developer, then Sherman shall have the following remedies, in addition to Sherman's other rights and remedies:
 - (i) to refuse to accept any portion of any public improvements on the Property or the 11.69-Acre Tract or associated with the development of the Property or the 11.69-Acre Tract;
 - (ii) to terminate this Agreement by providing written notice of termination to Developer;
 - (iii) to refuse to issue building permits for any building on the Property or the 11.69-Acre Tract;
 - (iv) to refuse to issue a Certificate of Occupancy for any building on the Property or the 11.69-Acre Tract; and/or
 - (v) to seek specific performance of this Agreement.
- (b) If Sherman fails to comply with the terms and conditions of this Agreement and such failure is not cured within thirty (30) days after Sherman receives written notice of such failure from Developer, then Developer may seek specific performance of this Agreement as its sole and exclusive remedy.

7. Limitation of Liability. Notwithstanding anything to the contrary herein, the parties agree and acknowledge that Sherman shall not, under any circumstance, be required to tender, or be liable to Developer for, any credit or reimbursement of, or payment of any monies, with regard to the matters set forth herein. Neither Sherman nor its Council Members, officers, agents, representatives or employees shall be liable or responsible for any loss or damage to persons or property resulting from any act, omission or neglect of Developer or Developer's agents, servants, employees, contractors, customers or invitees or from any defect or failure of any condition or element of the Property, the 11.69-Acre Tract or the Developer Improvements, including the construction thereof. Sherman and its Council Members, officers, agents, representatives and employees shall not be liable or responsible to Developer, its agents, servants, employees, contractors, customers or invitees for any damage to person or property caused by any act, omission or neglect of Developer or Developer's agents, servants, employees, contractors, customers or invitees.
8. Covenant Running with the Land. This Agreement shall be a covenant running with the land and Property and the 11.69-Acre Tract and shall be binding upon Developer, and the duties and obligations of Developer under this Agreement shall be binding on Developer and its successors and assigns, including but not limited to each subsequent owner of any portion of the Property and the 11.69-Acre Tract. The parties shall cause this Agreement to be filed in the Real Property Records of Grayson County, Texas. Developer represents and warrants that the filing of this Agreement as provided herein shall provide Sherman with a superior and priority encumbrance, lien or interest in, on and to the Property and the 11.69-Acre Tract as to any and all other persons or entities. Developer represents and warrants that there are no liens, attachments or other encumbrances that prohibit or affect the rights of Sherman as described herein. If such a condition does exist, however, Developer shall obtain a signature with acknowledgment from the holder of such lien, attachment or encumbrance consenting to the recording of this Agreement.
9. Limitations of Agreement. Sherman ordinances covering property taxes, land use, zoning, utility rates, impact fees, permit fees, inspection fees, tree mitigation fees, development fees, tap fees, pro-rata fees and the like are not affected by this Agreement. Further, this Agreement does not waive or limit any of the obligations of Developer to Sherman under any ordinance, whether now existing or in the future arising.
10. Notices. Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States Mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt requested; by electronic mail, with documentation evidencing the addressee's receipt thereof; or by delivering the same in person to such party a via hand-delivery service, or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notification, the addresses of the parties shall be as follows:

If to Sherman, addressed to it at:
City of Sherman
Attn: Robby Hefton, City Manager

220 W. Mulberry Street
Sherman, Texas 75090
Telephone: (903) 892-7327
Email: robbyh@cityofsherman.com

With a copy to:

Abernathy, Roeder, Boyd & Hullett, P.C.
Attn: Ryan D. Pittman
1700 Redbud Blvd., Suite 300
McKinney, Texas 75069
Telephone: (214) 544-4000
Email: rpittman@abernathy-law.com

If to Developer, addressed to it at:

Three Oaks Development and Construction Company
Attn: Kirk Allen
1313 W. Washington Street
Sherman, Texas 75092
Telephone: 972-672-7793
Email: kirkallen@yahoo.com

11. Indemnity.

- (a) DEVELOPER SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS SHERMAN 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 (INCLUDING ATTORNEY'S FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY) CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENT, GROSSLY NEGLIGENT OR INTENTIONALLY WRONGFUL ACT OR OMISSION OF DEVELOPER OR ITS OFFICERS, DIRECTORS, PARTNERS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEES, TRUSTEES, LICENSEES, INVITEES OR ANY OTHER THIRD PARTY FOR WHOM DEVELOPER IS LEGALLY RESPONSIBLE (COLLECTIVELY, "DEVELOPER" FOR PURPOSES OF THIS SECTION), REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OF SHERMAN, (I) IN DEVELOPER'S PERFORMANCE OF THIS AGREEMENT; AND/OR (II) ARISING OUT OF GOODS OR SERVICES PROVIDED PURSUANT TO THIS AGREEMENT (COLLECTIVELY, "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST SHERMAN BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN DEVELOPER AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT OR SEPARATION FROM EMPLOYMENT WITH THE DEVELOPER,

INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS' COMPENSATION INSURANCE AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE. DEVELOPER IS EXPRESSLY REQUIRED TO DEFEND SHERMAN AGAINST ALL SUCH CLAIMS.

- (b) IN ITS SOLE DISCRETION, SHERMAN SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY DEVELOPER IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY SHERMAN, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY SHERMAN IN WRITING. SHERMAN RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, SHERMAN IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY SHERMAN IS NOT TO BE CONSTRUED AS A WAIVER OF DEVELOPER'S OBLIGATION TO DEFEND SHERMAN OR AS A WAIVER OF DEVELOPER'S OBLIGATION TO INDEMNIFY SHERMAN PURSUANT TO THIS AGREEMENT. DEVELOPER SHALL RETAIN SHERMAN-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF SHERMAN'S WRITTEN NOTICE THAT SHERMAN IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF DEVELOPER FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, SHERMAN SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND DEVELOPER SHALL BE LIABLE FOR ALL COSTS INCURRED BY SHERMAN.
- (c) THE RIGHTS AND OBLIGATIONS CREATED BY THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

12. Waiver and Release of Claims for Obligations Imposed by this Agreement.

- (a) DEVELOPER ACKNOWLEDGES AND AGREES THAT:
 - (i) THE CONVEYANCES, DEDICATIONS, EASEMENTS AND/OR PAYMENT OF MONEY REQUIRED BY THIS AGREEMENT TO BE PERFORMED BY DEVELOPER, IN WHOLE OR IN PART, DO NOT CONSTITUTE A:
 - (A) TAKING UNDER THE TEXAS OR UNITED STATES CONSTITUTION;
 - (B) VIOLATION OF THE TEXAS WATER CODE, AS IT EXISTS OR MAY BE AMENDED;
 - (C) NUISANCE; OR
 - (D) CLAIM FOR DAMAGES OR REIMBURSEMENT AGAINST SHERMAN FOR A VIOLATION OF ANY FEDERAL OR STATE CONSTITUTION, STATUTE OR CASE LAW OR ANY FEDERAL, STATE OR LOCAL ORDINANCE, RULE OR REGULATION.
 - (ii) THE AMOUNT OF DEVELOPER'S FINANCIAL OR INFRASTRUCTURE CONTRIBUTION OR CONVEYANCE OF REAL PROPERTY OR INTERESTS THEREIN (AFTER RECEIVING ALL CONTRACTUAL OFFSETS, CREDITS AND

REIMBURSEMENTS, IF ANY) AGREED TO IN THIS AGREEMENT IS ROUGHLY PROPORTIONAL TO THE DEMAND THAT SUCH DEVELOPER'S DEVELOPMENT PLACES ON SHERMAN'S INFRASTRUCTURE.

- (iii) DEVELOPER HEREBY RELEASES SHERMAN FROM ANY OBLIGATION TO PERFORM OR COMMISSION A TAKINGS IMPACT ASSESSMENT UNDER CHAPTER 2007 OF THE TEXAS GOVERNMENT CODE, AS IT EXISTS OR MAY BE AMENDED.
 - (iv) DEVELOPER HEREBY AGREES THAT ANY PROPERTY WHICH IT CONVEYS TO SHERMAN PURSUANT TO THIS AGREEMENT IS ROUGHLY PROPORTIONAL TO THE BENEFIT RECEIVED BY DEVELOPER FOR SUCH LAND, AND DEVELOPER HEREBY WAIVES ANY CLAIM THEREFORE THAT IT MAY HAVE. DEVELOPER FURTHER ACKNOWLEDGES AND AGREES THAT ALL PREREQUISITES TO SUCH A DETERMINATION OF ROUGH PROPORTIONALITY HAVE BEEN MET, AND THAT ANY VALUE RECEIVED BY SHERMAN RELATIVE TO SAID CONVEYANCE ARE RELATED BOTH IN NATURE AND EXTEND TO THE IMPACT OF THE DEVELOPMENT OF DEVELOPER'S ADJACENT PROPERTY ON SHERMAN'S INFRASTRUCTURE. DEVELOPER AND SHERMAN FURTHER AGREE TO WAIVE AND RELEASE ALL CLAIMS ONE MAY HAVE AGAINST THE OTHER RELATED TO ANY AND ALL ROUGH PROPORTIONALITY AND INDIVIDUAL DETERMINATION REQUIREMENTS MANDATED BY THE UNITED STATES SUPREME COURT IN *DOLAN V. CITY OF TIGARD*, 512 U.S. 374 (1994), AND ITS PROGENY, AS WELL AS ANY OTHER REQUIREMENTS OF A NEXUS BETWEEN DEVELOPMENT CONDITIONS AND THE PROJECTED IMPACT OF THE PUBLIC INFRASTRUCTURE.
 - (v) DEVELOPER SHALL INDEMNIFY AND HOLD HARMLESS SHERMAN FROM AND AGAINST ANY CLAIMS AND SUITS OF THIRD PARTIES, INCLUDING BUT NOT LIMITED TO, DEVELOPER'S PARTNERS, OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEES OR TRUSTEES, BROUGHT PURSUANT TO THIS SECTION.
 - (b) DEVELOPER RELEASES SHERMAN FROM ANY AND ALL CLAIMS OR CAUSES OF ACTION BASED ON EXCESSIVE OR ILLEGAL EXACTIONS.
 - (c) DEVELOPER WAIVES ANY CLAIM FOR DAMAGES OR REIMBURSEMENT AGAINST SHERMAN FOR A VIOLATION OF ANY FEDERAL OR STATE CONSTITUTION, STATUTE OR CASE LAW OR ANY FEDERAL, STATE OR LOCAL ORDINANCE, RULE OR REGULATION.
 - (d) THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.
13. Vested Rights/Chapter 245 Waiver. This Agreement shall confer no vested rights on the Property or the 11.69-Acre Tract, or any portion thereof. Developer acknowledges and agrees that this Agreement does not confer vested rights on the Property or the 11.69-Acre Tract and does not provide to Sherman "fair notice" of any "project" as defined in Chapter 245 of the Texas Local Government Code. In addition, nothing contained in this Agreement shall constitute a "permit" or an application for a "permit" as defined in Chapter 245 of the Texas Local Government Code. DEVELOPER HEREBY RELEASES, REMISES, ACQUITS AND FOREVER DISCHARGES CITY AND ITS CITY COUNCIL MEMBERS, OFFICIALS,

OFFICERS, AGENTS, EMPLOYEES, ATTORNEYS AND CONTRACTORS, IN EACH OF THEIR INDIVIDUAL, CORPORATE AND GOVERNMENTAL CAPACITIES, FROM ALL CLAIMS, DEMANDS AND CAUSES OF ACTION AND/OR PROPOSED CLAIMS, DEMANDS AND CAUSES OF ACTION WHICH COULD HAVE BEEN ALLEGED RELATING TO OR ARISING OUT OF VESTED RIGHTS UNDER CHAPTER 245 OF THE TEXAS LOCAL GOVERNMENT CODE OR OTHER LAW IN CONNECTION WITH THIS AGREEMENT. THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

14. Condemnation Procedures/Rights Waiver. AS ADDITIONAL CONSIDERATION FOR THE BENEFITS DEVELOPER IS RECEIVING UNDER THIS AGREEMENT, CITY AND ITS CITY COUNCIL MEMBERS, OFFICIALS, OFFICERS, AGENTS, EMPLOYEES, ATTORNEYS AND CONTRACTORS, IN EACH OF THEIR INDIVIDUAL, CORPORATE AND GOVERNMENTAL CAPACITIES, FROM ALL CLAIMS, DEMANDS AND CAUSES OF ACTION AND/OR PROPOSED CLAIMS, DEMANDS AND CAUSES OF ACTION WHICH COULD HAVE BEEN ALLEGED RELATING TO OR ARISING OUT OF CHAPTER 2206 OF THE TEXAS GOVERNMENT CODE, AS AMENDED, AND/OR CHAPTER 21 OF THE TEXAS PROPERTY CODE, AS AMENDED.
15. Warranties/Representations. All warranties, representations and covenants made by one party to the other in this Agreement or in any certificate or other instrument delivered by one party to the other under this Agreement shall be considered to have been relied upon by the other party and will survive the satisfaction of any fees under this Agreement, regardless of any investigation made by either party.
16. Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the matters contained herein and may not be modified or terminated except upon the provisions hereof or by the mutual written agreement of the parties. To the extent of any conflict between the provisions of this Agreement and the exhibits, the provisions of this Agreement shall control.
17. Governing Law; Venue. The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Agreement, without regard to conflict of law principles. This Agreement is performable in Grayson County, Texas, and the exclusive venue for any action arising out of this Agreement shall be a court of appropriate jurisdiction in Grayson County, Texas.
18. Consideration. This Agreement is executed by the parties without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.
19. Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this document.
20. Authority to Execute. The individuals executing this Agreement on behalf of the respective parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other

parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the Effective Date (hereinafter defined).

21. Savings; Severability. In the event that a term, condition or provision of this Agreement is determined to be invalid, illegal, 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 as if such invalid, illegal, void, unenforceable or unlawful provision had never been contained in this Agreement.
22. Representations. Each party represents that it has carefully read this Agreement, knows the contents hereof, has consulted with an attorney of its choice regarding the meaning and effect hereof and is signing the same solely of its own judgment.
23. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third party beneficiaries by entering into this Agreement.
24. Assignment/Binding Effect.
 - (a) This Agreement is assignable, in whole or in part, upon the following conditions, all of which must be satisfied before any such assignment shall be valid and enforceable:
 - (i) the assignment of the Agreement must be evidenced by a recordable document ("Assignment"), the form of which must be approved in writing by Sherman;
 - (ii) the Assignment must expressly contain, among any other reasonable requirements and conditions of Sherman, an acknowledgment and agreement that all obligations, covenants and conditions contained in this Agreement will be assumed solely and completely by the assignee, and the contact name, address, phone number, fax number and electronic mail address of the assignee;
 - (iii) Developer will file any approved, executed Assignment in the Real Property Records of Grayson County, Texas; and
 - (iv) Developer shall provide Sherman with a file-marked copy of the Assignment within ten (10) days of filing the same, and until Sherman receives said file-marked copy of the Assignment as provided herein, Sherman shall not, under any circumstance, recognize said Assignment.
 - (b) This Agreement shall be binding upon and inure to the benefit of Sherman and Developer.

- (c) This Assignment provision shall in no way modify, alter, amend, reduce or waive the provision above titled “Covenant Running with the Land” or its effectiveness. In the event there is a conflict between this Assignment provision and the Covenant Running with the Land provision, the Covenant Running with the Land provision shall control and govern
25. Indemnification. The Parties agree that the Indemnity provisions set forth in this Agreement are conspicuous, and the parties have read and understood the same.
26. Waiver. Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit or waive such party’s right thereafter to enforce and compel strict compliance.
27. Immunity. It is expressly understood and agreed that, in the execution and performance of this Agreement, Sherman has not waived, nor shall be deemed hereby to have waived, any defense or immunity, including governmental, sovereign and official immunity, that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein.
28. Reference to Developer. When referring to “Developer” herein, this Agreement shall refer to and be binding upon Developer, and its officers, directors, partners, employees, representatives, contractors, agents, successors, assignees (as authorized herein), vendors, grantees, trustees, legal representatives and any other third parties for whom Developer is legally responsible.
29. Reference to Sherman. When referring to “Sherman” herein, this Agreement shall refer to and be binding upon Sherman and Sherman’s Council Members, officers, agents, representatives, employees and any other authorized third parties for whom Sherman is legally responsible.
30. Multiple Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. An electronic mail or facsimile signature will also be deemed to constitute an original if properly executed and delivered to the other party.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective when all the parties have signed it. The date this Agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature below) will be deemed the effective date of this Agreement ("Effective Date").

CITY OF SHERMAN, TEXAS,
a home-rule municipality

By: _____
Robby Hefton, City Manager
Date executed: _____

ATTEST:

By: _____
Linda Ashby, City Clerk

APPROVED AS TO FORM:
Abernathy, Roeder, Boyd & Hullett, P.C.

By: _____
Ryan D. Pittman, City Attorneys

STATE OF TEXAS §
 §
COUNTY OF GRAYSON §

BEFORE ME, the undersigned authority, on this day personally appeared **Robby Hefton**, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me that he is the City Manager and duly authorized representative for the **City of Sherman, Texas**, and that he executed said instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2024.

Notary Public, State of Texas
My Commission Expires: _____

**THREE OAKS DEVELOPMENT AND
CONSTRUCTION COMPANY,**
a Texas corporation

By: _____
Printed Name: _____
Title: _____
Date executed: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me that he is the duly authorized representative of THREE OAKS DEVELOPMENT AND CONSTRUCTION COMPANY, a Texas corporation, and that he executed said instrument for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2024.

Notary Public, State of Texas
My Commission Expires: _____

Exhibit A-1
Legal Description of the Property

LEGAL DESCRIPTION

Situated in the County of Grayson, State of Texas, being a part of the Preston Kitchens Survey, Abstract No. 667, and being the same tract of land described as 50.908 acres conveyed to Harold and Patsy Falk by deed recorded in Volume 1616, Page 664, Deed Records, Grayson County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at a found $\frac{1}{2}$ " steel rod in the south line of Sherman street and being the Northwest corner of a tract of land Conveyed to Kirk Allen in Volume 3501, Page 795, Official Public Records, Grayson County, Texas;

Thence South $16^{\circ}35'41''$ East, with the west line of said Allen Tract a distance of 702.15 feet to a found $\frac{1}{2}$ " steel rod;

Thence North $74^{\circ}51'49''$ East, with the south line of said Allen Tract a distance of 324.55 feet to a found $\frac{1}{2}$ " steel rod;

Thence South $15^{\circ}56'52''$ East, with the west line of a Tract of land conveyed to the City of Sherman, Recorded in Volume 876, Page 150, Deed Records, Grayson County, Texas a distance of 2358.63 feet to a point in the center of Choctaw Creek;

Thence the Following Calls and Distances with the center of said Choctaw Creek:

South $89^{\circ}25'08''$ West a distance of 151.42 feet to a point in said creek;

North $55^{\circ}13'20''$ West a distance of 169.20 feet to a point in said creek;

North $71^{\circ}56'22''$ West a distance of 93.39 feet to a point in said creek;

North $39^{\circ}01'10''$ West a distance of 144.10 feet to a point in said creek;

North $64^{\circ}01'32''$ West a distance of 83.74 feet to a point in said creek;

North $27^{\circ}35'50''$ West a distance of 95.83 feet to a point in said creek;

North $01^{\circ}18'07''$ East a distance of 84.95 feet to a point in said creek;

North $46^{\circ}44'09''$ East a distance of 45.06 feet to a point in said creek;

North $25^{\circ}27'48''$ East a distance of 44.90 feet to a point in said creek;

North $08^{\circ}31'51''$ West a distance of 39.04 feet to a point in said creek;

North $35^{\circ}45'14''$ West a distance of 59.46 feet to a point in said creek;

North $82^{\circ}52'30''$ West a distance of 93.37 feet to a point in said creek;

South $52^{\circ}31'26''$ West a distance of 72.97 feet to a point in said creek;

South $13^{\circ}34'14''$ West a distance of 57.59 feet to a point in said creek;

South $82^{\circ}41'39''$ West a distance of 75.90 feet to a point in said creek;

North $71^{\circ}04'31''$ West a distance of 71.42 feet to a point in said creek;

North $88^{\circ}59'42''$ West a distance of 110.04 feet to a point in said creek;

South $81^{\circ}58'16''$ West a distance of 115.74 feet to a point in said creek;

South $47^{\circ}34'45''$ West a distance of 94.79 feet to a point in said creek;

South $08^{\circ}07'48''$ West a distance of 136.49 feet to a point in said creek;

South $58^{\circ}19'28''$ West a distance of 66.63 feet to a point in said creek;

North $84^{\circ}41'14''$ West a distance of 71.68 feet to a point in said creek;

North $70^{\circ}20'46''$ West a distance of 125.71 feet to a point in said creek;

North $47^{\circ}12'09''$ West a distance of 62.23 feet to a point in said creek;

North $68^{\circ}25'43''$ West a distance of 78.20 feet to a point in said creek;

North $16^{\circ}25'04''$ West a distance of 81.52 feet to a point in said creek;

North $10^{\circ}57'15''$ East a distance of 97.52 feet to a point in said creek;

North $77^{\circ}07'30''$ East a distance of 110.88 feet to a point in said creek;

North $69^{\circ}13'40''$ East a distance of 95.79 feet to a point in said creek;

North $13^{\circ}29'45''$ East a distance of 79.40 feet to a point in said creek;

North $13^{\circ}29'45''$ West a distance of 79.40 feet to a point in said creek;

North $60^{\circ}15'18''$ West a distance of 74.70 feet to a point in said creek;

North $30^{\circ}04'07''$ West a distance of 67.80 feet to a point in said creek;

North $12^{\circ}43'28''$ West a distance of 31.73 feet to a point in said creek;

Thence North $74^{\circ}20'16''$ East leaving said creek and continuing with a barbwire fence a distance of 548.73 feet to a metal fence post;

Thence North $16^{\circ}22'48''$ West a distance of 502.50 feet with a barbwire fence to a metal fence post;

Thence South $74^{\circ}57'33''$ West a distance of 277.70 feet with a barbwire fence to a metal fence post;

Thence North $15^{\circ}32'13''$ West a distance of 1249.95 feet with a barbwire fence to a $\frac{1}{2}$ " steel rod set;

Thence North $74^{\circ}52'55''$ East with the north line of said 50.908 acre tract of land a distance of 348.25 feet to a found $\frac{1}{2}$ " steel rod;

Thence North $15^{\circ}07'05''$ West a distance of 38.31 feet to a found $\frac{1}{2}$ " steel rod;

Thence North $74^{\circ}50'17''$ East a distance of 209.96 feet to the Point of Beginning and containing 49.497 acres of land.

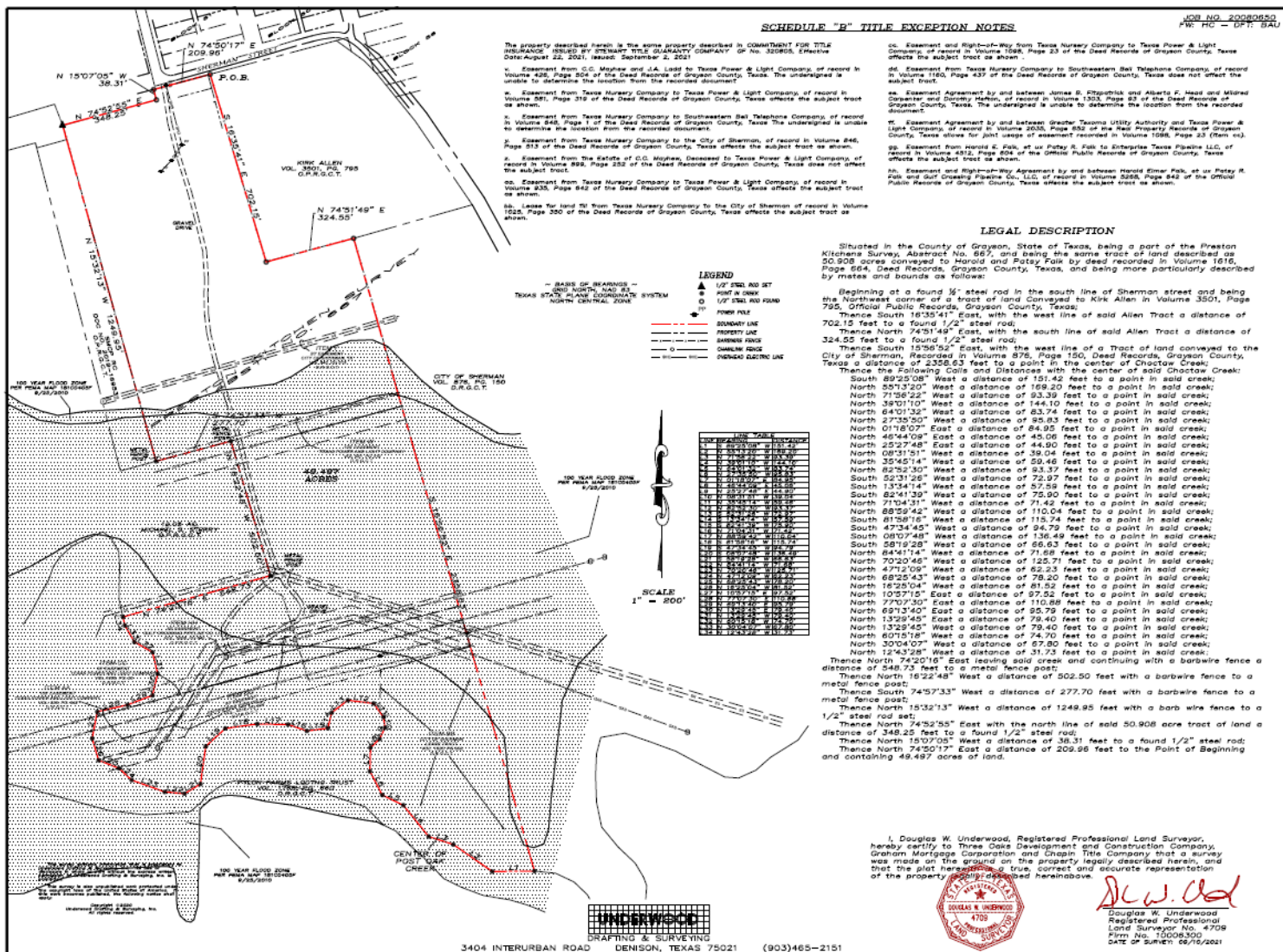


Exhibit A-2 **Legal Description of 11.69-Acre Tract**

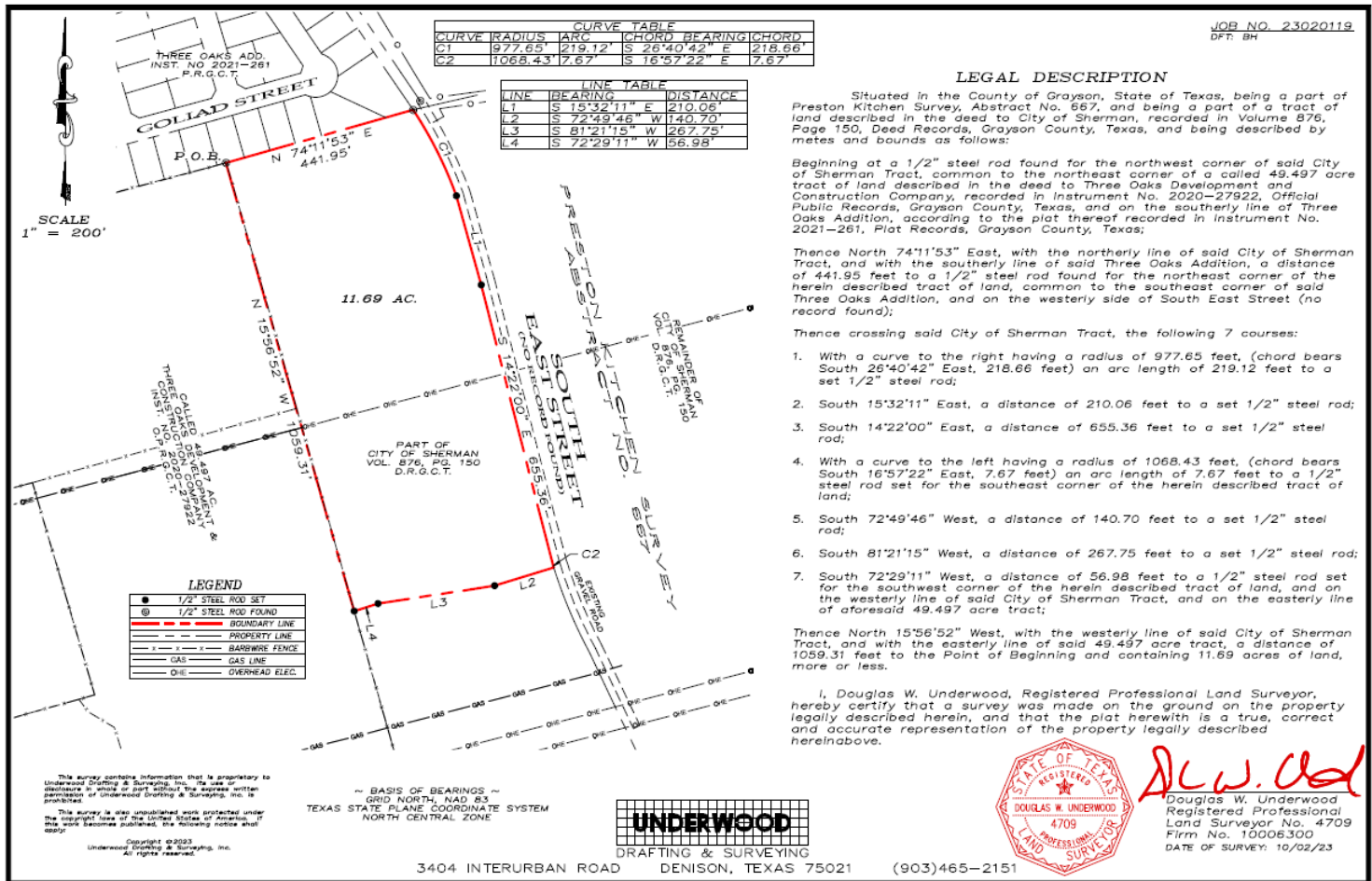


Exhibit A-3
Legal Description of 14.906-Acre Tract



LEGAL DESCRIPTION

Situated in the County of Grayson, State of Texas, being a part of Preston Kitchen Survey, Abstract No. 667, and being a part of a tract of land described in the deed to City of Sherman, recorded in Volume 876, Page 150, Deed Records, Grayson County, Texas, and being described by metes and bounds as follows:

Commencing at a 1/2" steel rod found for the northwest corner of said City of Sherman Tract, common to the northeast corner of a called 49.497 acre tract of land described in the deed to Three Oaks Development and Construction Company, recorded in Instrument No. 2020-27922, Official Public Records, Grayson County, Texas, and on the southerly line of Three Oaks Addition, according to the plat thereof recorded in Instrument No. 2021-261, Plat Records, Grayson County, Texas;

Thence South 15°56'52" East, a distance of 1059.31 feet to a 1/2" steel rod set for the northwest corner of the herein described tract of land, said point being the True Point-of-Beginning;

Thence over and across said City of Sherman Tract, the following 6 courses:

1. North 72°29'11" East, a distance of 56.98 feet to a set 1/2" steel rod;
2. North 81°21'15" East, a distance of 267.75 feet to a set 1/2" steel rod;
3. North 72°49'46" East, a distance of 140.70 feet to a 1/2" steel rod set for the northeast corner of the herein described tract of land;
4. With a non-tangent curve to the left having a radius of 1068.43 feet, (chord bears South 22°45'25" East, a distance of 208.34 feet) an arc length of 208.67 feet to a set 1/2" steel rod;
5. South 25°24'51" East, a distance of 665.77 feet to a set 1/2" steel rod;
6. South 09°34'36" East, a distance of 118.15 feet to a point in Post Oak Creek;

Thence with the southerly line of said City of Sherman Tract, and in said Post Oak Creek, the following 22 courses:

1. North 69°51'49" West, a distance of 73.24 feet to a point;
2. North 70°58'28" West, a distance of 94.74 feet to a point;
3. South 79°52'31" West, a distance of 87.84 feet to a point;
4. South 14°44'37" West, a distance of 60.68 feet to a point;
5. South 02°17'26" West, a distance of 77.27 feet to a point;
6. South 01°50'51" East, a distance of 95.79 feet to a point;
7. South 11°41'22" East, a distance of 91.46 feet to a point;
8. South 39°33'35" East, a distance of 92.14 feet to a point;
9. South 46°28'08" East, a distance of 85.20 feet to a point;
10. South 30°44'24" East, a distance of 57.67 feet to a point;
11. South 20°33'22" East, a distance of 32.98 feet to a point;
12. South 04°05'08" West, a distance of 48.47 feet to a point;
13. South 20°30'43" West, a distance of 53.98 feet to a point;
14. South 57°06'26" West, a distance of 50.65 feet to a point;
15. South 70°12'03" West, a distance of 42.13 feet to a point;
16. North 90°00'00" West, a distance of 25.25 feet to a point;
17. North 68°52'11" West, a distance of 40.02 feet to a point;
18. North 25°18'46" West, a distance of 86.98 feet to a point;
19. North 28°26'35" West, a distance of 16.85 feet to a point;
20. North 46°10'09" West, a distance of 66.89 feet to a point;
21. North 64°47'56" West, a distance of 72.53 feet to a point;
22. North 83°58'01" West, a distance of 76.44 feet to a point;

Thence North 15°56'52" West, with the westerly line of said City of Sherman Tract, and with the easterly line of said 49.497 acre tract, a distance of 1299.31 feet to the Point-of-Beginning and containing 14.906 acres of land, more or less.



pd 10/02/2023

3404 INTERURBAN ROAD • DENISON, TEXAS 75021 • 903-465-2151 • FAX 903-465-2152

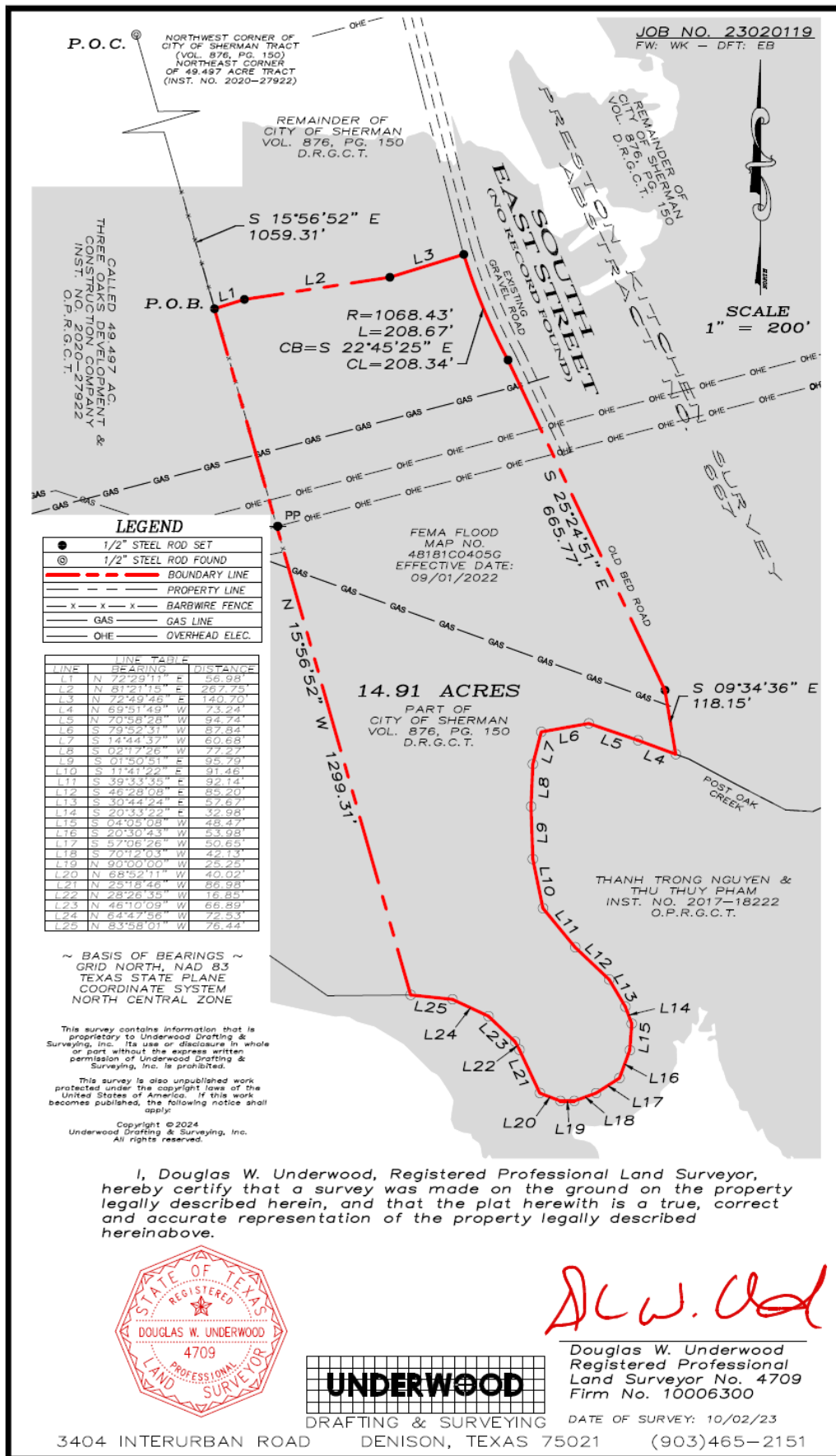


Exhibit B
Estimated Cost Analysis

Developer Improvement	Estimated Cost
Trail Improvements	\$180,000
Lot Improvements	\$180,000
Grading Improvements	\$154,000

Exhibit C
Agreed Form of Three-Party Agreement for Public Improvements



**Construction of Public Infrastructure in Public Rights-Of-Way or Easements
(Drainage, Pavement, Sanitary Sewer, Water and/or Other Public Facilities)**

CHECKLIST of items required for release of plans and issuance of notice to proceed. (See Item 7.)

<u>Submitted</u>	<u>N/A</u>	
_____	_____	Four (4) originals of the Contract, Bonds, Insurance Certificates and Acknowledgement Form (See instructions below.)
_____	_____	Three (3) to scale half size copies of approved construction plans, sealed by a Professional Engineer.
_____	_____	Plat has been approved by P&Z and City Council.
_____	_____	All necessary off-site easements executed and submitted per instructions.
_____	_____	Copy of SWPPP (booklet) and NOI as sent to TCEQ (or Site Notice) as applicable.
_____	_____	Copy of construction material submittals.
_____	_____	List of proposed subcontractors and emergency contact phone numbers.
_____	_____	Flash drive with construction plans in pdf format (by Engineer).
_____	_____	4.0% Inspection Fee (Paid)

INSTRUCTIONS FOR EXECUTION AND SUBMITTAL OF CONTRACT AND BONDS

1. Owner and Contractor must sign “**Three-Party Agreement**” and provide four (4) originals of documents.
2. Attach **Schedule of Values** (bid item costs) as **Exhibit “A”**. Do not use “lump sum” prices unless approved by City Engineer in writing in advance. Do not include any private facilities or private improvements in the Schedule of Values. The City Engineer or his designee must approve the Schedule of Values prior to submission of the completed Three-Party Agreement.
3. Bonds:
 - Execute **Performance Bond** and **Payment Bond** in the amount of One Hundred Percent (100%) of the value of the work (public infrastructure) to be performed.
 - Execute the **Maintenance Bond** in the amount of One Hundred Percent (100%) of the value of the work (public infrastructure) to be performed for a term of two (2) years from the date of acceptance of the work. (Note that the date of the Maintenance Bond must not be earlier than the date of the Contract.)
4. Provide a **Certificate of Insurance and All Applicable Endorsements**, in accordance with the attached form and sample, showing coverage with liability limits. The minimum limits are as specified below:
 - a. Workers’ Compensation/Employer’s Liability: Providing for payment of benefits as specified by the Workers’ Compensation Laws of the State of Texas.
 - b. Contractor’s Public Liability
 - (1) Bodily Injury: \$1,000,000 each person
\$1,000,000 each accident
 - (2) Property Damage: \$1,000,000 each accident
5. Sign **Acknowledgement** related to the payment of inspection fees and testing costs prior to acceptance of public improvements by the City.
6. Submit four (4) sets of documents as above, each with original signatures. The order of each set should be:
 - Contract
 - Exhibit “A” - Schedule of Values
 - Performance Bond, Payment Bond, Maintenance Bond; power of attorney must be submitted for all bonds
 - Certificate of Insurance and Endorsements and Contractor’s Certification of Workers’ Compensation
 - Acknowledgement Form
7. Beginning Construction: The written release of approved construction plans to the field via the City’s Engineering Inspector constitutes **Notice to Proceed (NTP)**.
8. If you have any questions, please call 903-892-7208.

THREE-PARTY AGREEMENT FOR PUBLIC IMPROVEMENTS

This THREE-PARTY AGREEMENT FOR PUBLIC IMPROVEMENTS is made and entered into by and between _____ (“OWNER”) and _____ (“CONTRACTOR”). OWNER and CONTRACTOR are each referred to herein as a “party” or collectively as the “parties.”

1. CONTRACTOR hereby agrees to furnish all labor, materials, tools, and the necessary equipment for the construction and installation (“work”) of the following:

See Exhibit “A” – Schedule of Values and scope of work (collectively, “Public Improvements”).

2. The construction and installation of the Public Improvements shall be performed according to the plans prepared by _____ (engineering firm), titled _____ (name of project), dated _____, and the current ordinances, standards, specifications, details and other requirements relating to the design and construction of public improvements (collectively, “Sherman Construction Standards”) adopted or issued by the City of Sherman (“CITY”), including the City Engineer and his designee (which are on file in the CITY Engineering Department), and the current edition of the Standard Specifications for Public Works Construction published by the North Central Texas Council of Governments. In the event of a conflict between the Sherman Construction Standards and the NCTCOG Standard Specifications, the Sherman Construction Standards and the NCTCOG Standard Specifications shall govern in that order. The parties agree that the Public Improvements construction, installation and the locations thereof shall be inspected and accepted by the City Engineer or his designee.

3. Inasmuch as the Public Improvements are proposed for dedication to the CITY, it is agreed by and between the parties that the CITY has an interest in the proper performance of this Agreement and any other contract relating to or arising out of the work, and that the CITY may bring suit for failure to comply with the terms of this Agreement and/or any such other contract, as a third-party beneficiary thereof. Although the Public Improvements may be accepted by the City Engineer, the CITY may recover damages and seek other remedies against the parties and/or upon the bonds if it is discovered that the Public Improvements were not built or completed in accordance with the terms of this Agreement.

4. It is agreed between the parties that a Performance Bond in the amount of one hundred percent (100%) of the contract price for work on the Public Improvements shall be furnished by the CONTRACTOR in favor of the CITY and shall be executed by a reputable and solvent surety company authorized to do business in the State of Texas and in the form required by the City Engineer. The Performance Bond shall indemnify the CITY for the completion of the Project in accordance with the terms of this Agreement. The Performance Bond shall be approved by the City Engineer or his designee prior to CONTRACTOR beginning work on the Public Improvements.

5. It is agreed between the parties that a Payment Bond in the amount of one hundred percent (100%) of the contract price for work on the Public Improvements shall be furnished by the CONTRACTOR in favor of the CITY and shall be executed by a reputable and solvent surety company authorized to do business in the State of Texas and in the form required by the City Engineer. The Payment Bond shall indemnify the CITY against any claims of nonpayment by all persons, firms, corporations and other entities who may furnish materials or perform labor in connection with the work. The Payment Bond shall be approved by the City

Engineer or his designee prior to CONTRACTOR beginning work on the Public Improvements

6. It is agreed between the parties that a Maintenance Bond in the amount of one hundred percent (100%) of the contract price for work on the Public Improvements shall be furnished by the CONTRACTOR in favor of the CITY and shall be executed by a reputable and solvent surety company authorized to do business in the State of Texas and in the form required by the City Engineer. The Maintenance Bond ensure the repair or remedy of any maintenance issues the CITY may have regarding the Public Improvements after the CITY accepts the same. The Maintenance Bond shall be approved by the City Engineer or his designee prior to CONTRACTOR beginning work on the Public Improvements

7. OWNER hereby agrees to pay CONTRACTOR for the work on the Public Improvements performed hereunder on the following basis:

See Exhibit "A" – Schedule of Values for unit prices and total value of work.

8. Each of the parties hereto has been furnished a copy of the plans referenced above. The project plans have been reviewed and accepted by the City Engineer or his designee.

9. EACH OF CONTRACTOR AND OWNER HEREBY RELEASES AND SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ITS CITY COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES (COLLECTIVELY REFERRED TO AS "CITY" FOR PURPOSES OF THIS SECTION) FROM AND AGAINST ALL DAMAGES, INJURIES (WHETHER IN CONTRACT OR IN TORT, INCLUDING PERSONAL INJURY AND DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, ACTIONS, JUDGMENTS, LIENS, COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEY'S FEES AND EXPENSES INCURRED IN ENFORCING THIS SECTION), THAT IN WHOLE OR IN PART ARISE OUT OF OR ARE CONNECTED WITH PERFORMANCE UNDER THIS AGREEMENT AND/OR THE PUBLIC IMPROVEMENTS AND/OR THE WORK AND/OR THE GOODS AND/OR SERVICES PROVIDED BY CONTRACTOR, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FOR WHOM CONTRACTOR OR OWNER IS LEGALLY RESPONSIBLE (COLLECTIVELY REFERRED TO AS "CONTRACTOR" FOR PURPOSES OF THIS SECTION) PURSUANT TO THIS AGREEMENT AND/OR THE NEGLIGENT, GROSSLY NEGLIGENT AND/OR INTENTIONAL WRONGFUL ACT AND/OR OMISSION OF CONTRACTOR IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OF CITY (COLLECTIVELY, "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT IS NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST CITY BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CONTRACTOR AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH CONTRACTOR, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE.

IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY CONTRACTOR IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY CITY, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. 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 CONTRACTOR'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF CONTRACTOR'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. CONTRACTOR SHALL RETAIN CITY-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO DEFENSE OR INDEMNIFICATION UNDER THIS AGREEMENT. IF CONTRACTOR FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND CONTRACTOR SHALL BE LIABLE FOR ALL COSTS INCURRED BY CITY.

THE RIGHTS AND OBLIGATIONS CREATED BY THIS SECTION SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

10. CONTRACTOR shall not start work under this Agreement until CONTRACTOR has obtained, at CONTRACTOR's expense, all of the insurance specified in, and required by, this Section, nor shall CONTRACTOR allow any subcontractor to commence work on its subcontract until similar insurance has been obtained by the subcontractor. CONTRACTOR shall procure and keep in full force and effect the types and amounts of insurance specified herein for and during all aspects and phases of CONTRACTOR's work at no expense to CITY. All policies shall name the CITY, its officers, agents, representatives and employees as additional insureds as to all applicable coverages with the exception of workers compensation insurance and professional liability insurance (if applicable). Such policies shall require the provision of written notice to CITY at least thirty (30) days prior to cancellation, non-renewal or material modification of any policies, evidenced by return receipt or United States Certified Mail. General Liability Insurance shall provide for a Waiver of Subrogation against Sherman for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. All insurance policies that are required to name Sherman as an additional insured must be endorsed to read as primary and non-contributory coverage regardless of the application of other insurance. All insurance companies providing the required insurance shall be authorized to transact business in the State of Texas, and shall have a minimum rating of "A-" by A.M. Best's Key Rating Guide, or other equivalent rating service(s). A Certificate of Insurance and all applicable endorsement(s) evidencing the required insurance shall be submitted prior to commencing work on the Project.

General Liability insurance for personal injury (including death) and property damage	\$1 Million per occurrence \$2 Million aggregate
Statutory Worker's compensation insurance	as required by state law
Employers Liability insurance	\$1 Million bodily injury per accident \$1 Million bodily injury by disease-policy limit \$1 Million bodily injury by disease-each employee
Hired and Non-Owned Auto Liability insurance covering hired and non-owned autos	\$1 Million per occurrence
Umbrella / Excess Liability insurance	\$2 Million per occurrence (Projects less than \$100,000)
Umbrella Liability insurance only	\$2 Million per occurrence (Projects more than \$100,000)

11. This Agreement shall bind the parties, their heirs, successors, assigns and representatives for the full and faithful performance of the terms hereof, jointly and severally.

12. In the event that a term, condition or provision of this Agreement is determined to be invalid, illegal, 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 as if such invalid, illegal, void, unenforceable or unlawful provision had never been included in this Agreement.

13. It is understood and agreed that the Public Improvements, all work and all installations of whatever kind made under the terms of this Agreement shall, upon the written acceptance thereof by the City Engineer or his designee, immediately become the property of the CITY, subject only to such reimbursement to the OWNER as provided by the ordinances of the CITY or by separate written agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective when all the parties have signed it. The date this Agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature below) will be deemed the effective date of this Agreement ("Effective Date").

Signature of Contractor's Representative

Signature of Owner's Representative

Print Name/Title of Contractor's Representative

Print Name/Title of Owner's Representative

Name of Contractor (company)

Name of Owner (company)

Address

Address

City, State, Zip

City, State, Zip

Area Code - Telephone Number

Area Code - Telephone Number

STATE OF TEXAS §

§

COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he/she acknowledged to me that he/she is the duly authorized representative and agent of OWNER, and that he/she executed the same for the purposes and consideration therein stated and in the capacity therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this ____ day of _____, 2022.

Notary Public, State of Texas

My Commission Expires: _____

STATE OF TEXAS §
 §
COUNTY OF _____§

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he/she acknowledged to me that he/she is the duly authorized representative and agent of CONTRACTOR, and that he/she executed the same for the purposes and consideration therein stated and in the capacity therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this _____ day of _____, 2022.

Notary Public, State of Texas
My Commission Expires: _____

RECEIVED AND APPROVED AS TO FORM:

Engineer, City of Sherman

Attachments: Exhibit "A"- Schedule of Values, Performance, Payment, and Maintenance Bonds, Certificate of Insurance/Endorsements, Contractor's Certification of Workers' Compensation, Acknowledgement Form

PERFORMANCE BOND

BOND NO. _____

STATE OF TEXAS §

§ KNOW ALL PERSONS BY THESE PRESENTS:

COUNTY OF Grayson §

THAT _____ (Name of Contractor) of _____ (City) _____ County, State of _____, as PRINCIPAL and _____ (Name of Surety) as SURETY, authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto the City of Sherman (CITY), in the penal sum of _____ and _____/100 Dollars (\$_____) for the payment whereof, the said PRINCIPAL and SURETY bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally, by these presents:

WHEREAS, the PRINCIPAL has entered into a certain written contract with the CITY, for _____ (Name of Project) which contract is hereby referred to and made part hereof as fully and to the same extent as if copied at length herein.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said PRINCIPAL shall faithfully perform the said contract and shall in all respects duly and faithfully observe and perform all and singular the covenants, conditions and agreements in and by said contract agreed and covenanted by the PRINCIPAL to be observed and performed, and according to the true intent and meaning of said contract and the Plans and Specifications hereto annexed, then this obligation shall be void; otherwise to remain in full force and effect:

“PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code for Public Works as amended and all liabilities on this bond shall be determined in accordance with the provisions of said Chapter to the same extent as if it were copied at length herein.”

SURETY, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specifications, or drawings accompanying the same, shall in any way affect its obligation on this bonds, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work to be performed thereunder.

IN WITNESS WHEREOF, the said PRINCIPAL and SURETY have signed and sealed this instrument this _____ day of _____, 20_____.

PRINCIPAL:

SURETY:

Name of Contractor

Name of Surety

Signature

Signature

Printed Name and Title

Printed Name and Title

Address

Address

City, State, Zip

City, State, Zip

The name, address and phone number of the Resident Agent of Surety is:

PAYMENT BOND

BOND NO. _____

STATE OF TEXAS §

§ KNOW ALL PERSONS BY THESE PRESENTS:

COUNTY OF Grayson §

THAT _____ (Name of Contractor) of _____ (City) _____ County, State of _____, as PRINCIPAL and _____ (Name of Surety) as SURETY, authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto the City of Sherman (CITY), in the penal sum of _____ and _____/100 Dollars (\$_____) for the payment whereof, the said PRINCIPAL and SURETY bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally, by these presents:

WHEREAS, the PRINCIPAL has entered into a certain written contract with the CITY, for _____ (Name of Project) which contract is hereby referred to and made part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said PRINCIPAL shall pay all claimants supplying labor and material to him or a subcontractor in the prosecution of the work provided for in said contract, then this obligation shall be void; otherwise to remain in full force and effect:

“PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code for Public Works as amended and all liabilities on this bond shall be determined in accordance with the provisions of said Chapter to the same extent as if it were copied at length herein.”

SURETY, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specifications, or drawings accompanying the same, shall in any way affect its obligation on this bonds, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work to be performed thereunder.

IN WITNESS WHEREOF, the said PRINCIPAL and SURETY have signed and sealed this instrument this _____ day of _____, 20_____.

PRINCIPAL:

SURETY:

Name of Contractor

Name of Surety

Signature

Signature

Printed Name and Title

Printed Name and Title

Address

Address

City, State, Zip

City, State, Zip

The name, address and phone number of the Resident Agent of Surety is:

MAINTENANCE BOND

BOND NO. _____

STATE OF TEXAS §

§ KNOW ALL PERSONS BY THESE PRESENTS:

COUNTY OF Grayson §

THAT _____ (Name of Contractor) of _____ (City) _____ County, State of _____ as PRINCIPAL and _____ (Name of Surety) as SURETY, a corporation organized under the laws of the State of _____ as sureties, do hereby expressly acknowledge themselves to be held and bound to pay unto the City of Sherman, a municipal corporation, chartered by virtue of a special act of legislature of the State of Texas, at Sherman, Grayson County, Texas, the sum of _____ and _____/100 Dollars (\$ _____) for the payment of which sum will truly be made unto said City of Sherman, and its successors, and said principal and sureties to hereby bind themselves, their assigns and successors jointly and severally.

This obligation is conditioned, however, that whereas the said contractor has this day entered into a written contract with the said City of Sherman to build and construct _____ (Name of Project) which contract, plans and specifications therein mentioned are hereby expressly made a part hereof as though the same were written embodied herein.

WHEREAS, under the plans, specifications, and contract, it is provided that the contractor will maintain and keep in good repair the work herein contracted to be done and performed for a period of two (2) years from the date of the acceptance of said work, and to do all necessary repairing and/or reconstructing in whole or in part of said improvements that should be occasioned by settlement of foundation, defective workmanship or materials furnished in the construction or any part thereof or any of the accessories thereto constructed by the contractor. It being understood that the purpose of this section, in part, is to cover all defective conditions arising by reason of defective material and charge the same against the said contractor and sureties on this obligation, and the said contractor sureties hereon shall be subject to the liquidation damages mentioned in said contract for each day's failure on its part to comply with the terms of said provisions of said contract. Now, therefore, if the said contractor shall keep and perform its said agreement to maintain said work and keep the same in repair for the said maintenance period of two (2) years, as provided, then these presents shall be null and void, and have no further effect, but if default shall be made by said contractor in the performance of its contract to so maintain and repair said work, then these presents shall have full force and effect, and said City of Sherman shall have and recover from the said contractor and its principal and sureties damages in the premises, as provided; and it is further agreed that this obligation shall be continuing one against the principal and sureties, hereon, and that successive recoveries may be and had hereon for successive branches until the full amount shall have been exhausted; and it is further understood that the obligation herein to maintain said work shall continue throughout said maintenance period, and the same shall not be changed, diminished or in any manner affected from any cause during said time.

IN WITNESS WHEREOF, the said PRINCIPAL and SURETY have signed and sealed this instrument this _____ day of _____, 20_____.

PRINCIPAL:

SURETY:

Name of Contractor

Name of Surety

Signature

Signature

Printed Name and Title

Printed Name and Title

Address

Address

City, State, Zip

City, State, Zip

The name, address and phone number of the Resident Agent of Surety is:

ACKNOWLEDGEMENT

As the person or entity constructing public improvements in public rights-of-way or easements in the City of Sherman ("City"), as set forth in the attached City of Sherman Private Contract, _____(Name of Contractor) and _____(Name of Owner) acknowledge and agree to the following prior to the construction of said improvements:

1. Give at least five (5) work days' notice to the City Engineer of the construction start date.
2. Confirm that the plans to be followed are those which have been approved by the City Engineer, or that any changes thereto are approved in writing by the City Engineer.
3. Provide to the City Engineer Performance, Maintenance, and Payment Bonds for the improvements in the same amounts as if the City were engaging a contractor to do the work. The City shall be a named beneficiary on these bonds.
4. Provide to the City Engineer any soil tests deemed appropriate by the City Engineer.
5. Prior to acceptance of the improvements by the City, pay any fees for any reasonable retesting deemed appropriate by the City Engineer.
6. Provide timely notice to the City Engineer for the purposes of inspecting the work on the improvements, and make the work site available for City inspectors as needed.
7. Pay review, inspection and testing fees in the amount of four percent (4.0%) of the value of the improvements inspected or \$_____.
8. Provide the City with a flash drive containing record drawings in pdf format and dwg/dxf format of the public improvements installed.

AGREED AND ACKNOWLEDGED this the _____ day of _____, 20_____.

Name of Contractor (company)

Name of Owner (company)

Signature of Contractor's Representative

Signature of Owner's Representative

Print Name/Title of Contractor's Representative

Print Name/Title of Owner's Representative

Exhibit D **Legal Description and Depiction of the 22.48-Acre Tract**

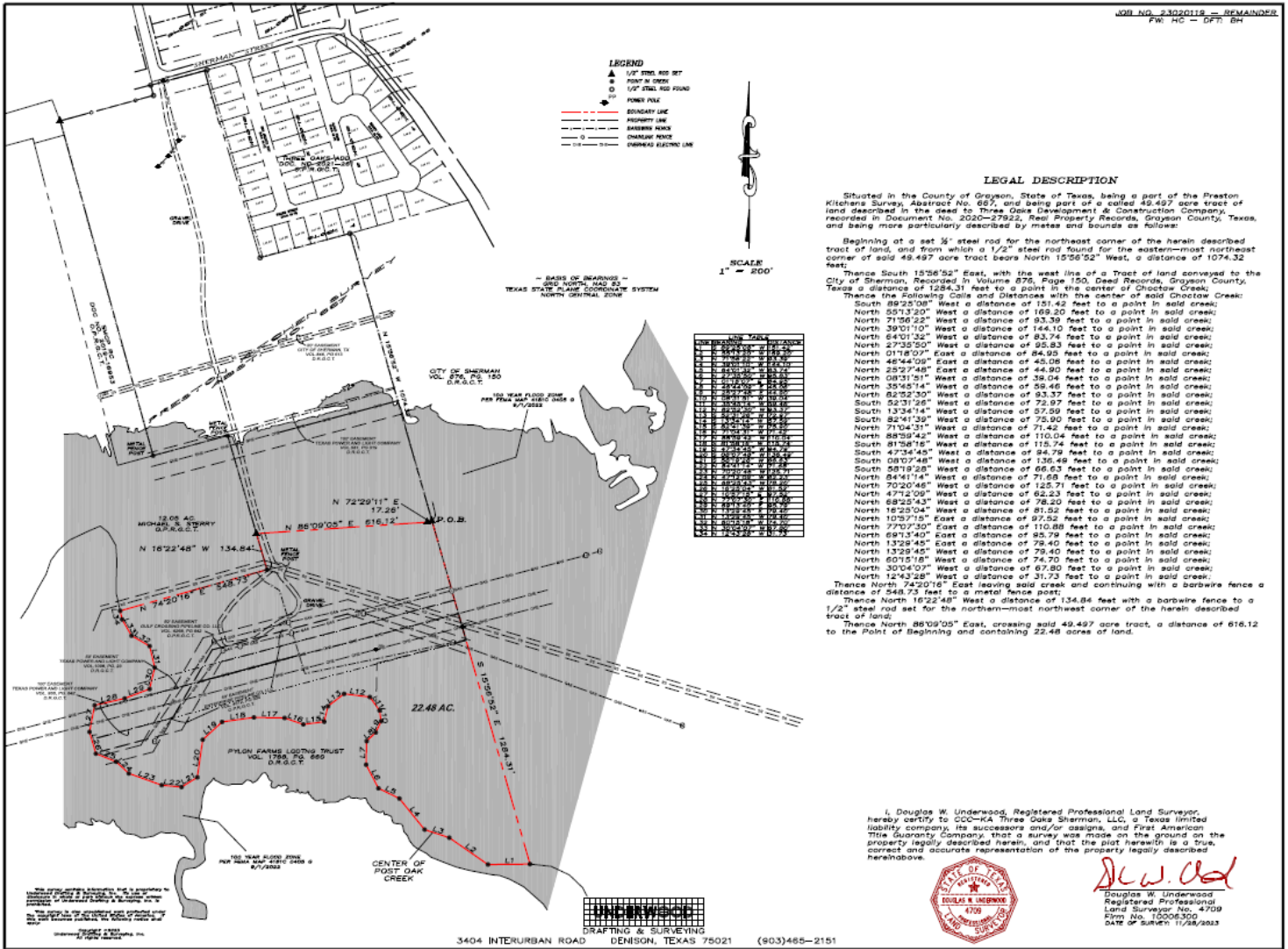


Exhibit E

Agreed Form of Special Warranty Deed

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 DRIVERS' LICENSE NUMBER.

After Recording Return to:
City of Sherman
Office of the City Manager
P. O. Box 1106
Sherman, TX 75091-1106

SPECIAL WARRANTY DEED

STATE OF TEXAS §
COUNTY OF GRAYSON §

KNOW ALL PERSONS BY THESE PRESENTS:

As used herein, the following terms shall have the following meanings:

Effective Date: _____, 20____

Grantor: _____

Grantor's Mailing Address: _____

Grantee: CITY OF SHERMAN, TEXAS, a home-rule municipality

Grantee's Mailing Address: P.O. Box 1106
Sherman, TX 75091

Consideration: TEN DOLLARS (\$10.00) cash and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged

Property (including any improvements):

_____ ± acres of land, situated in the _____ Survey, Abstract No. _____, City of Sherman, Grayson County, Texas, as more particularly described and depicted in Exhibit 1, attached hereto and incorporated herein for all purposes (“Property”).

This conveyance shall include all and singular the rights and appurtenances pertaining to the Property, including any right, title and interest in and to adjacent streets, roads, alleys or rights-of-way; all oil, gas and other minerals; and any improvements, fixtures, and personal property situated on or attached to the Property.

Reservations from and Exceptions to Conveyance and Warranty:

Permitted Encumbrances, if any, listed on Exhibit 2, attached hereto and incorporated herein for all purposes.

Grantor, for the Consideration and subject to the Reservations from and 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 successors and assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, successors and assigns to warrant and forever defend all and singular the Property to Grantee and Grantee's successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through or under Grantor but not otherwise, except as to the Reservations from and Exceptions to Conveyance and Warranty.

This instrument shall be binding on, and inure to the benefit of, Grantee and Grantor and their respective successors or assigns.

This instrument may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

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

[Signature pages follow.]

EXECUTED on the dates of the acknowledgments, but to be EFFECTIVE on the _____ day of _____, 20__.

GRANTOR:

_____,
a _____

By: _____

Printed Name: _____

Its: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me that he is the _____ and duly authorized representative of _____, a _____, and that he executed the same for the purposes and consideration therein stated and in the capacity therein stated as the act and deed of said _____.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this _____ day of _____, 20__.

Notary Public, State of Texas
My Commission Expires: _____

AGREED AND ACCEPTED:

CITY OF SHERMAN, TEXAS

By: _____
Robby Hefton, City Manager

STATE OF TEXAS §
 §
COUNTY OF GRAYSON §

BEFORE ME, the undersigned authority, on this day personally appeared **ROBBY HEFTON**, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me that he is the City Manager and duly authorized representative of the **CITY OF SHERMAN, TEXAS**, a home-rule municipality, and that he executed the same for the purposes and consideration therein stated and in the capacity therein stated as the act and deed of the City of Sherman, Texas.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this _____ day of _____, 20__.

Notary Public, State of Texas
My Commission Expires: _____

ATTEST:

BY: _____
Linda Ashby, City Clerk

APPROVED AS TO FORM:
Abernathy, Roeder, Boyd & Hullett, P.C.

By: _____
Name: _____
City Attorney

PARTIAL RELEASE OF LIEN

The undersigned, being the holder of the lien against all or a portion of the Property evidenced by:

hereby consents to the execution of the foregoing Deed and hereby releases the Property from the lien or lien(s) described above.

_____,
a _____

By: _____
_____, _____

STATE OF _____ §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me that he is the _____ and duly authorized representative of _____, a _____, and that he executed the same for the purposes and consideration therein stated and in the capacity therein stated as the act and deed of said _____.

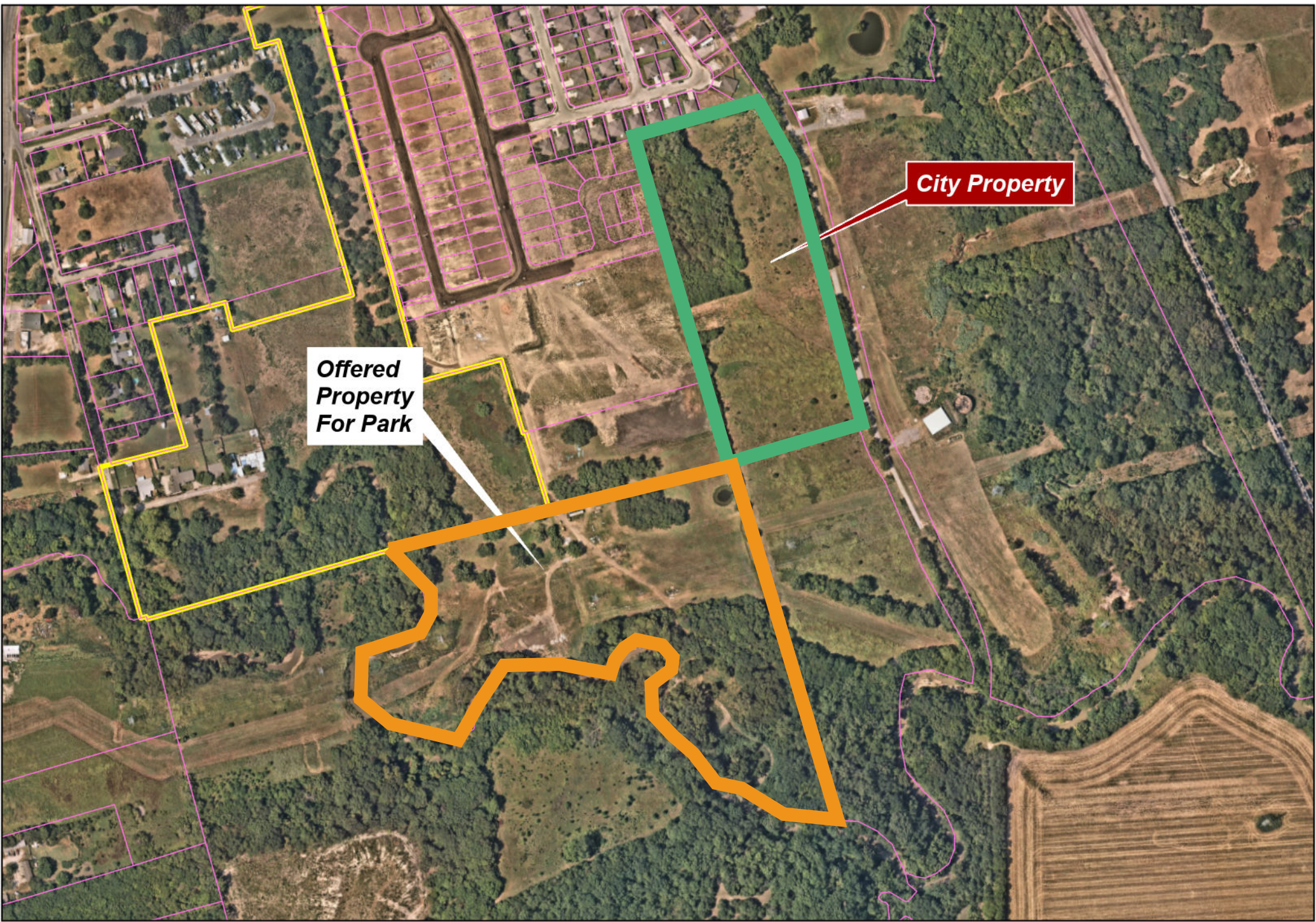
IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this _____ day of _____, 20__.

Notary Public, State of _____
My Commission Expires: _____

Exhibit 1
Legal Description of the Property

Exhibit 2
Permitted Exceptions

[none]





City Council Regular Meeting

Agenda Item No. F.5.

Meeting Date: 1/16/2024

Prepared By: Lauren Marlow, Development Service Coordinator

Approved By: Robby Hefton, City Manager

Caption:

RESOLUTION NO. 7246

Awarding a Bid to Three Oaks Development and Construction Company for the conveyance of approximately 12 Acres of City-owned Land in the Preston Kitchen Survey, Abstract No. 667, City of Sherman, Grayson County, Texas, Generally Located in the 2400-2500 Blocks of South East Street; Authorizing Execution of Necessary Transaction Documents Related Thereto

Issue:

To consider the award of a bid for the conveyance of the City-owned real property located in the 2400-2500 Blocks of South East Street

Background:

At a regularly scheduled meeting on April 17, 2023, City Council authorized Staff to advertise for public bids for the conveyance of approximately 12 acres of City-owned land located in the 2400-2500 Blocks of South East Street. The City complied with all applicable requirements related to public notice and bidding.

A public request for competitive, sealed bids resulted in two (2) submittals which were opened on October 24, 2023. City staff reviewed these bids as to each bidder's offer and intended use of the property. Staff recommends awarding to Three Oaks Development and Construction Company of Sherman, Texas. This agenda item authorizes the City Manager to execute a Special Warranty Deed to convey the property to Three Oaks Development and Construction Company.

The recommended bidder has proposed the following as part of the conveyance of this property:

- 3,000 linear feet of 10 foot wide hike and bike trail construction (\$180,000 value)
- 48-space parking lot (\$180,000 value)
- Grading improvements (\$154,000 value)
- Conveyance of 22.48 acres of land (\$140,000 appraised value)

Staff recommends that Council approve this resolution authorizing conveyance of the 11.69 acres of land to Three Oaks Development and Construction Company on the condition that Three Oaks executes the Development Agreement in Item F.4, which defines the Developer's obligations as described above.

Origination:

Development Services Department

Financial Consideration:

The conveyance of this property would return the property to the tax rolls and yield the City of Sherman

approximately 23 acres of adjacent land and related construction work for infrastructure improvements on City-owned land.

Staff Recommendation:

It is recommended that the City Council award the conveyance and authorize execution of a special warranty deed to Three Oaks Development and Construction Company for the non-cash offer of approximately 23 acres of adjacent land and the related construction work for infrastructure improvements on City-owned land

Alternatives:

As may be directed by the City Council.

Attachments:

1. Resolution No. 7246
2. Bid Submittal - Three Oaks
3. Affidavit of No Prohibitive Interest and CIQ documents_signed
4. ITB_Sale of Real City-Owned Property_East St
5. Addendum 1 - Sale of City-Owned Property
6. Location Map
7. Property Survey for land to be donated.
8. Appraisal Report for 22.48 Acres
9. 3 Oaks Location Map

RESOLUTION NO. 7246

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO THREE OAKS DEVELOPMENT AND CONSTRUCTION COMPANY FOR THE CONVEYANCE OF APPROXIMATELY 12 ACRES OF CITY-OWNED LAND IN THE PRESTON KITCHEN SURVEY, ABSTRACT NO. 667, CITY OF SHERMAN, GRAYSON COUNTY, TEXAS, GENERALLY LOCATED IN THE 2400-2500 BLOCKS OF SOUTH EAST STREET; AUTHORIZING EXECUTION OF NECESSARY TRANSACTION DOCUMENTS RELATED THERETO; 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 Three Oaks Development and Construction Company for, is hereby awarded the bid and the City of Sherman hereby approves the contract with Three Oaks Development and Construction Company as a non cash offer based on terms in approved development agreement; and 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 contract with Three Oaks Development and Construction Company 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.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS on this the 16th day of January 2024.

CITY OF SHERMAN, TEXAS

ATTEST:

**BY: _____
LINDA ASHBY, CITY CLERK**

**BY: _____
DAVID PLYLER, MAYOR**

**APPROVED AS TO FORM
AND CONTENT:
THE LAW FIRM OF ABERNATHY,
ROEDER, BOYD & HULLETT, P.C.**

**BY: _____
RYAN D. PITTMAN, CITY ATTORNEY**

CITY OF SHERMAN, TEXAS

BID FORM

CITY-OWNED REAL PROPERTY

Item	Description	Units	Qty.	Offered Price
1	Purchase of real property described within this document	Lump Sum	1	Non-cash offer. Approx 23 acres parkland \$400k self-performed construction work for park development

The undersigned certifies that the bid prices contained in this bid have been carefully reviewed and are submitted as correct and final. Bidder further certifies and agrees to furnish any and/or all product/service upon which prices are extended at the price offered, and upon the conditions in the specifications of the Request for Bid.

"I hereby certify that the foregoing bid has not been prepared in collusion with any other bidder or other person or persons engaged in the same line of business prior to the official opening of this bid. Further, I certify that the bidder is not now, nor has been for the past six (6) months, directly or indirectly concerned in any pool or agreement or combination to control the price of product/service bid on, or to influence any person or persons to bid or not to bid thereon."

Name of Bidder: Three Oaks Development and Construction Company

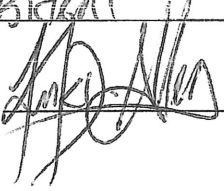
Address of Bidder: 1313 W. Washington Sherman, TX 75092

Telephone Number: 972-672-7793 (cell) Fax: —

E-mail address: kirkallen@yahoo.com

By: Kirk D. Allen (print name)

Title: President Federal ID #/SSN #: 85-1922818

Signature: 

SUPPLEMENTAL INFORMATION

Please provide the following information for contract development.

Is your firm?

- | | | |
|------------------------|---|-----------------------------|
| 1. Sole Proprietorship | ☐ YES | ☐ NO |
| 2. Partnership | ☐ YES | ☐ NO |
| 3. Corporation | ☒ YES | ☐ NO |

If company is a sole proprietorship, list the owner's full legal name:

If company is a partnership, list the partner's full legal name(s):

If company is a corporation, list the full legal name as listed on the corporate charter:

Three Oaks Development and Construction Company

Is this firm a minority, or woman-owned business enterprise?

☒ NO ☐ YES If yes, specify (☐) MBE (☐) WBE

Has this firm been certified as a minority/woman-owned business enterprise by any governmental agency? ☒ NO ☐ YES

If yes, specify governmental agency: _____

Date of certification: _____

CITY OF SHERMAN, TEXAS
REQUEST FOR SEALED BIDS TO PURCHASE
CITY-OWNED REAL PROPERTY

Pursuant to Section 272.001(a) of the Texas Local Government Code, the City of Sherman, Texas will accept sealed bids to purchase all or a portion of a tract of land owned by the City of Sherman, Texas, and consisting of approximately 12± acres located in the Preston Kitchen Survey, Abstract No. 667, City of Sherman, Grayson County, Texas. The subject tract is generally located at 2400-2500 Blocks of South East Street in the Sherman Extra-territorial Jurisdiction (ETJ), Grayson County, Texas, as generally depicted below:



AFFIDAVIT OF NO PROHIBITED INTEREST
(Supplemental Information)

(I) (WE), the undersigned declare and affirm that no person or officer in (my) (our) firm, business, corporation, or board has or will have during the term of this contract a prohibited interest as that is defined in City Charter.

(I) (WE) further understand and acknowledge that the existence of a prohibited interest at any time during the term of this contract will render the contract voidable.

Name of Contractor: Three Oaks Development and Construction Company

Title of Officer: Kirk D. Allen
President

Signature of Contractor: [Signature]

Date: 16 Oct 23

ACKNOWLEDGMENT

STATE OF TEXAS *

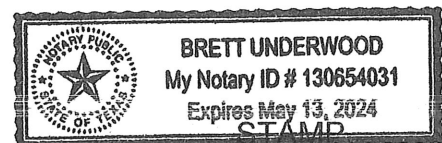
*

COUNTY OF GRAYSON *

BEFORE ME, the undersigned authority, on this day personally appeared, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of _____, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN under my hand and seal of office this the 16th day of October, 2023

[Signature]
Signature of Notary Public in and for the State of Texas



CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.005(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

Three Oaks Development and Construction Company

2 ☐ Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes

☒ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes

☒ No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7 *[Signature]*
Signature of vendor doing business with the governmental entity

16 Oct 23
Date



City of Sherman

Attn: Craig Long, Budget Analyst, Finance Department

405 N. Rusk Street Sherman, TX 75090

RE: Competitive Sealed Bid No 2023-25

This memorandum is intended to clarify our offer on the above item and speak directly to the requirements of paragraph 27.

Three Oaks Development and Construction Company, hereinafter referred to simply as Three Oaks, has undertaken at its own cost, preliminary planning and engineering of the spaces in and around its original development with a specific goal of providing a starter neighborhood to revitalize south Sherman where the owner resided for many years. In addition to homes, the vision of a then neighborhood access only park utilizing the only area grade level entries to Post Oak Creek and the original pastures above, and woodland areas adjacent to, the creek, to allow for a nature preserve accessible to the residents of the development and those nearby in south Sherman. This idea has grown with city involvement into what is hoped to be a large nature park accessible to the public at large.

As disclosed elsewhere in this submission, we propose a non-cash offer of approximately 23 acres of parkland with creek access, natural areas, a to be built 3 acre pond, and moderately terraformed land cleared and developed into usable and traversable park space. Additionally we are offering \$400,000 worth of self-performed construction work, to begin and kickstart the park development. This amount shall be guided by market rates for labor, equipment use, construction costs and known values to pursue the initial area terraforming and cleanup, trail construction, parking lot and facilities/amenities construction, and further park needs. We also intend to add, at a point when flood recovery is determined and lienholder satisfied, additional

acreage to our west as part of an ongoing purchase of property. This will likely entail 4-6 additional acres adjoining to the areas shown.

As it pertains to the city property identified in Bid 2023-25, and on attached documents in this packet, we would develop the bid property in conjunction with a natural construction schedule as a residential subdivision, working in a logical sequence and pending market demand in 3 phases.

The first (our Phase 3) would be a small phase wholly northward of our Allen Drive (17 lots) to allow for completion of Allen drive to the east connecting to South East St for an additional neighborhood ingress/egress need though that could be temporarily restricted until access controls (fencing and gates) are in place for city property to the east and as of then yet undeveloped property to the south. 2d (our Phase 4) would be the interior portion of the attached layout, and last (our Phase 5) would be the outer portion inclusive of remainder of the property identified in 2023-25.

During the construction cycles we intend to remain on site in the offered property of approx. 23 acres (TBD by final flood approvals) in our current staging location where we will continue to make area improvements in the future park acreage. To that end we would ask to sign a \$1 leaseback for our offered property with the city until such time as we complete our self-performance work and the development work required to facilitate it. This will allow us legal right to be on the property, to control access, and to complete planned work as well as no cost additional improvements and maintenance while on site without further contracting, allowing for all improvements to be retained by the new owner (City of Sherman), and allowing our insurance to provide coverage for both the property and our presence while working.

We envision a park design (provided previously) for our initial acreage, and growing by lands the city possesses or obtains to allow for access north and south of the creek. Our area, north of the creek, will have trails that meander for jogging and walking through the open areas, alongside treed groves, along several creek overlooks and veering to grade level creek access points. Additionally, it is hoped to connect via either low water crossings, or a future bridge to reach properties to the south hopefully incorporated into the park boundaries. With our open space, we believe it is a prime area for dog walking and pet access, random wandering, and casual picnics. It will also be a great area for wildlife viewing, with the pond (a smaller version exists now) as home to fish, frogs, turtles and more while drawing wildlife to its storm and spring replenishing waters (per design of stormwater flow). We have viewed deer, hawks, owls, snakes, rodents, hogs, coyotes, lizards, egrets, birds of all kinds, bobcats, and more. Of course, the ever present copperheads do exist, but generally avoid people, stay out of open spaces, and will generally avoid areas where residents will choose to be, like Hermann Baker currently. And of course, said park will be local access and parking to access the creek for fossil hunters, with the seemingly endless supply of shark's teeth uncovered with almost every storm. The center of this is our current property to the south offered as a non-cash contribution. Without it the park as envisioned would be split and access restricted. That said, we plan to convert this area into parkland regardless of this proposal, though it would remain private to the HOA of Three Oaks. Our preference is to enlarge upon our options by partnering with the city to create a larger space accessible to everyone with greater options for enjoyment.

We believe our complete construction schedule, pending any economic headwinds, would be completed within 2 years pending timelines outside of our control. These include third party services for engineering, park design (we will do initial work on consult with the parks dept. and logical progression), FEMA flood approvals (already submitted), city reviews, parks department needs and requirements, building cycles, materials availabilities, and simple construction timelines.

We currently have a buyer for all our future phases in D.R. Horton, though we cannot sign option contracts, until plats have been approved which are awaiting both FEMA (CLOMR) and Oncor (we wish to move two distribution power poles for best layout and design of the neighborhood streets).

D.R. Horton is currently building their Express line of homes in Three Oaks and will begin construction on their next 30 homes at our completion of Phase 2 hopefully at the end of this month. Their homes, as currently planned, range in market pricing from \$260-\$320k in Three Oaks. Accordingly, the additional 49 homes explicitly built in the parcel offered in 2023-25 will have an overall net value of approximately \$14 million. Additionally, the continuation of our development work, enhanced by the park below further justifies the construction of the remaining estimated 61 lots currently planned (inclusive of the property below Burleson St. on the attached layout). In total, this property acquisition will lead to an additional 110 lots with an average sale price of \$290k currently, probably \$310k by time all construction complete. Projected residential rooftop value of 110 lots at \$300k average across construction cycle timeline is \$33 million. With Sherman tax rate of approximately .47%, this additional neighborhood area should generate approx. \$150,000 annually in direct ad valorem taxes to the City of Sherman independent of the lots already constructed, and homes already built. We believe this cycle of construction and homebuilding at current rates can be completed in 2 years. Further, these homes contribute to city impact fees, adding additional infrastructure funds while gaining new immediate area infrastructure within the development, adds city residents using city services for sewer, trash and water, creating additional revenues to fund current and future utility operations, and the residents of these homes, will spend much of their incomes in Sherman generating sales tax funds.

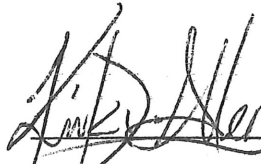
It should be noted that south Sherman is a lower income demographic, but with financing options, rate buydowns, and lower home costs (sub \$300k new) from DR Horton, these homes are perfect for blue collar workers, starting families, retirees, and other local focused residents, rather than Dallas bound commuters. This further keeps their spending local.

And the property taxes also extend to the school district, which while a separate entity, is crucial to the draw of companies and families who are behind the migration that is driving Sherman growth, revenues, and improvements.

Overall we hope that this proposal leads to more than just a purchase, but rather a partnership with Sherman for growth and improvements to south Sherman, previously underserved by growth, expansion, services, and amenities, both public and private. As a former resident (my home was inside Phase 1 Three Oaks property) it has been long needed and hopefully the

attention continues, offering lower income Sherman residents, access to both housing and heretofore lacking amenities in their neighborhood.

Last, this proposal leads to a unique public park for all of Sherman, complete with amenities and likely funded with this proposal up to opening for the portion north of the creek. The as yet unnamed park will be both a recreational and educational destination for local residents as well as the many fossil hunters, in the know visitors, and local youth experiencing real biological history in a way that they can hold in their hand. Hopefully our vision is one the City of Sherman shares also.



KIRK D. ALLEN

President

Three Oaks Development and Construction Company

→ Property offered via Bid No 2023-25

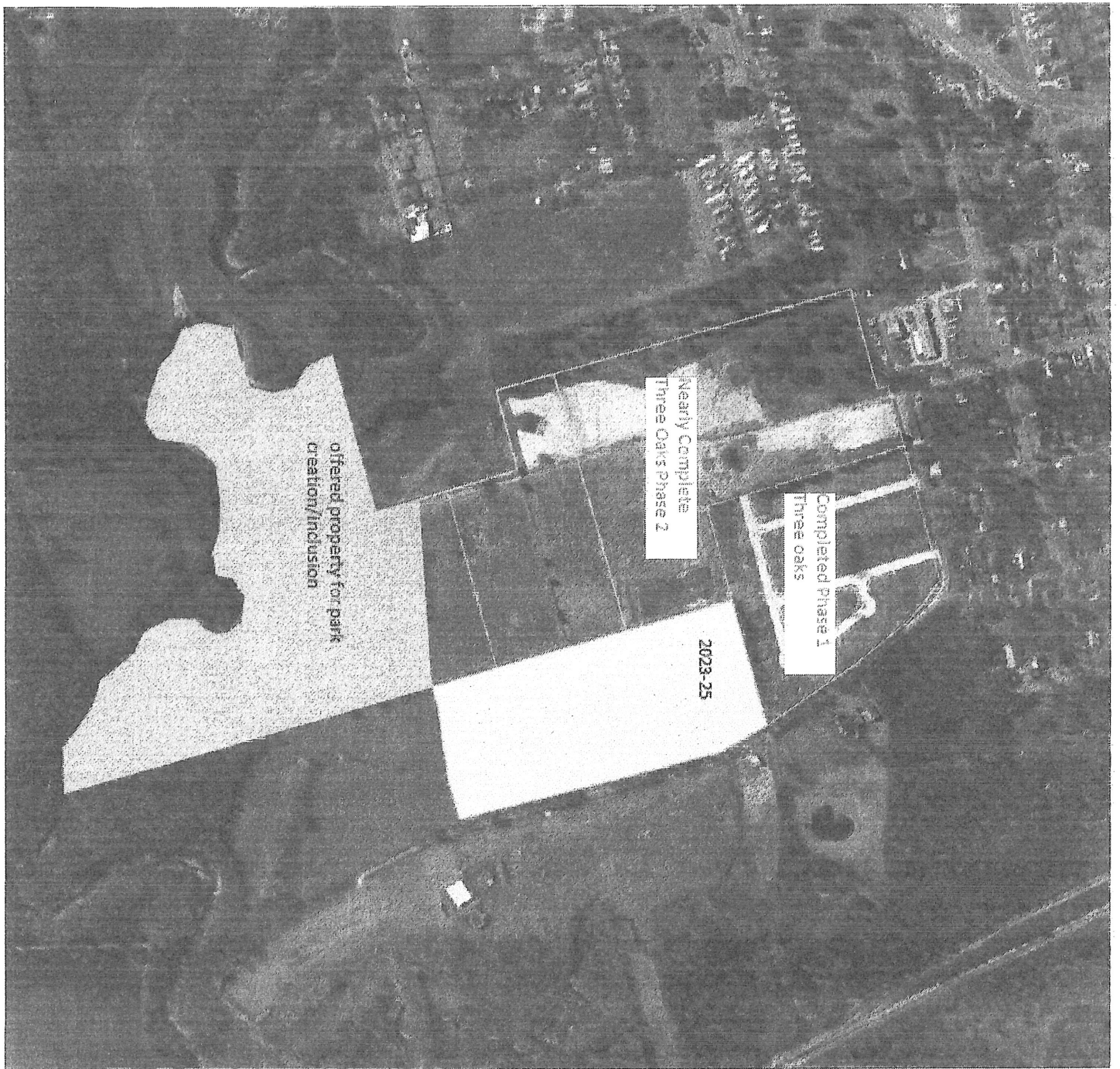
49 Planned lots R-5
this space.

Flood Study completed
CDMR submitted to
FEMA

Intend is to offer
space for park facilities,
if restrooms, trash, picnic
in corner oversized lot



Lot Number	Development Phase
1	1
2	1
3	1
4	1
5	1
6	1
7	1
8	1
9	1
10	1
11	1
12	1
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AFFIDAVIT OF NO PROHIBITED INTEREST
(Supplemental Information)

(I) (WE), the undersigned declare and affirm that no person or officer in (my) (our) firm, business, corporation, or board has or will have during the term of this contract a prohibited interest as that is defined in City Charter.

(I) (WE) further understand and acknowledge that the existence of a prohibited interest at any time during the term of this contract will render the contract voidable.

Name of Contractor: Three Oaks Development and Construction Company

Title of Officer: Kirk D. Allen
President

Signature of Contractor: [Signature]

Date: 16 Oct 23

ACKNOWLEDGMENT

STATE OF TEXAS *

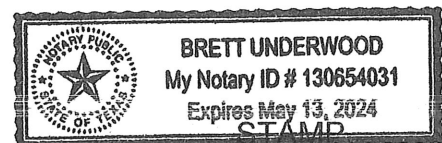
*

COUNTY OF GRAYSON *

BEFORE ME, the undersigned authority, on this day personally appeared, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of _____, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN under my hand and seal of office this the 16th day of October, 2023

[Signature]
Signature of Notary Public in and for the State of Texas



CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

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OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

Three Oaks Development and Construction Company

2 ☐ Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

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Name of Officer

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☐ Yes

☒ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

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☒ No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7 *[Signature]*
Signature of vendor doing business with the governmental entity

16 Oct 23
Date

GENERAL INFORMATION CITY OF SHERMAN, TEXAS

COMPETITIVE SEALED BID NO. 2023-25

“SALE OF CITY-OWNED REAL PROPERTY”

~~~~~  
DOCUMENTS ARE DUE TO THE FINANCE DEPARTMENT PRIOR TO:

**October 24<sup>th</sup>, 2023 at 2:00PM**

*NO LATE BIDS WILL BE ACCEPTED*

**ORIGINAL AND THREE COPIES REQUIRED**  
~~~~~

**DOCUMENTS
MAY BE DELIVERED OR
MAILED TO:**

CITY OF SHERMAN
Craig Long, Budget Analyst
Finance Department
405 N. Rusk Street
Sherman, Texas 75090

**Deadline for Submittal of
Questions via E-Mail to:**

**craigl@cityofsherman.com
10/11/2023 12:00 PM**

FOR ADDITIONAL INFORMATION CONCERNING THIS BID PLEASE CONTACT:

Craig Long
Budget Analyst
Finance Department
craigl@cityofsherman.com
903-892-7215

CITY OF SHERMAN
COMPETITIVE SEALED BID NO. 2023-25

BIDDER MUST SUBMIT ORIGINAL BID PLUS THREE COPIES TO FACILITATE EVALUATION. IF A COPY IS NOT SUBMITTED WITH THE ORIGINAL, YOUR BID MAY BE CONSIDERED AS "NON-RESPONSIVE TO SPECIFICATIONS" AND MAY NOT BE CONSIDERED FOR FURTHER EVALUATION.

The City of Sherman (the "City") is accepting Competitive Sealed Bids for the sale of the Real Property described herein.

Bids must be received by October 24, 2023 at 2:00 PM BY THE FINANCE DEPARTMENT. NO BID WILL BE ACCEPTED AFTER THAT DATE AND TIME. ALL BIDS RECEIVED AFTER THIS DATE AND TIME WILL BE CONSIDERED NON-RESPONSIVE.

**Bids will be publicly opened and read in the City Council Chambers located at Sherman City Hall
220 W. Mulberry, Sherman, Texas 75090 on October 24, 2023 at 2:00 PM.**

Write the competitive sealed bid number 2023-25, name of bid, *Sale of City-Owned Real Property*, and your name or the name of your organization on the outer envelope.

Bids are to be submitted in accordance with the attached City specifications and the "General Conditions of Bidding" attached hereto. Each bidder is required to fill in every blank; failure to do so may be used as a basis for rejection of a bid. The City reserves the right to reject any or all bids, to waive formalities, or to proceed otherwise when in the best interest of the City.

SEE ATTACHED SPECIFICATIONS/BID FORM

The successful bidder will be required to execute a written contract.

BONDING – Each bid must be accompanied by a certified check or a bid bond in the amount of 10% of the bid submitted.

GENERAL CONDITIONS OF BIDDING

1. INSTRUCTIONS: These instructions apply to all bids and become a part of the terms and conditions of any bid submitted and any agreement entered into subsequent thereto, unless exception is taken in writing by bidder when submitting bid.

BIDDING

2. FORM: Bidders must submit original and three (3) copies of the sealed bid to Craig Long, Finance Department, prior to response due date/time.
3. PRICING: Price(s) quoted must be held firm for a minimum of ninety (90) days from the date of bid closing.
4. DELIVERY PROMISE-PENALTIES: Bids MUST show the number of calendar days to close. When delivery delay can be foreseen, the bidder shall give prior written notice to the City, who shall have the right, in its sole discretion, to extend the closing. Default in promised delivery, without acceptable reasons, or failure to meet specifications, authorizes the City to cancel the contract.
5. BIDDER SHALL PROVIDE: With this bid response, the bidder shall provide all documentation required. Failure to provide this information may result in rejection of bid.
6. ALTERING/WITHDRAWAL OF BIDS: Bids cannot be altered or amended after submission deadline. The signer of the bid, guaranteeing authenticity, must initial any interlineations, alteration, or erasure made before opening time. No bid may be withdrawn after opening time without first submitting a written reason to the Finance Department and obtaining approval.
7. PRESENTATION OF BIDS: No oral, telegraphic, telephonic, e-mailed, or facsimile bids will be considered at this time. All bids must be submitted in a sealed envelope.
8. CORRESPONDENCE: This bid number must appear on ALL correspondence, inquiries, bid submittal documents, etc. pertaining to this Invitation for Bid.
9. ADDENDA: Any interpretations, corrections or changes to this Invitation for Bid and specifications will be made by addenda. Sole issuing authority of addenda shall be vested in the City of Sherman Finance Department. An attempt will be made to mail, fax, or e-mail any addenda to all who are known to have received a copy of this Invitation for Bid. Bidders shall acknowledge receipt of all addenda in the designated area on the bid document. It is the responsibility of the bidder to ensure receipt of all addenda and to include the changes in this bid document.
10. LATE BIDS: Bids received by the City after submission deadline shall be returned unopened and will be considered void and unacceptable. The City is not responsible for lateness of mail, carrier, etc.
11. BID OPENINGS: All bids submitted will be read at the City's regularly scheduled bid opening for the designated project. However, the reading of a bid at bid opening should

not be construed as a comment on the responsiveness of such bid or as any indication that the City accepts such bid as responsive.

The City will make a determination as to the responsiveness of bids submitted based upon compliance with all applicable laws, City of Sherman Purchasing Guidelines, and project documents, including but not limited to the project specifications and contract documents. The City will notify the successful bidder upon award of the contract and according to state law; all bids received will be available for inspection at that time, unless otherwise provided by law.

12. **BID TABULATION:** The bid tabulation will be posted on the City of Sherman's website, under the Purchasing Bid Postings page. BID RESULTS WILL NOT BE GIVEN BY TELEPHONE.
13. **PROTESTS:** All protests regarding the bid solicitation process must be submitted in writing to the City within five (5) working days following the opening of bids. This includes all protests relating to advertising of bid notices, deadlines, bid opening, and all other related procedures under the Local Government Code, as well as any protests relating to alleged improprieties or ambiguities in the specifications.
14. **CHANGE ORDERS:** No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change orders to the contract will be made in writing by the City.

PERFORMANCE

15. **MINIMUM STANDARDS FOR RESPONSIBLE PROSPECTIVE BIDDERS:** A prospective bidder must affirmatively demonstrate bidder's responsibility. A prospective bidder must meet the following requirements:
 - A. Have adequate financial resources or the ability to obtain such resources as required;
 - B. Be able to comply with the required or proposed delivery schedule;
 - C. Have a satisfactory record of performance;
 - D. Have a satisfactory record of integrity and ethics; and
 - E. Be otherwise qualified and eligible, as determined by the City, to receive an award.

The City may request representation and other information sufficient to determine bidder's ability to meet these minimum standards listed above.

16. **ASSIGNMENT:** The successful bidder shall not sell, assign, transfer or convey this contract in whole or in part, without the prior written consent of the City.

BID SECURITY

24. **BID SECURITY/BOND REQUIREMENTS:** If required, bid security shall be submitted with bids. Any bid submitted without bid bond, or cashiers/certified check, shall be considered non-responsive and will not be considered for award.

CONTRACT

18. **SUCCESSFUL BIDDER SHALL:** Defend, indemnify and save harmless the City and all its officers, agents and employees and all entities, their officers, agents and employees who are participating in this contract from all suits, actions or other claims of any character, name and description brought for or on account of any injuries, including death, or damages received or sustained by any person, persons, or property on account of any negligent act or fault of the successful bidder, or of any agent, officer, director, representative, employee, subcontractor or supplier in the execution of, or performance under, any contract which may result from bid award. Successful bidder shall pay any judgment with cost which may be obtained against the City and participating entities growing out of such injury or damages.
19. **TERMINATION FOR DEFAULT:** The City reserves the right to enforce the performance of this contract in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of this contract. The City reserves the right to terminate the contract immediately in the event the successful bidder fails to: (1) meet delivery schedules; or (2) otherwise performs in accordance with these specifications. Breach of contract or default authorizes the City to, among other things, award to another bidder, purchase elsewhere and charge the full increase in cost and handling to the defaulting successful bidder.
20. **ACCEPTABILITY:** All articles enumerated in the bid shall be subject to inspection by a City officer or employee designated for the purpose. If found inferior to the quality called for, or not equal in value to the specifications, deficient in workmanship or otherwise, this fact shall be certified to the City Manager who shall have the right to reject the whole or any part of the same. Work determined to be contrary to specifications must be replaced by the bidder and at its expense. All disputes concerning quality of supplies utilized in the performance of this bid will be determined solely by the City Manager or designated representative.
21. **VENUE:** This contract will be governed and construed according to the laws of the State of Texas. This contract is performable in Grayson County, Texas.
22. **SILENCE OF SPECIFICATION:** The apparent silence of these specifications as to any detail or to the apparent omission from it of a detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of these specifications shall be made on the basis of this statement.
23. **NO PROHIBITED INTEREST:** The bidder acknowledges and represents they are aware of the laws and City Charter regarding conflicts of interest.
24. **CONTRACT FORM:** The successful bidder must enter into a real estate sales contract with the City of Sherman within thirty (30) days of award of the bid, in a form approved by the City of Sherman. The sale and purchase of the Property will be governed by the terms and conditions of the real estate sales contract. The approved real estate sales contract shall specify that the City of Sherman has the right to approved or reject all aspects of the design, development and construction of any structures on the Property, including the architectural and engineering design plans and specifications, from and after conveyance of the Property.

25. **DISCLOSURE OF CERTAIN RELATIONSHIPS:** Effective January 1, 2006, Chapter 246 of the Texas Local Government Code requires that any vendor or person considering doing business with a local government entity disclose in the Questionnaire Form CIQ, the vendor or person's affiliation or business relationship that might cause a conflict of interest with a local government entity. By law, this questionnaire must be filed with the records administrator of the City of Sherman not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 246.006, Local Government Code. A person commits an offense if the person violates Section 246.006, Local Government Code. An offense under this section is a Class C misdemeanor. By submitting a response to this request, vendor represents that it is in compliance with the requirements of Chapter 246 of the Texas Local Government Code.
26. **CERTIFICATE OF INTERESTED PARTIES (FORM 1295):** In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The law applies only to a contract of a governmental entity or state agency that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least \$1 million. The disclosure requirement applies to a contract entered into on or after January 1, 2021.
- The Texas Ethics Commission has adopted rules necessary to implement that law, prescribe the disclosure of interested parties form, and post a copy of the form on the commission's website. The commission adopted the Certificate of Interested Parties form (Form 1295) on October 5, 2015. The commission also adopted new rules (Chapter 46) on November 30, 2015, to implement the law.

Filing Process:

Within ten days of being notified of award of a contract by the City of Sherman, the successful vendor (business entity) must use the Texas Ethics Commission's web application, <https://www.ethics.state.tx.us/File/>, to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that will contain a unique certification number. An authorized agent of the business entity must sign the printed copy of the form and have the form notarized. The completed Form 1295 with the certification of filing must be provided to the City of Sherman Finance Department (within 10 days of being notified of award of a contract).

The City is required to notify the commission, using the commission's filing application, of the receipt of the filed Form 1295 with the certification of filing not later than the 30th day after the date the contract binds all parties to the contract. The commission will post the completed Form 1295 to its website within seven business days after receiving notice from the governmental entity or state agency.

27. The following information and/or documents must be provided with all bids:

- A. Use of Property
 - 1. How will you use the Property if purchased?
 - 2. Detail how your proposal will enhance the access to amenities such as parks and trails.
 - 3. Provide a timeline for development, including any financial contribution for property dedication and or park facilities that would be used by this development.
 - 4. Detail how the proposed property dedication, if applicable, will benefit the surrounding neighborhoods and parks.
- B. Fiscal Impact
 - 1. What is the estimated taxable value of the property to be sold for development?
 - 2. If applicable, how much direct ad valorem tax do you anticipate generating in the City during the 1st year, 3rd year, and 5th year of operation for the specific structures on the subject property?
- C. If the bidder proposes to use the Property in a manner that would involve construction of one or more facilities on the Property, please provide for informational purposes only, and not for approval, a proposed depiction of the layout, dimensions, and screening of each such facility.

AFFIDAVIT OF NO PROHIBITED INTEREST
(Supplemental Information)

(I) (WE), the undersigned declare and affirm that no person or officer in (my) (our) firm, business, corporation, or board has or will have during the term of this contract a prohibited interest as that is defined in City Charter.

(I) (WE) further understand and acknowledge that the existence of a prohibited interest at any time during the term of this contract will render the contract voidable.

Name of Contractor: _____

Title of Officer: _____

Signature of Contractor: _____

Date: _____

ACKNOWLEDGMENT

STATE OF TEXAS *
 *
COUNTY OF GRAYSON *

BEFORE ME, the undersigned authority, on this day personally appeared, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of _____, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN under my hand and seal of office this the _____ day of _____, 2023

Signature of Notary Public in and for the State of Texas

STAMP

SUPPLEMENTAL INFORMATION

Please provide the following information for contract development.

Is your firm?

1. Sole Proprietorship ☐ YES ☐ NO
2. Partnership ☐ YES ☐ NO
3. Corporation ☐ YES ☐ NO

If company is a sole proprietorship, list the owner's full legal name:

If company is a partnership, list the partner's full legal name(s):

If company is a corporation, list the full legal name as listed on the corporate charter:

Is this firm a minority, or woman-owned business enterprise?

☐ NO ☐ YES If yes, specify (☐) MBE (☐) WBE

Has this firm been certified as a minority/woman-owned business enterprise by any governmental agency? ☐ NO ☐ YES

If yes, specify governmental agency: _____

Date of certification: _____

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session. This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a). By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code. A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.		OFFICE USE ONLY Date Received
1	Name of vendor who has a business relationship with local governmental entity.	
2	☐ Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)	
3	Name of local government officer about whom the information is being disclosed. _____ Name of Officer	
4	Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary. A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor? ☐ Yes ☐ No B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity? ☐ Yes ☐ No	
5	Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.	
6	☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).	
7	_____ Signature of vendor doing business with the governmental entity Date	

**CITY OF SHERMAN, TEXAS
REQUEST FOR SEALED BIDS TO PURCHASE
CITY-OWNED REAL PROPERTY**

Pursuant to Section 272.001(a) of the Texas Local Government Code, the City of Sherman, Texas will accept sealed bids to purchase all or a portion of a tract of land owned by the City of Sherman, Texas, and consisting of approximately 12± acres located in the Preston Kitchen Survey, Abstract No. 667, City of Sherman, Grayson County, Texas. The subject tract is generally located at 2400-2500 Blocks of South East Street in the Sherman Extra-territorial Jurisdiction (ETJ), Grayson County, Texas, as generally depicted below:



Sealed bids will be received until **2:00 p.m., October 24, 2023**, at the Finance Department of the City of Sherman, 405 N. Rusk Street, Sherman, Texas 75090. No late bids will be accepted. Each bid must be accompanied by a certified check or a bid bond in the amount of 10% of the bid submitted.

Bid packets containing instructions and forms for submitting sealed bids may be obtained on or before October 19, 2023, between the hours of 8 a.m. and 5 p.m. local time at the office of the City Manager, Sherman City Hall, 220 W. Mulberry, Sherman, Texas 75090. Additionally, bidders may also visit the City website, www.ci.sherman.tx.us, and www.publicpurchase.com.

All sealed bids must be: (1) submitted in accordance with the requirements set forth in the bid packets; (2) submitted in a sealed envelope; (3) marked "SEALED BID: SALE OF CITY-OWNED PROPERTY"; (4) addressed to the attention of Craig Long, Budget Analyst; and (5) received no later than **2:00 p.m., October 24, 2023**, in the City of Sherman Finance Department, 405 N. Rusk Street, Sherman, Texas 75090.

The successful bidder must enter into a real estate sales contract with the City of Sherman within thirty (30) days of award of the bid in a form approved by the City of Sherman. The sale and purchase of the Property will be governed by the terms and conditions of the real estate sales contract.

THE CITY OF SHERMAN RESERVES THE RIGHT TO ACCEPT OR REJECT ANY OR ALL BIDS IN ITS SOLE DISCRETION.

CITY OF SHERMAN, TEXAS

BID FORM

CITY-OWNED REAL PROPERTY

Item	Description	Units	Qty.	Offered Price
1	Purchase of real property described within this document	Lump Sum	1	

The undersigned certifies that the bid prices contained in this bid have been carefully reviewed and are submitted as correct and final. Bidder further certifies and agrees to furnish any and/or all product/service upon which prices are extended at the price offered, and upon the conditions in the specifications of the Request for Bid.

"I hereby certify that the foregoing bid has not been prepared in collusion with any other bidder or other person or persons engaged in the same line of business prior to the official opening of this bid. Further, I certify that the bidder is not now, nor has been for the past six (6) months, directly or indirectly concerned in any pool or agreement or combination to control the price of product/service bid on, or to influence any person or persons to bid or not to bid thereon."

Name of Bidder: _____

Address of Bidder: _____

Telephone Number: _____ Fax: _____

E-mail address: _____

By: _____ (print name)

Title: _____ Federal ID #/SSN #: _____

Signature: _____

INSTRUCTIONS for State Law Mandated Certificate of Interested Parties Form (Form 1295)

Pursuant to House Bill 1295 passed by the 84th Texas Legislature (Section 2252.908, Texas Government Code, as amended) and formal rules released by the Texas Ethics Commission (TEC), all contracts with private business entities requiring approval by the Sherman City Council must be accompanied by an original signature unsworn declaration, Certificate of Interested Parties, Form 1295.

1. Form 1295 must be completed in accordance with the TEC Rules: (<https://www.ethics.state.tx.us/legal/ch46.html>) and Section 2252.908 of the Texas Government Code, as amended: (<http://www.legis.state.tx.us/tlodocs/84R/billtext/html/HB01295F.htm>).
2. For questions or issues regarding the TEC rules and state law provisions and how Form 1295 should be completed, please consult with your own legal counsel.
3. In order to fill out and submit Form 1295, you will need to log in as directed on the TEC website: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

Tutorials for creating an account and for creating and submitting Form 1295 may also be found on this web page.

4. Please provide the bolded information exactly as it appears below when creating your certificate:

Who is the contract with? Click the button for **Other**

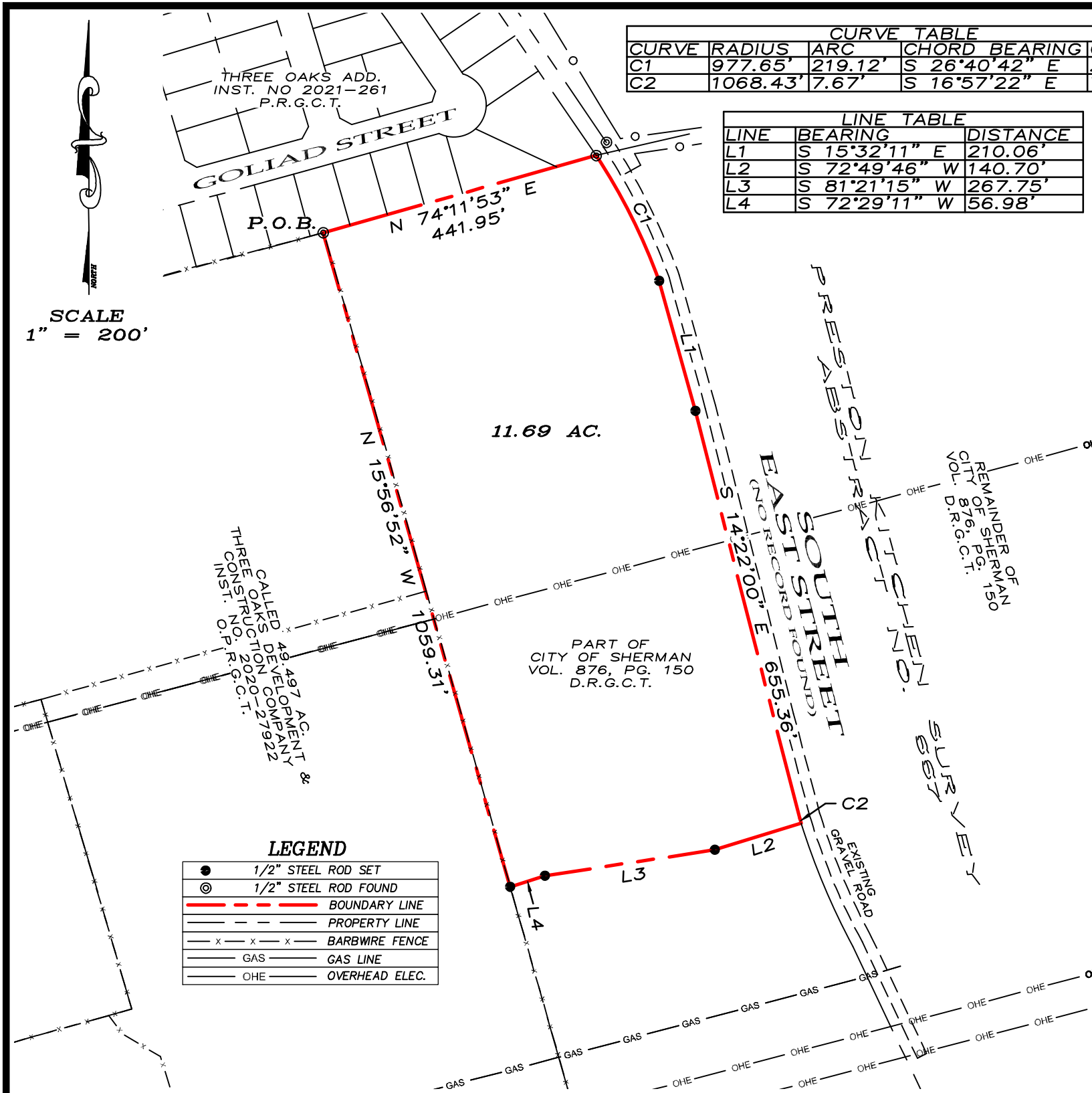
Governmental Entity

Agency/Entity Name: **City of Sherman**

Contract ID Number: **2023-25**

Description of Goods and Services to be provided: **Sale of Real Property**

5. All other fields as required or as applicable to the individual vendor must be completed as explained in the tutorial video.
6. Vendors must provide a signed, original signature copy of this form along with four signed, notarized, original signature copies of the contract no later than 14 days after Notice of Recommendation for Award is received. All documents shall be signed by an Officer, Director or other Authorized Agent of the company. If the individual signing as Authorized Agent is not an officer or director of the company, appropriate documentation must be included with these documents to confirm that the individual has the authority to bind the company contractually.



CURVE TABLE				
CURVE	RADIUS	ARC	CHORD BEARING	CHORD
C1	977.65'	219.12'	S 26°40'42" E	218.66'
C2	1068.43'	7.67'	S 16°57'22" E	7.67'

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 15°32'11" E	210.06'
L2	S 72°49'46" W	140.70'
L3	S 81°21'15" W	267.75'
L4	S 72°29'11" W	56.98'

JOB NO. 23020119
DFT: BH

LEGAL DESCRIPTION

Situated in the County of Grayson, State of Texas, being a part of Preston Kitchen Survey, Abstract No. 667, and being a part of a tract of land described in the deed to City of Sherman, recorded in Volume 876, Page 150, Deed Records, Grayson County, Texas, and being described by metes and bounds as follows:

Beginning at a 1/2" steel rod found for the northwest corner of said City of Sherman Tract, common to the northeast corner of a called 49.497 acre tract of land described in the deed to Three Oaks Development and Construction Company, recorded in Instrument No. 2020-27922, Official Public Records, Grayson County, Texas, and on the southerly line of Three Oaks Addition, according to the plat thereof recorded in Instrument No. 2021-261, Plat Records, Grayson County, Texas;

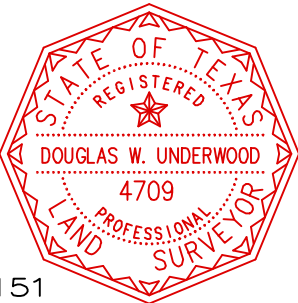
Thence North 74°11'53" East, with the northerly line of said City of Sherman Tract, and with the southerly line of said Three Oaks Addition, a distance of 441.95 feet to a 1/2" steel rod found for the northeast corner of the herein described tract of land, common to the southeast corner of said Three Oaks Addition, and on the westerly side of South East Street (no record found);

Thence crossing said City of Sherman Tract, the following 7 courses:

1. With a curve to the right having a radius of 977.65 feet, (chord bears South 26°40'42" East, 218.66 feet) an arc length of 219.12 feet to a set 1/2" steel rod;
2. South 15°32'11" East, a distance of 210.06 feet to a set 1/2" steel rod;
3. South 14°22'00" East, a distance of 655.36 feet to a set 1/2" steel rod;
4. With a curve to the left having a radius of 1068.43 feet, (chord bears South 16°57'22" East, 7.67 feet) an arc length of 7.67 feet to a 1/2" steel rod set for the southeast corner of the herein described tract of land;
5. South 72°49'46" West, a distance of 140.70 feet to a set 1/2" steel rod;
6. South 81°21'15" West, a distance of 267.75 feet to a set 1/2" steel rod;
7. South 72°29'11" West, a distance of 56.98 feet to a 1/2" steel rod set for the southwest corner of the herein described tract of land, and on the westerly line of said City of Sherman Tract, and on the easterly line of aforesaid 49.497 acre tract;

Thence North 15°56'52" West, with the westerly line of said City of Sherman Tract, and with the easterly line of said 49.497 acre tract, a distance of 1059.31 feet to the Point of Beginning and containing 11.69 acres of land, more or less.

I, Douglas W. Underwood, Registered Professional Land Surveyor, hereby certify that a survey was made on the ground on the property legally described herein, and that the plat herewith is a true, correct and accurate representation of the property legally described hereinabove.



Douglas W. Underwood
Douglas W. Underwood
Registered Professional
Land Surveyor No. 4709
Firm No. 10006300
DATE OF SURVEY: 10/02/23

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~ BASIS OF BEARINGS ~
GRID NORTH, NAD 83
TEXAS STATE PLANE COORDINATE SYSTEM
NORTH CENTRAL ZONE



DRAFTING & SURVEYING

3404 INTERURBAN ROAD DENISON, TEXAS 75021 (903)465-2151



Addendum #1

**Invitation to Bid – Sale of City-Owned Property
Bid No. 2023-25**

If a bidder's offer is a non-cash offer, such as property, a bid bond will not be required.



Addresses

Parcels

Road Centerlines

Sherman_100yr_Floodplain

- LEGEND**
- 1/2" STEEL ROD SET
 - POINT IN CREEK
 - 1/2" STEEL ROD FOUND
 - POWER POLE
 - BOUNDARY LINE
 - PROPERTY LINE
 - BARBWARE FENCE
 - CHAINLINK FENCE
 - OHE
 - OHE
 - OVERHEAD ELECTRIC LINE

SCALE
1" = 200'

LEGAL DESCRIPTION

Situated in the County of Grayson, State of Texas, being a part of the Preston Kitchens Survey, Abstract No. 667, and being part of a called 49.497 acre tract of land described in the deed to Three Oaks Development & Construction Company, recorded in Document No. 2020-27922, Real Property Records, Grayson County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at a set 1/2" steel rod for the northeast corner of the herein described tract of land, and from which a 1/2" steel rod found for the eastern-most northeast corner of said 49.497 acre tract bears North 15°56'52" West, a distance of 1074.32 feet;

Thence South 15°56'52" East, with the west line of a Tract of land conveyed to the City of Sherman, Recorded in Volume 876, Page 150, Deed Records, Grayson County, Texas a distance of 1284.31 feet to a point in the center of Choctaw Creek;

Thence the Following Calls and Distances with the center of said Choctaw Creek:

South 89°25'08" West a distance of 151.42 feet to a point in said creek;
North 55°13'20" West a distance of 169.20 feet to a point in said creek;
North 71°56'22" West a distance of 93.39 feet to a point in said creek;
North 39°01'10" West a distance of 144.10 feet to a point in said creek;
North 64°01'32" West a distance of 83.74 feet to a point in said creek;
North 27°35'50" West a distance of 95.83 feet to a point in said creek;
North 01°18'07" East a distance of 84.95 feet to a point in said creek;
North 46°44'09" East a distance of 45.06 feet to a point in said creek;
North 25°27'48" East a distance of 44.90 feet to a point in said creek;
North 08°31'51" West a distance of 39.04 feet to a point in said creek;
North 35°45'14" West a distance of 59.46 feet to a point in said creek;
North 82°52'30" West a distance of 93.37 feet to a point in said creek;
South 52°31'26" West a distance of 72.97 feet to a point in said creek;
South 13°34'14" West a distance of 57.59 feet to a point in said creek;
South 82°41'39" West a distance of 75.90 feet to a point in said creek;
North 71°04'31" West a distance of 71.42 feet to a point in said creek;
North 88°59'42" West a distance of 110.04 feet to a point in said creek;
South 81°58'16" West a distance of 115.74 feet to a point in said creek;
South 47°34'45" West a distance of 94.79 feet to a point in said creek;
South 08°07'48" West a distance of 136.49 feet to a point in said creek;
South 58°19'28" West a distance of 66.63 feet to a point in said creek;
North 84°41'14" West a distance of 71.68 feet to a point in said creek;
North 70°20'46" West a distance of 125.71 feet to a point in said creek;
North 47°12'09" West a distance of 62.23 feet to a point in said creek;
North 68°25'43" West a distance of 78.20 feet to a point in said creek;
North 16°25'04" West a distance of 81.52 feet to a point in said creek;
North 10°57'15" East a distance of 97.52 feet to a point in said creek;
North 77°07'30" East a distance of 110.88 feet to a point in said creek;
North 69°13'40" East a distance of 95.79 feet to a point in said creek;
North 13°29'45" East a distance of 79.40 feet to a point in said creek;
North 13°29'45" West a distance of 79.40 feet to a point in said creek;
North 60°15'18" West a distance of 74.70 feet to a point in said creek;
North 30°04'07" West a distance of 67.80 feet to a point in said creek;
North 12°43'28" West a distance of 31.73 feet to a point in said creek;

Thence North 74°20'16" East leaving said creek and continuing with a barbwire fence a distance of 548.73 feet to a metal fence post;

Thence North 16°22'48" West a distance of 134.84 feet with a barbwire fence to a 1/2" steel rod set for the northern-most northwest corner of the herein described tract of land;

Thence North 86°09'05" East, crossing said 49.497 acre tract, a distance of 616.12 to the Point of Beginning and containing 22.48 acres of land.

LINE	BEARING	DISTANCE
L1	S 89°25'08" W	151.42
L2	N 55°13'20" W	169.20
L3	N 71°56'22" W	93.39
L4	N 39°01'10" W	144.10
L5	N 64°01'32" W	83.74
L6	N 27°35'50" W	95.83
L7	N 01°18'07" E	84.95
L8	N 46°44'09" E	45.06
L9	N 25°27'48" E	44.90
L10	N 08°31'51" W	39.04
L11	N 35°45'14" W	59.46
L12	N 82°52'30" W	93.37
L13	S 52°31'26" W	72.97
L14	S 13°34'14" W	57.59
L15	S 82°41'39" W	75.90
L16	N 71°04'31" W	71.42
L17	N 88°59'42" W	110.04
L18	S 81°58'16" W	115.74
L19	S 47°34'45" W	94.79
L20	S 08°07'48" W	136.49
L21	S 58°19'28" W	66.63
L22	N 84°41'14" W	71.68
L23	N 70°20'46" W	125.71
L24	N 47°12'09" W	62.23
L25	N 68°25'43" W	78.20
L26	N 16°25'04" W	81.52
L27	N 10°57'15" E	97.52
L28	N 77°07'30" E	110.88
L29	N 69°13'40" E	95.79
L30	N 13°29'45" E	79.40
L31	N 13°29'45" W	79.40
L32	N 60°15'18" W	74.70
L33	N 30°04'07" W	67.80
L34	N 12°43'28" W	31.73

UNDERWOOD

DRAFTING & SURVEYING

3404 INTERURBAN ROAD DENISON, TEXAS 75021 (903)465-2151

I, Douglas W. Underwood, Registered Professional Land Surveyor, hereby certify to CCC-KA Three Oaks Sherman, LLC, a Texas limited liability company, its successors and/or assigns, and First American Title Guaranty Company, that a survey was made on the ground on the property legally described herein, and that the plat herewith is a true, correct and accurate representation of the property legally described hereinabove.



Douglas W. Underwood
Douglas W. Underwood
Registered Professional
Land Surveyor No. 4709
Firm No. 10006300
DATE OF SURVEY: 11/28/2023

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APPRAISAL REPORT

of

**22.48 ACRES of UNIMPROVED LAND
SOUTH SHERMAN
GRAYSON COUNTY, TEXAS**

Prepared For

**MR. KIRK ALLEN
THREE OAKS DEVELOPMENT AND CONSTRUCTION
1313 W WASHINGTON STREET
SHERMAN, TX 75092**

Prepared By

**KEITH WADE, MAI
CERTIFIED GENERAL APPRAISER
KJ WADE LIMITED PARTNERSHIP
PO BOX 1433
SHERMAN, TX 75091**

APPRAISAL EFFECTIVE DATE: DECEMBER 7, 2023

FILE NUMBER: L3120501

KJ WADE, LIMITED PARTNERSHIP
PO Box 1433
Sherman, Texas 75091
903.821.8677 · www.kjwade.com

December 14, 2023

Mr. Kirk Allen
1313 W Washington Street
Sherman, TX 75092

RE: 22.48 Acres of Unimproved Land
South Sherman @ South Montgomery Street
Sherman, TX

Dear Mr. Allen,

At your request, we have completed an appraisal of the present market value of the fee simple (surface only) interest in the above referenced property as of December 7, 2023. The subject property consists of 22.48 acres of unimproved land located in South Sherman. The land is presently not accessible by any public roadways; as a result, the value contained herein is based on the hypothetical condition that it has legal access.

The sales comparison approach was developed in our analysis of the subject property. Sales of similar tracts of land that occurred since January 2021 were researched in the subject's market area. The cost and income approaches were not necessary to provide a credible result and were not developed. Hence, the sales comparison approach was the only approach developed in this analysis of the subject property.

This is an Appraisal Report, which is intended to comply with the reporting requirements set forth under Standard Rule 2-2 of the Uniform Standards of Professional Appraisal Practice (USPAP) for an Appraisal Report. As such, it presents a summary of the data, reasoning, and analyses that were utilized in the appraisal process to develop the appraiser's opinion of value. The appraiser(s) are not responsible for unauthorized use of this report.

After completion of our investigation and analysis, we have reached the value conclusion shown below. The value conclusion is applicable to the fee simple (surface only) interest as of the stated date and is subject to the *Assumptions and Limiting Conditions* contained in the appraisal report.

This appraisal is subject to the following extraordinary assumptions &/or hypothetical conditions, which may have affected our opinion of value:

1. The hypothetical condition that legal access exists for the subject property on the effective date of the appraisal

Mr. Kirk Allen
December 14, 2023
Page 2

The market value on the appraisal date reflects the fee simple (surface only) interest in the subject property.

Market Value as of 12/7/2023: **\$124,000**

We appreciate this opportunity to be of service to you and if you should have any questions, please do not hesitate to call.

Respectfully submitted,

KJ Wade, Limited Partnership



Keith Wade, MAI
TX 1335136 G

CERTIFICATION

I certify that, to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and is my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.
4. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
5. My engagement in this assignment was not contingent upon developing or reporting predetermined results.
6. My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
7. My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Code of Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute and the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.
8. Keith Wade personally viewed the subject property from the road on December 7, 2023.
9. No one provided significant professional assistance to the person(s) signing this report.
10. I have acquired through education and experience, competency to complete this appraisal assignment as required by USPAP.
11. I (We) certify that the use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
12. I (We) have not previously provided appraisal services as an appraiser regarding the property that is the subject of the work under review within the three-year period immediately preceding acceptance of this assignment.
13. As of the date of this report, I (Keith Wade) have completed the Continuing Education Requirement of the Appraisal Institute for Designated Members.

KJ Wade, Limited Partnership

Keith Wade

Keith Wade, MAI
TX 1335136 G

INTRODUCTION

TABLE OF CONTENTS	1
SUMMARY OF FACTS, ASSUMPTIONS AND CONCLUSIONS	2
PHOTOGRAPHS OF THE SUBJECT	4

PREMISES OF THE APPRAISAL

GLOSSARY	5
GENERAL INFORMATION	7
ASSUMPTIONS AND LIMITING CONDITIONS	9

FACTUAL DESCRIPTIONS AND ANALYSES

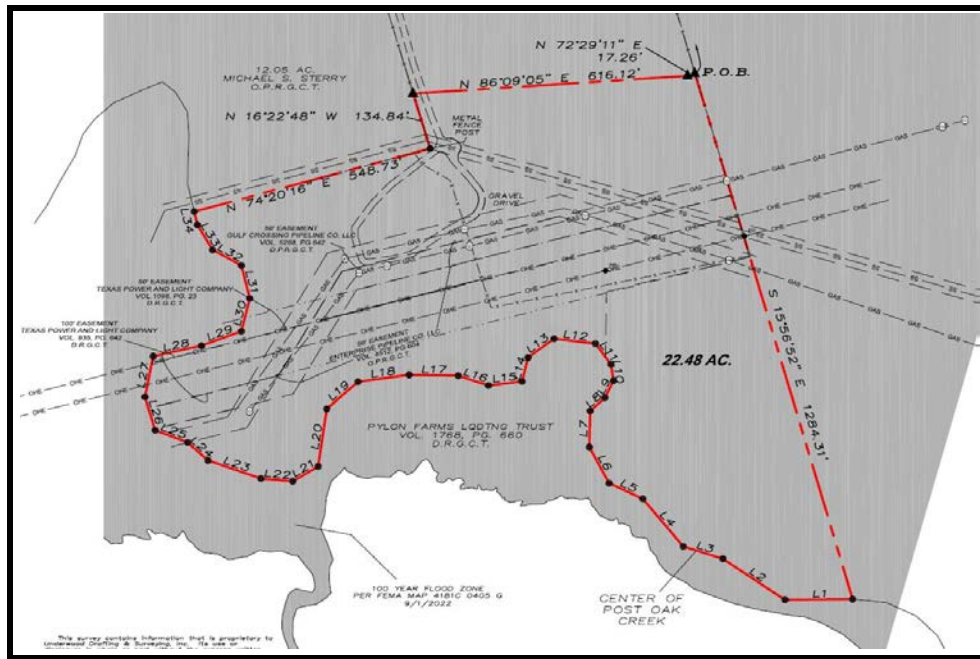
MARKET AREA DATA AND INFORMATION	12
SITE DESCRIPTION AND ANALYSIS	19

DATA ANALYSIS AND CONCLUSIONS

HIGHEST AND BEST USE ANALYSIS	25
SITE VALUATION	27
VALUE CONCLUSION	32

ADDENDA

ENGAGEMENT LETTER	
APPRAISER CREDENTIALS & LICENSE	



Identification of the Subject:

Unimproved land located in south Sherman @ the south end of South Montgomery Street

Legal Description:

22.48 acres in the Preston Kitchen Survey #G-0667, Grayson County, Texas (full legal in Addenda)

Purpose of the Appraisal:

Determine the present market value of the fee simple (surface only) interest in the subject property

Appraisal Date:

December 7, 2023

Property Summary-

Property Type:

Vacant Land

Site Area:

22.48 acres

Frontage:

None

Zoning:

R-A, Residential Agricultural District

Flood Hazard Zone:

Zone AE; 48181C0405G dated September 1, 2022

Utilities:

All Available

Grayson County Appraisal District-

Account Numbers:

167030

2023 Market Value:

\$559,818

2023 Ad Valorem Taxes:

\$17.82 w/exemption

Highest and Best Use-
As Though Vacant:

Agricultural/Recreational

Use of the real estate existing as of the date of value:

Unimproved Ag Land

Use of the real estate reflected in the appraisal:

Unimproved Ag Land

Exposure Time:

0-6 months

Reasonable Marketing Time:

0-6 months

FINAL OPINION OF VALUE

Market Value as of 12/7/2023:

\$124,000



VIEW EAST



VIEW WEST



DIRT ROAD ACCESS FROM NORTH

The terms and definitions listed below have been extracted, solely or in combination, from definitions and descriptions contained in the following publications:

- The Uniform Standards of Professional Appraisal Practice, 2023 Edition (*USPAP*).
- The Dictionary of Real Estate Appraisal, Fourth Edition, Appraisal Institute, Chicago, Illinois, 2002 (*Dictionary*).
- The Appraisal of Real Estate, Fourteenth Edition, Appraisal Institute, Chicago, Illinois, 2013 (*Fourteenth Edition*).

appraisal date. The date for which an estimate of value is valid. (*Dictionary*)

exposure time. The estimated length of time that the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal. Exposure time is a retrospective opinion based upon an analysis of past events assuming a competitive and open market. (*USPAP*)

external obsolescence. An element of accrued depreciation; a defect, usually incurable, caused by negative influences outside a site and generally incurable on the part of the owner, landlord, or tenant. (*Dictionary*)

extraordinary assumption. An assumption, directly related to a specific assignment, as of the effective date of the assignment results, which, if found to be false, could alter the appraiser's opinions or conclusions. Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property; or about conditions external to the property such as market conditions or trends; or about the integrity of data used in an analysis. (*USPAP*)

fee simple (surface only) estate. Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat. (*Dictionary*)

highest and best use. The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that result in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum profitability. (*Dictionary*)

hypothetical condition. A condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results but is used for the purpose of analysis. (*USPAP*)

market value. The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- A. Buyer and seller are typically motivated;
- B. Both parties are well-informed or well-advised, and acting in what they consider their own best interests;
- C. A reasonable time is allowed for exposure in the open market;
- D. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- E. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Additionally, adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs that are normally paid by sellers as a result of tradition or law in a market area: these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third-party institution lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession, but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment. (*Federal Register, CFR 34.43(F)*)

reasonable marketing time. The reasonable marketing time is an opinion of the amount of time it might take to sell a property interest in real estate at the concluded market value level during the period immediately after the effective date of an appraisal. (*Dictionary*)

Uniform Standards of Professional Appraisal Practice (USPAP). Current standards of the appraisal profession developed for appraisers and the users of appraisal services by the Appraisal Standards Board of the Appraisal Foundation. The Uniform Standards set forth the procedures to be followed in developing an appraisal, analysis, or opinion and the manner in which an appraisal, analysis, or opinion is communicated. They are endorsed by the Appraisal Institute and by other professional appraisal organizations. (*USPAP*)

Identification of the Client and Other Intended Users

Mr. Kirk Allen authorized this appraisal report and is the client and intended user. This report is not intended to be utilized by any other parties or entities.

Intended Use of the Appraisal

It is our understanding that this appraisal is to be utilized for donation purposes. This report is not intended for any other use.

Identification of the Subject

The subject is located in south Sherman just south of S. Montgomery Street. The legal description is 22.48 acres in the Preston Kitchen Survey #0667. The full legal description from a recent survey is included in the attached Addenda.

Property Interest Appraised

The property interest under appraisement is the fee simple (surface only) interest in the subject property as if unencumbered by any assessments, liens, or mortgages.

Purpose of the Appraisal

The purpose of this appraisal is to determine the present market value of the fee simple (surface only) interest in the subject property on the appraisal date.

Appraisal Date

The appraisal date is December 7, 2023, the date the appraiser viewed the property. Preparation of the written report was completed on December 14, 2023.

Scope of Work

Standards Rule 2-2 of the Uniform Standards of Professional Appraisal Practice stipulates that an Appraisal Report "summarize sufficient information to disclose to the client and any intended users of the appraisal the scope of work used to develop the appraisal".

Inspection

Keith Wade physically viewed the subject site. The comparable sales were viewed in person or via multiple listing photos and aerial images during the course of the assignment.

Data Collection

Three types of data are normally gathered while completing an appraisal: general, specific, and competitive supply and demand.

General data concerns the social, economic, governmental, and environmental forces that impact property values. We have gathered the general data from a variety of sources and publications and the sources have been noted in the analyses. General data concerning the neighborhood is also based upon observations made during our inspection of the property.

Data relating to the property being appraised and the comparable properties is referred to specific data. Documents we have relied upon for specific data pertaining to the subject are listed in the *Assumptions and Limiting Conditions* section of this report. Additional data pertaining to the subject has been gathered from zoning maps, tax records, and other sources maintained by our firm. Specific comparable data has been gathered from market participants. The extent of the comparable market data collection process varies for each type of comparable data.

Data concerning the competitive supply and demand for the subject's property type has been gathered from a variety of sources. In the subject's market area, third party market reports and statistical studies are not available; therefore, data concerning supply and demand has been gathered from our analysis of historical trends, interviews with market participants, and our own market surveys.

Appraisal Procedures

The sales comparison approach was developed. Sales of properties with similar highest and best use characteristics that occurred from January 2021 were researched in the subject's market area.

The cost approach and income approach were not necessary to provide a credible result and have not been developed. Hence, the sales comparison was the only approach developed in this analysis of the subject property.

Compliance

We have developed this appraisal in compliance with the requirements of the Code of Ethics and the Standards of Professional Practice of the Appraisal Institute, the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Foundation.

Ownership and History of the Subject

According to the Grayson County Appraisal District records, the subject has been under the ownership of Three Oaks Development and Construction since 10/9/2020. To our knowledge, there have been no offerings, listings, or sales of the subject property within the past three years. According to the client, the subject is to be donated to the City of Sherman and will be developed into a park/recreational area.

General Assumptions

This appraisal is subject to the following general assumptions:

1. No responsibility is assumed for the legal description or for matters including legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated.
2. The property is appraised free and clear, of any, and all liens or encumbrances unless otherwise stated.
3. Responsible ownership and competent property management are assumed.
4. The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.
5. All engineering is assumed to be correct. The plot plans and illustrative material in this report are included only to assist the reader in visualizing the property.
6. It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more, or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
7. It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless noncompliance is stated, defined, and considered in the appraisal report.
8. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a nonconformity has been stated, defined, and considered in the appraisal report.
9. It is assumed that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.
10. It is assumed that the utilization of the land and improvements is within the boundaries or property lines of the property described and that there is no encroachment or trespass unless noted in the report.

11. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.
12. The Americans with Disabilities Act (ADA) became effective January 26, 1992. Noncompliance with the ADA could cause a loss in value. Unless otherwise stated in the report, the appraisers have not been provided with a compliance survey; therefore, our value estimate is predicated upon the assumption that the subject is not negatively or positively impacted by issues relating to the ADA.

General Limiting Conditions

This appraisal has been made with the following general limiting conditions:

1. The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate allocations for land and buildings must not be used in conjunction with any other appraisal and are invalid if so used.
2. Possession of this report, or a copy thereof, does not carry with it the right of publication.
3. The appraiser herein, by reason of this appraisal, is not required to give further consultation, testimony, or be in attendance in court with reference to the property in question unless arrangements have been previously made.
4. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser, or the firm with which the appraiser is connected) shall be disseminated to the public through advertising, public relations, news, sales, or other medium without the prior written consent and approval of the appraiser.

Extraordinary Assumptions and Hypothetical Conditions

This appraisal is subject to the following extraordinary assumptions &/or hypothetical conditions, which may have affected our opinion of value:

1. The hypothetical condition that legal access exists for the subject property on the effective date of the appraisal.

Documents of Reference

We have relied upon the following documents for factual information pertaining to the subject property.

1. Information obtained from the Grayson County Appraisal District
2. Survey by Underwood Drafting & Surveying dated 11/28/23
3. City of Sherman online zoning mapping services
4. FEMA Flood Maps # 48181C0290G dated 9/1/2022
5. Texas Railroad Commission online pipeline mapping service

Social Forces

The following table displays pertinent population and demographic data for the Sherman-Denison MSA.



Demographic and Income Profile

Sherman-Denison, TX Metropolitan Statistical Area

Sherman-Denison, TX Metropolitan Statistical Area (43300)

Geography: CBSA

Prepared by Esri

Summary	Census 2010	Census 2020	2023	2028
Population	120,877	135,543	141,196	144,014
Households	46,905	52,307	54,808	56,374
Families	32,534	-	36,926	37,974
Average Household Size	2.53	2.55	2.54	2.52
Owner Occupied Housing Units	32,545	-	38,077	39,351
Renter Occupied Housing Units	14,360	-	16,731	17,023
Median Age	39.4	-	41.7	42.2
Trends: 2023-2028 Annual Rate	Area	State	National	
Population	0.40%	0.97%	0.30%	
Households	0.57%	1.15%	0.49%	
Families	0.56%	1.16%	0.44%	
Owner HHs	0.66%	1.38%	0.66%	
Median Household Income	2.42%	2.56%	2.57%	
Households by Income	2023		2028	
	Number	Percent	Number	Percent
<\$15,000	4,534	8.3%	4,180	7.4%
\$15,000 - \$24,999	3,949	7.2%	3,305	5.9%
\$25,000 - \$34,999	4,271	7.8%	3,784	6.7%
\$35,000 - \$49,999	7,513	13.7%	6,967	12.4%
\$50,000 - \$74,999	10,850	19.8%	10,793	19.1%
\$75,000 - \$99,999	6,888	12.6%	7,337	13.0%
\$100,000 - \$149,999	8,131	14.8%	9,251	16.4%
\$150,000 - \$199,999	4,973	9.1%	6,428	11.4%
\$200,000+	3,699	6.7%	4,329	7.7%
Median Household Income	\$64,131		\$72,278	
Average Household Income	\$93,734		\$105,630	
Per Capita Income	\$36,409		\$41,372	

Data Note:

Income is expressed in current dollars.

Source:

Esri forecasts for 2023 and 2028. U.S. Census Bureau 2010 decennial Census data converted by Esri into 2020 geography.

According to Esri forecast data, the population is projected to increase 0.40% per year from 2023 to 2028, which is below the state level, but greater than the national level. The median household income is projected to increase at a rate of 2.42% per year in the same period.

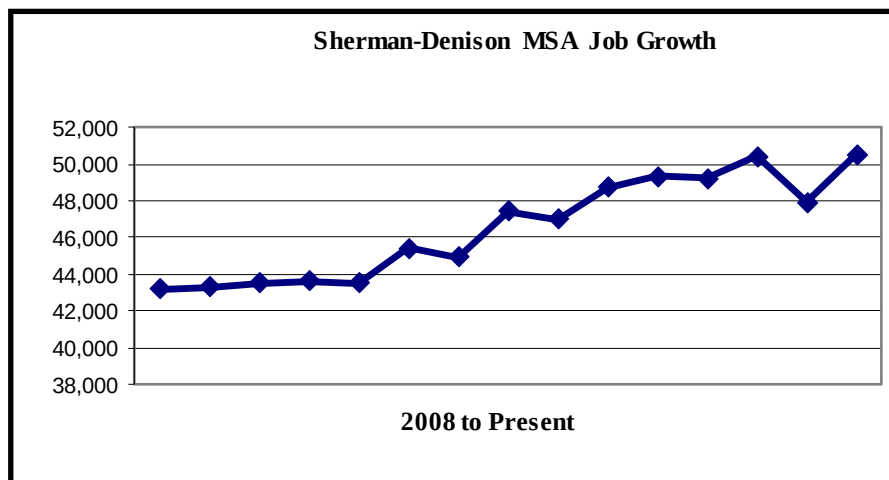
Economic Forces

Employment

The Sherman-Denison area is the main employment center of Grayson County and is situated within easy commuting distance of all of the other smaller communities of Grayson County. There is also a significant amount of the Grayson County population that resides outside the city limits of any municipality and also commutes to the Sherman-Denison area. The area made a slow recovery from the last recession and had lost a substantial number of jobs due to the recent COVID-19 outbreak. It has since recovered.

SHERMAN-DENISON MSA JOB GROWTH		
Year	Jobs	Rate of Change
2009	43,200	
2010	43,300	0.2%
2011	43,500	0.5%
2012	43,600	0.2%
2013	43,500	-0.2%
2014	45,400	4.4%
2015	44,900	-1.1%
2016	47,400	5.6%
2017	47,000	-0.8%
2018	48,700	3.6%
2019	49,300	1.2%
2020	49,200	-0.2%
2021	50,400	2.4%
2022	47,900	-2.6%
Sep-23	50,500	5.4%
Source: U.S. Bureau of Labor Statistics		

The graph below displays the job growth in the Sherman-Denison MSA over the past fourteen years.



Grayson County enjoys a diversified employment base. The healthcare, service industries, manufacturing, and retail trade constitute the majority of the area's employment.



esri

Civilian Labor Force Profile

Sherman-Denison, TX Metropolitan Statistical Area

Sherman-Denison, TX Metropolitan Statistical Area (43300)

Geography: CBSA

Prepared by Esri

2022 Labor Force						
Age Group	Population	Employed	Unemployed	Unemployment Rate	Labor Force Participation Rate	Employment-Population Ratio
16+	113,061	67,466	2,864	4.1%	62.2%	60
16-24	14,775	8,528	616	6.7%	61.9%	58
25-54	50,686	39,963	1,575	3.8%	82.0%	79
55-64	19,405	12,772	582	4.4%	68.8%	66
65+	28,195	6,203	91	1.4%	22.3%	22
Economic Dependency Ratio						
Total						105.9
Child (<16)						39.0
Working-Age (16-64)						34.4
Senior (65+)						32.5
Industry	Employed	Percent	US Percent	Location Quotient		
Total	67,466	100.0%	100.0%	-		
Agriculture/Forestry/Fishing	638	0.9%	1.2%	0.75		
Mining/Quarrying/Oil & Gas	460	0.7%	0.4%	1.75		
Construction	6,623	9.8%	7.1%	1.38		
Manufacturing	8,036	11.9%	9.6%	1.24		
Wholesale Trade	1,535	2.3%	2.5%	0.92		
Retail Trade	8,370	12.4%	10.8%	1.15		
Transportation/Warehousing	3,327	4.9%	5.5%	0.89		
Utilities	484	0.7%	0.8%	0.88		
Information	615	0.9%	1.9%	0.47		
Finance/Insurance	3,669	5.4%	4.8%	1.12		
Real Estate/Rental/Leasing	1,081	1.6%	2.0%	0.80		
Professional/Scientific/Tech	2,643	3.9%	8.0%	0.49		
Management of Companies	34	0.1%	0.1%	1.00		
Admin/Support/Waste Management	2,534	3.8%	3.8%	1.00		
Educational Services	5,936	8.8%	9.0%	0.98		
Health Care/Social Assistance	9,817	14.6%	14.5%	1.01		
Arts/Entertainment/Recreation	1,076	1.6%	1.8%	0.89		
Accommodation/Food Services	4,246	6.3%	6.5%	0.97		
Other Services (Excluding Public)	3,295	4.9%	4.7%	1.04		
Public Administration	3,047	4.5%	4.9%	0.92		
Data Note: Location Quotients compare the industry/occupation share of a local area's employment relative to that same share nationally. A value lower/greater than 1 indicates that the local area is less/more specialized in that industry or occupation category than the US as a whole.						
Explore the Esri Labor Force Learn Lesson for more information on how to use and interpret the estimates in this report.						
Source: Esri forecasts for 2022 and 2027.						

Unemployment

The following table displays unemployment statistics regarding the labor force in Grayson County, Texas, and the United States over the past several years.

UNEMPLOYMENT			
Year	Grayson	Texas	United States
2010	8.4%	8.2%	9.6%
2011	8.3%	7.9%	9.0%
2012	7.2%	6.8%	8.1%
2013	6.6%	6.3%	7.2%
2014	5.0%	5.0%	6.2%
2015	4.0%	4.5%	5.3%
2016	3.6%	4.6%	4.5%
2017	4.2%	4.9%	4.7%
2018	3.5%	3.9%	4.0%
2019	3.0%	3.5%	3.7%
2020	5.9%	7.7%	8.1%
2021	5.2%	6.5%	6.2%
2022	3.5%	3.9%	3.6%
Sep-2023	3.9%	4.1%	3.6%
Source: Bureau of Labor			

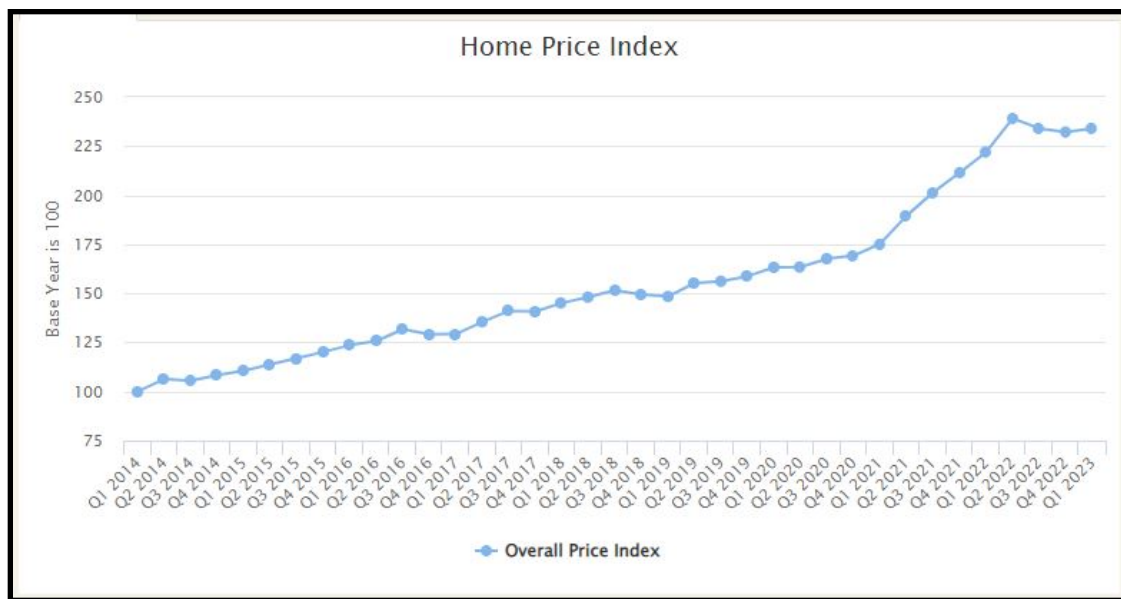
The area recovered to well below pre-recession levels in 2015. The recent decline in employment due to the current COVID-19 outbreak was originally greater than the last recession. See next page for additional comments on the most recent data.



Market Trends

With the recent coronavirus outbreak and travel restrictions that had been in place, the reported job losses had been in the millions. The US Federal Reserve pursued multiple policies and stimulus packages such as quantitative easing and reducing interest rates to mitigate the situation and reduce the impact on the economy. The Feds have more recently been aggressively raising interest rates to combat inflation. The total rate increase since March 2022 has been 5.25%. Inflationary pressures have increased significantly as the core CPI rose 9.1% year over year in June and fell to 3.1% in October.

The housing market had been exceptionally strong with unprecedented increases in values. From 2021 to 2022 the median sale price increased 20%. According to the Texas A&M Real Estate Center Home Price Index, values peaked in the 2nd quarter of 2022, decreased 2% in the 3rd quarter, and somewhat stabilized. The second table illustrates that since June 2002 the median price per SF only increased 1.3% and the average price per SF increased 6.2%. We located one resale of a residence in Sadler that sold for \$880,000 in February 2022 and is currently pending at \$925,000 indicating an increase of 3.2% per year.



	2023				2022	
	June	YoY %	YTD	YoY %	June	YoY %
Sales	221	-23.53%	1,249	-2.65%	289	38.28%
Dollar Volume	\$91,204,089	-11.23%	\$447,889,402	-1.30%	\$102,737,126	58.75%
Median Close Price	\$330,000	2.83%	\$305,000	1.67%	\$320,930	25.36%
New Listings	363	-7.40%	1,724	-3.47%	392	39.01%
Active Listings	728	33.82%	653	95.51%	544	75.48%
Months Inventory	3.5	38.53%	3.5	38.53%	2.5	66.64%
Days to Sell*	97	19.75%	104	50.72%	81	28.57%
Average Price PSF	\$194.17	6.20%	\$181.59	-0.66%	\$182.84	20.79%
Median Price PSF	\$187.49	1.28%	\$178.15	1.83%	\$185.12	26.35%
Median Square Feet	1,836	4.68%	1,790	3.23%	1,754	-1.18%
Close to Original List Price	95.77%	-4.30%	93.86%	-6.54%	100.07%	-1.20%

* Days to Sell = Days on Market + Days to Close

It appears the increase in interest rates is having a stabilizing effect on the market. According to Fannie Mae, interest rates for 30-year residential mortgages also rose from 3.1% to >7.0% since January.

Land values have increased significantly in Grayson County since the announcement of several chip manufacturers and developments. We searched the local mls for land sales greater than 5 acres. The median price per acre in 2021 was \$16,494 and in 2022 it increased to \$25,146 indicating a 52.5% increase. The median price per acre YTD in 2023 is \$29.879 indicating an additional 18.8% increase.

Commercial sales have slowed dramatically due to the rising interest rates. In 2021 there were 128 commercial sales in Grayson County. In 2022 there were 98 and YTD 2023 there have been 56 sales. Commercial mortgage interest rates have increased from 5% - 6% to around 9%.

Governmental Forces

Grayson County's governing body is the Commissioner's Court, comprised of four commissioners and the County Judge. The Commissioner's Court is responsible for county administration, setting tax rates, approval of all county bond issues after public referendum, and approval of all departmental budgets. Countywide law enforcement is the responsibility of the Grayson County Sheriff's Department.

Environmental Forces

Physical Characteristics

The Sherman-Denison MSA in North Texas is just south of the Texas-Oklahoma border. Adjoining counties are: Cooke County to the west, Fannin County to the east, Denton County and Collin County to the south, and Marshall County and Bryan County, both in Oklahoma, to the north.

Climate

The comfortable climate of the area lends itself to year 'round recreation and is one reason for the increasing popularity of the area in the nation.

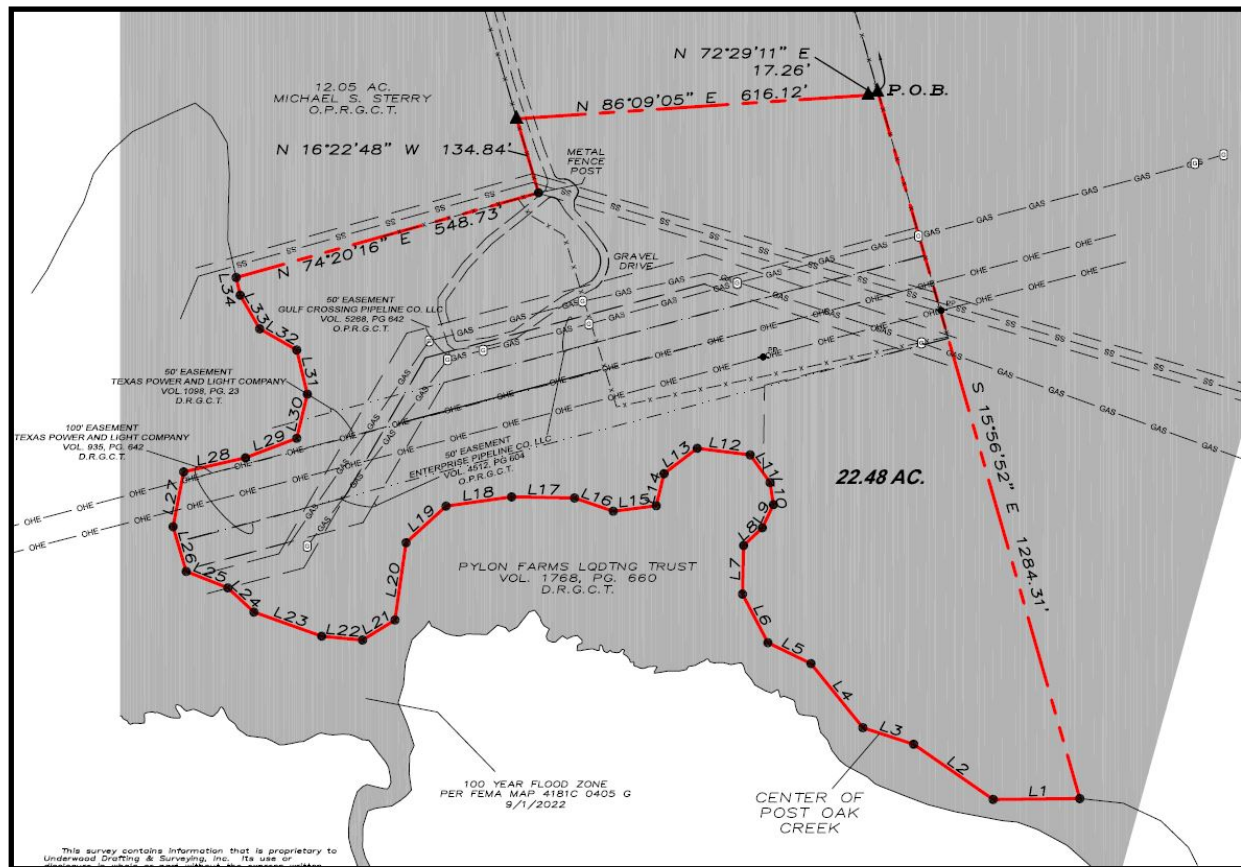
CLIMATE	
Average Annual Temperature	64 Degrees
Average Maximum Temperature (July)	96 Degrees
Average Minimum Temperature (January)	32 Degrees
Average Annual Rainfall	37 Inches
Average Date Last Frost	March 22

Access and Visibility

Current access to the subject site is provided by a private dirt road extending across the adjacent parcel to the north. The private road extends from South Montgomery Street. The adjacent parcel to the north is under the ownership of the client and is to be the third phase of a single-family residential development. Phase two is currently under construction. The proposed streets in phase three of the development will provide legal access to the subject once completed. Additional access will be provided from the adjacent parcel to the east of the subject along East Street. This parcel is under the ownership of the City of Sherman, which is planning to develop the subject and the adjacent parcel to the east as a city park. The subject does not currently have legal access, but will have adequate access upon completion of the development. The client could file a temporary access easement from his adjacent parcel to the north until the proposed development is complete.

Size and Shape

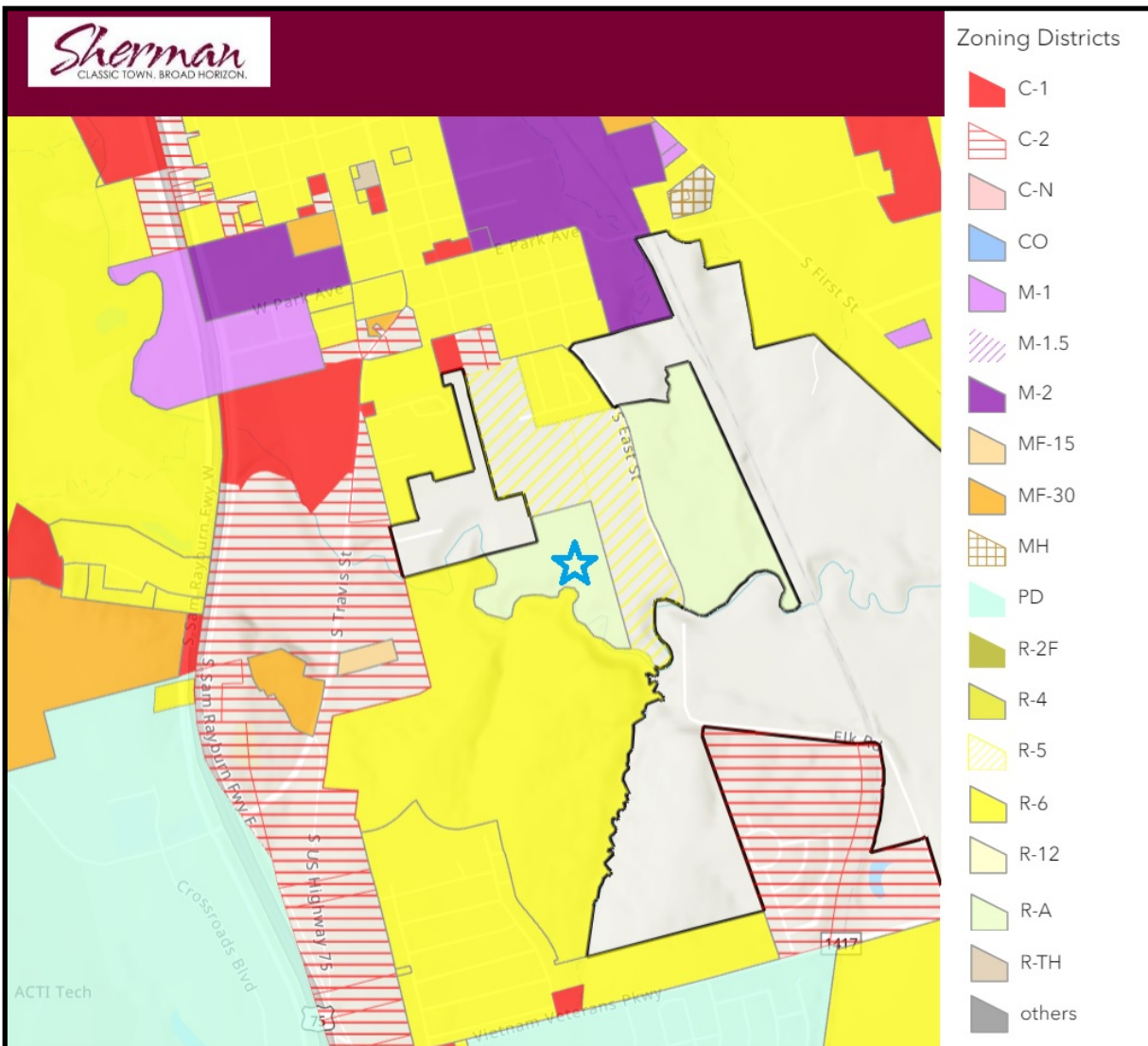
The subject consists of 22.48 acres of unimproved land that is irregular in shape. The following survey was obtained from Client dated November 28, 2023 by Underwood Drafting and Surveying. The shaded area is illustrating the flood plain.



Zoning Map

The City of Sherman zoning map illustrates the subject is presently zoned R-A, Residential Agricultural District.

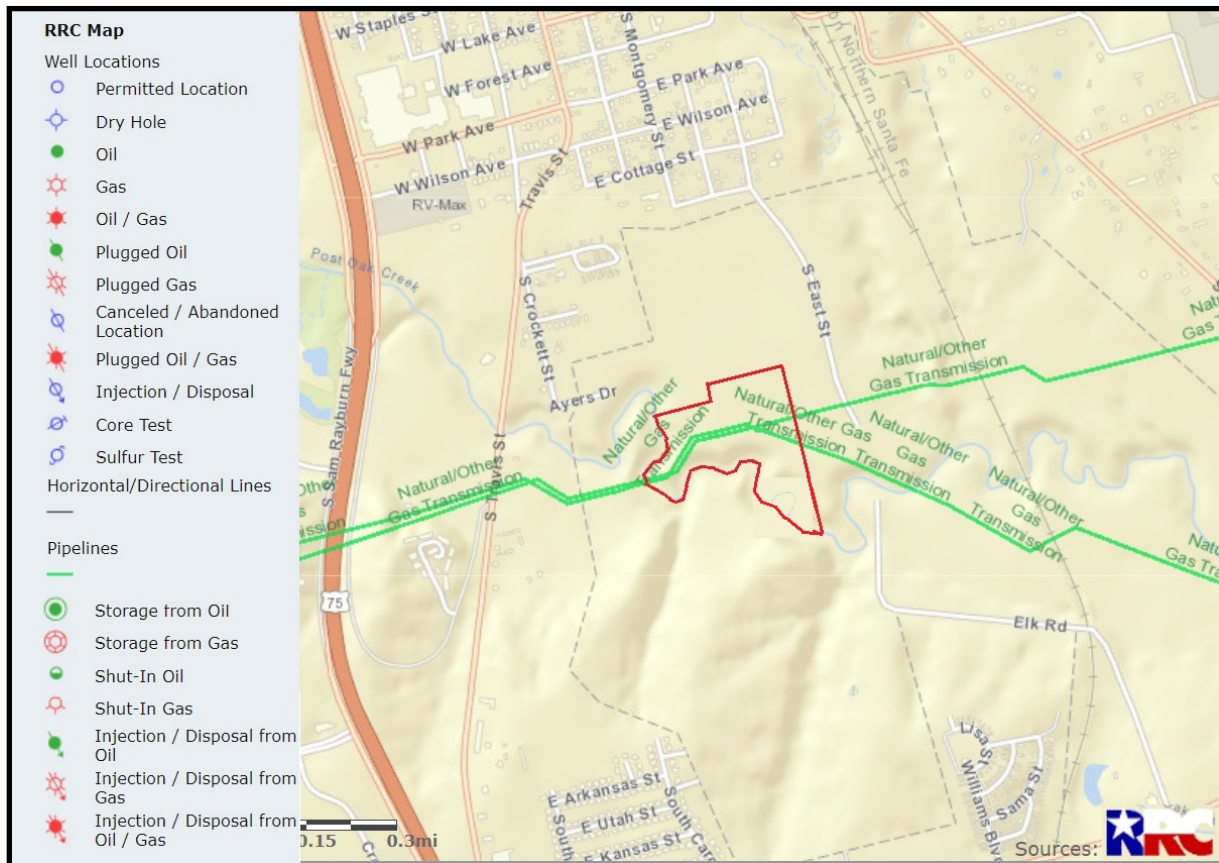
The location is marked with a blue star in the image below:



Texas Railroad Commission Pipeline Map

This image illustrates the proximity to oil &/or gas pipelines. Pipelines are noted with green lines. According to the Texas Railroad Commission, pipelines &/or oil & gas equipment affect the subject.

The approximate boundaries are outlined in red in the image below:



Easements

There are oil/gas easements and an overhead powerline easement encumbering the subject property. These conditions adversely affect the overall value and marketability of the property. Other typical utility easements appear to affect the subject property, but these easements are not thought to have a significant impact upon the utility, value, or marketability of the property. It has been specifically assumed that there are no other easements that would adversely affect the use of the subject property.

Encroachments

No adverse encroachments were readily observable upon my visit to the property.

Environment

We did not observe any environmental hazards furthermore we are not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials could potentially affect the value of the property. The value estimate is predicated on the assumption that there is no such material on the property that would cause a loss in value.

Utilities

The availability of nearby utilities is summarized in the following table.

UTILITIES	
Utility	Provider
Electricity	Oncor
Water	City of Sherman
Sewer	City of Sherman
Natural Gas	Atmos
Telephone	Verizon

Adjacent Properties

Properties presently adjoining the subject property are shown in the following table.

ADJACENT PROPERTIES	
Direction	Description of Adjacent Property
North	Proposed SFR Subdivision
East	Unimproved Land
South	Unimproved Land
West	Unimproved Land

Present land uses in the area are generally compatible with one another and no adverse uses were noted during my viewing of the property and neighborhood.

The highest and best use of a property is an economic concept that is shaped and determined by forces within the market. The determination of a property's highest and best use is a critical appraisal component that provides the valuation framework upon which comparable market information is derived. Such comparable data includes cost, sales, and income and expense data pertaining to the concluded best use of a property.

To render a reliable use and value estimate, the highest and best use of the property as if vacant must be considered separately from the highest and best use of the property as improved. This is because the site must be valued as though vacant and available for development to its highest and best use even if the property's existing improvements do not represent the highest and best use of the site. The following discussions separately relate the highest and best use considerations of the subject as though vacant and as improved followed by the supporting analyses and conclusions.

Highest and Best Use of the Property as Though Vacant

The analysis of the highest and best use of the property as though vacant assumes that the property being appraised is vacant or can be made vacant by demolishing any improvements. This determination is crucial to determine the value of the property as though vacant and is also used in examining existing improvements and their conformance to the highest and best use of the land.

Legally Permissible

Private restrictions, zoning, building codes, historical district regulations, and environmental regulations must all be considered in determining the legally permissible uses of the land. Potential changes in these restrictions must also be considered.

The subject is presently zoned R-A, Residential Agricultural District. This zoning district “is intended to provide a location for principally undeveloped or vacant land situated on the fringe of an urban area and used for residential and agricultural purposes but may become an urban area in the future.” The minimum lot area in the RA District is 2 acres.

We know of no legal constraints other than state and national laws that would limit potential uses of the site.

Physically Possible

Physically possible uses are examined considering the physical attributes of the land such as availability of utilities, topography, shape, and size. Location is often the physical characteristic that most influences highest and best use.

The site consists of a parcel of land containing 22.48 acres located entirely in the flood plain. Additionally, the subject is encumbered by several gas line and utility easements. Both of these issues significantly restrict the subject’s development potential.

Given the subject’s location in the flood plain and the numerous easements, the physically possible use of the subject is for agricultural and/or recreational purposes.

Financially Feasible and Maximally Productive

There is a demand for agricultural/recreational sites in Sherman and the area is projected to continue to experience significant growth in the next few years. As a result, it is considered financially feasible and maximally productive to utilize the site agricultural/recreational purposes.

The sales comparison approach is the most common technique for valuing land that is actually vacant or land that is being considered as though vacant for appraisal purposes. For this property, the sales comparison approach has been utilized for estimating the value of the subject's site.

Comparative analysis is the general term used to identify the process in which quantitative and/or qualitative techniques are applied to derive a value indication in the sales comparison approach. When the market data is insufficient to accurately extract quantitative (dollar or percentage) adjustments, the qualitative analysis technique is utilized. Additionally, this technique is utilized because it reflects the imperfect nature of real estate markets.

Due to the limitations of the market data within the subject's market area, the qualitative technique will be utilized in this analysis.

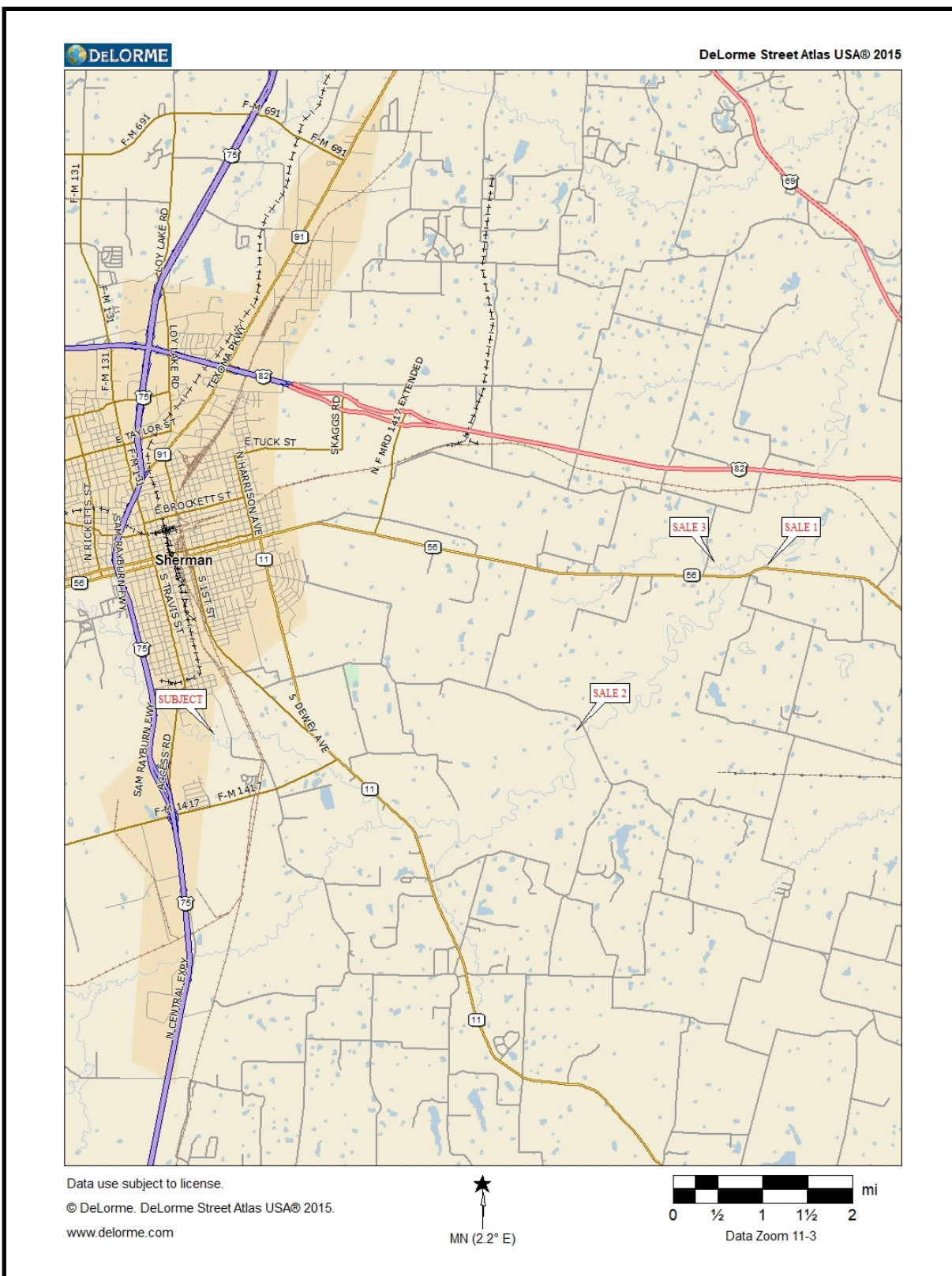
This analysis involves the following steps:

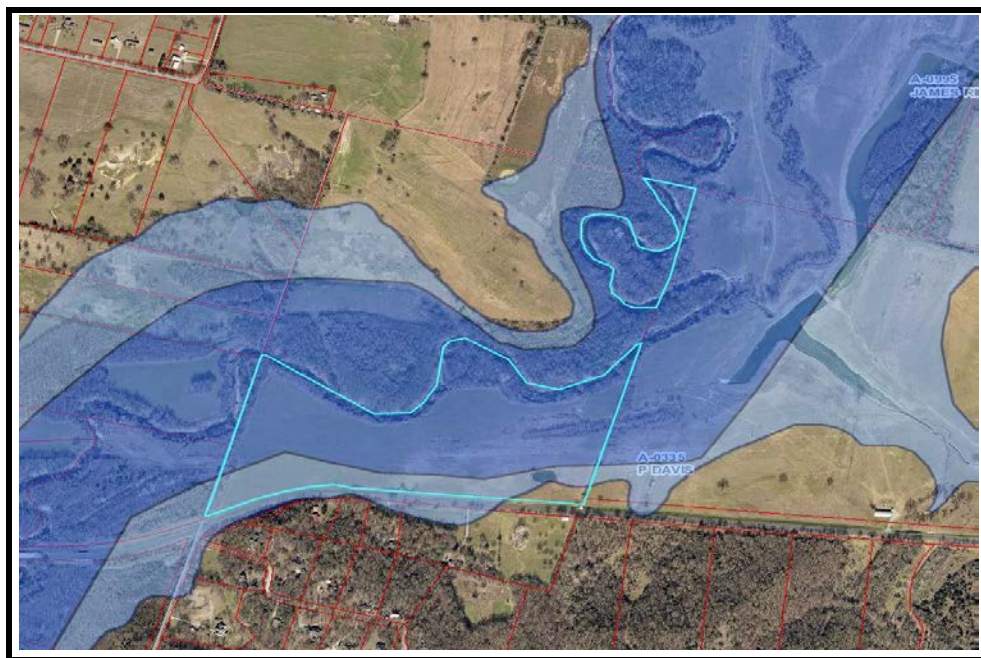
1. Identify the elements of comparison that affect the value of the type of property being appraised, which may include variations in the following.
 - Property rights
 - Financing terms
 - Conditions of sale (motivations of buyers and sellers)
 - Market conditions at the time of sale
 - Location
 - Available utilities
 - Zoning
 - Physical features
2. Analyze and rate the attributes of each comparable with those of the subject.
3. Rank or sort the subject and comparables according to the rating analysis.
4. Reconcile the range of sale or unit prices to the subject property.

Presentation of Comparables

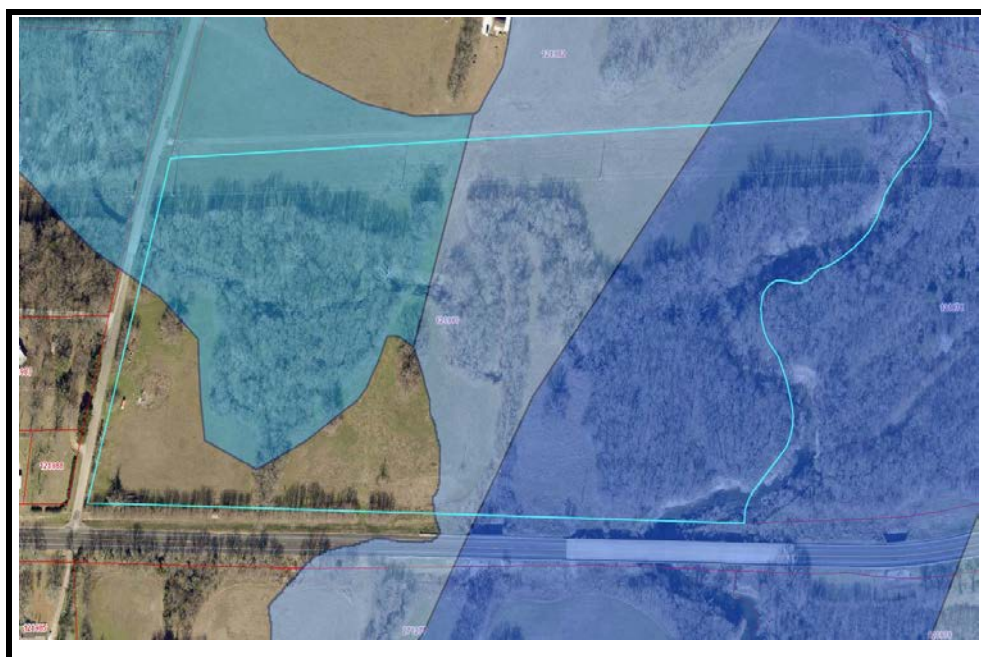
The subject's market area has been researched and the table on the following page contains a summary of the pertinent information concerning the subject's site and the comparable sales located. The sales have been researched and factual data concerning each has been verified with the buyer, seller, broker, or some other knowledgeable party involved in the transaction. These comparables are believed to provide reasonable indications of the site's market value as if vacant on the appraisal date.

Site Comparable Location Map

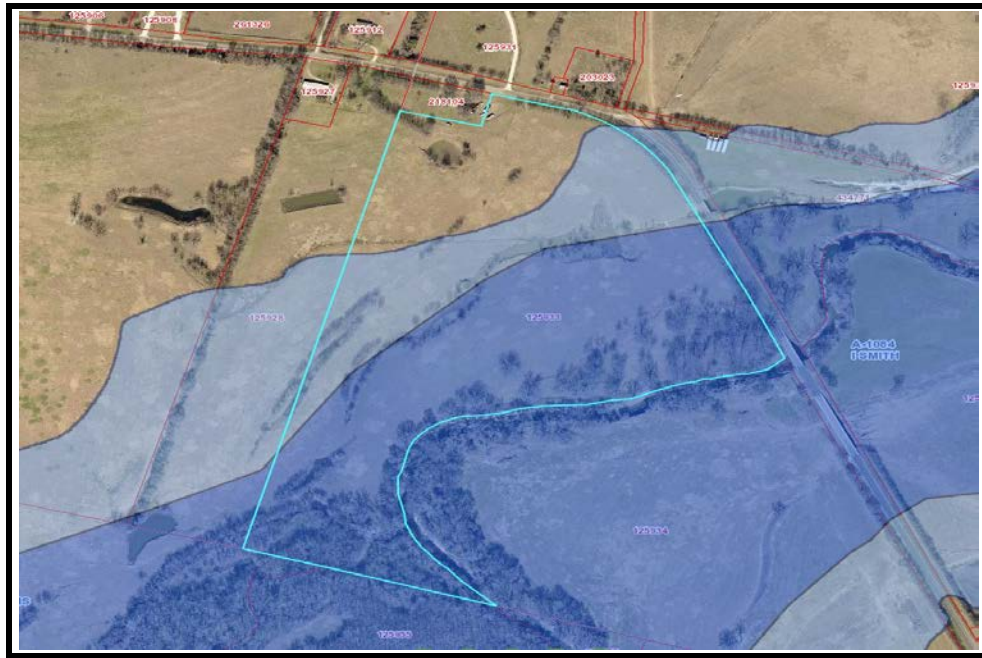




SALE 1



SALE 2



SALE 3

SUBJECT'S SITE AND COMPARABLES				
	Subject	Comparable		
		1	2	3
Location	S Montgomery	NS SH 56	NEC SH 56 & Smith Oak	SS FM Hwy 697
City	Sherman	Sherman	Sherman	Sherman
Date of Sale		Oct-2023	Feb-2022	Mar-2021
Conveyance		Fee Simple	Fee Simple	Fee Simple
Utilities	All Available	Water/Electric	Water/Electric	Water/Electric
H&BU	Ag/Rec	Ag/Rec	Ag/Rec	Ag/Rec
Flood Plain	100%	100%	95%	86%
Site Area (Net)	22.48	54.37	29.12	14.20
Sales Price		\$300,000	\$247,486	\$79,000
SP/Acre		\$5,518	\$8,500	\$5,563

All of the comparable sales involved arm's length transactions and cash equivalent financing; therefore, no adjustments were required. As previously discussed in the market trends section, land values increased significantly in Grayson County since 2021; however, the increase was due primarily from investors purchasing tracts for development purposes and speculation. Given the limited use potential of the subject and the comparables, a market conditions adjustment was not considered appropriate.

Qualitative Rating Analysis

Sales 2 and 3 have portions of their site located outside of the flood plain, which could be utilized for limited single use residential development. As a result, they are considered superior to the subject.

Sale 2 was improved with an existing septic system; therefore, it is considered superior to the subject.

Sales 2 and 3 are the most dated and considered superior to the subject. As a result, they were given less consideration. Sale 1 is the most recent and most comparable to the subject. Therefore, a value of \$5,518/acre is reasonable for the subject on the appraisal date. This value indication is now multiplied by the subject site area for our final opinion of value:

$$22.48 \text{ Acres} \times \$5,518/\text{acre} = \$124,045, \text{ rounded to } \$124,000$$

Market Value on the Appraisal Date

The market value on the appraisal date reflects the fee simple (surface only) interest in the subject property.

Market Value as of 12/7/2023:

\$124,000

Report of Defined Values

After completion of our investigation and analysis, we have reached the value conclusion shown above. The value conclusion is applicable to the fee simple (surface only) interest as of the stated date and is subject to the *Assumptions and Limiting Conditions* contained in the appraisal report.

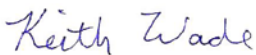
This appraisal is subject to the following extraordinary assumptions &/or hypothetical conditions, which may have affected our opinion of value:

1. The hypothetical condition that legal access exists for the subject property on the effective date of the appraisal

We appreciate this opportunity to be of service to you and if you should have any questions, please do not hesitate to give us a call.

Respectfully submitted,

KJ Wade, Limited Partnership



Keith Wade, MAI
TX 1335136 G

ADDENDA

ENGAGEMENT LETTER

KJ Wade, Limited Partnership
Keith Wade, MAI
Certified General Appraiser
PO Box 1433
Sherman, Texas 75091
903.821.8677
<https://kjwade.com>

RE: 22.48 Acres
Three Oaks Development
Sherman, Texas

This letter sets forth the terms on which I/we, Kirk D. Allen (Client), engage you, Keith Wade, MAI, to perform a real estate appraisal on the above referenced property. The purpose of the appraisal is to determine the current market value of the fee simple interest in the property for donation purposes.

The appraisal shall comply with the Uniform Standards of Professional Appraisal Practice (USPAP). The appraisal will also include the appraiser's findings of any deed restrictions, zoning ordinances, and flood zone areas that might affect the use of the property. The definition of market value is as follows:

Market value: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- A. Buyer and seller are typically motivated;
- B. Both parties are well-informed or well-advised, and acting in what they consider their own best interests;
- C. A reasonable time is allowed for exposure in the open market;
- D. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- E. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Additionally, adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs that are normally paid by sellers as a result of tradition or law in a market area: these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by

a third-party institution lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession, but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment. (Federal Register, CFR 34.43(f))

It is understood and agreed that the appraiser's compensation is in no way based on a predetermined value or outcome. The fee for the appraisal report is \$1,500 and is due prior to the delivery of the report.

In addition to all other terms and conditions of this agreement, Appraiser and Client agree that Appraiser's services under this Agreement and appraisal report, and any use of the report, are and will be subject to the statements, limiting conditions and other terms set forth in the appraisal reports. Appraiser's standard appraisal statements, limiting conditions and terms are attached to this Agreement as "Exhibit 1" and incorporated herein. Appraiser may determine additional conditions and terms affecting the appraisal during performance of the assignment, which may be identified in the report.

In the event that the Appraiser is required by subpoena or other legal process to provide testimony or produce documents relating to Appraiser's services under this Agreement, whether in court, deposition, arbitration or in any other proceeding, and regardless of the identity of the party requiring such testimony or production of documents, Client agrees to compensate Appraiser for the time incurred by Appraiser in connection with the preparation for and provision of such testimony and/or documents at Appraiser's hourly rate of \$250.00 and to reimburse Appraiser's reasonable actual expenses.

Client/s:

Signature(s)

12/5/23
date

Other Intended Users:

none

This may include family members, lenders, attorneys, accountants, Court, etc.

Deliver report to:

Kirk Allen

Client phone: 972-672-7793

For access: same

No hard copy will be mailed unless specified in writing by Client.

Sign and return via email keith@kjwade.com

LEGAL DESCRIPTION

The following legal description was obtained from the survey by Underwood Drafting and Surveying dated November 28, 2023.

LEGAL DESCRIPTION

Situated in the County of Grayson, State of Texas, being a part of the Preston Kitchens Survey, Abstract No. 667, and being part of a called 49.497 acre tract of land described in the deed to Three Oaks Development & Construction Company, recorded in Document No. 2020-27922, Real Property Records, Grayson County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at a set $\frac{1}{2}$ " steel rod for the northeast corner of the herein described tract of land, and from which a $\frac{1}{2}$ " steel rod found for the eastern-most northeast corner of said 49.497 acre tract bears North 15°56'52" West, a distance of 1074.32 feet;

Thence South 15°56'52" East, with the west line of a Tract of land conveyed to the City of Sherman, Recorded in Volume 876, Page 150, Deed Records, Grayson County, Texas a distance of 1284.31 feet to a point in the center of Choctaw Creek;

Thence the Following Calls and Distances with the center of said Choctaw Creek:

South 89°25'08" West a distance of 151.42 feet to a point in said creek;
North 55°13'20" West a distance of 169.20 feet to a point in said creek;
North 71°56'22" West a distance of 93.39 feet to a point in said creek;
North 39°01'10" West a distance of 144.10 feet to a point in said creek;
North 64°01'32" West a distance of 83.74 feet to a point in said creek;
North 27°35'50" West a distance of 95.83 feet to a point in said creek;
North 01°18'07" East a distance of 84.95 feet to a point in said creek;
North 46°44'09" East a distance of 45.06 feet to a point in said creek;
North 25°27'48" East a distance of 44.90 feet to a point in said creek;
North 08°31'51" West a distance of 39.04 feet to a point in said creek;
North 35°45'14" West a distance of 59.46 feet to a point in said creek;
North 82°52'30" West a distance of 93.37 feet to a point in said creek;
South 52°31'26" West a distance of 72.97 feet to a point in said creek;
South 13°34'14" West a distance of 57.59 feet to a point in said creek;
South 82°41'39" West a distance of 75.90 feet to a point in said creek;
North 71°04'31" West a distance of 71.42 feet to a point in said creek;
North 88°59'42" West a distance of 110.04 feet to a point in said creek;
South 81°58'16" West a distance of 115.74 feet to a point in said creek;
South 47°34'45" West a distance of 94.79 feet to a point in said creek;
South 08°07'48" West a distance of 136.49 feet to a point in said creek;
South 58°19'28" West a distance of 66.63 feet to a point in said creek;
North 84°41'14" West a distance of 71.68 feet to a point in said creek;
North 70°20'46" West a distance of 125.71 feet to a point in said creek;
North 47°12'09" West a distance of 62.23 feet to a point in said creek;
North 68°25'43" West a distance of 78.20 feet to a point in said creek;
North 16°25'04" West a distance of 81.52 feet to a point in said creek;
North 10°57'15" East a distance of 97.52 feet to a point in said creek;
North 77°07'30" East a distance of 110.88 feet to a point in said creek;
North 69°13'40" East a distance of 95.79 feet to a point in said creek;
North 13°29'45" East a distance of 79.40 feet to a point in said creek;
North 13°29'45" West a distance of 79.40 feet to a point in said creek;
North 60°15'18" West a distance of 74.70 feet to a point in said creek;
North 30°04'07" West a distance of 67.80 feet to a point in said creek;
North 12°43'28" West a distance of 31.73 feet to a point in said creek;

Thence North 74°20'16" East leaving said creek and continuing with a barbwire fence a distance of 548.73 feet to a metal fence post;

Thence North 16°22'48" West a distance of 134.84 feet with a barbwire fence to a $\frac{1}{2}$ " steel rod set for the northern-most northwest corner of the herein described tract of land;

Thence North 86°09'05" East, crossing said 49.497 acre tract, a distance of 616.12 to the Point of Beginning and containing 22.48 acres of land.

Experience

Keith Wade has been actively engaged in real estate and timber valuation since 1994. As president of Wade Consulting Services he provides timber valuation and consulting services to numerous timber companies, financial institutions, and other consulting firms.

In 1999, he began his real estate appraisal career with TBH Appraisal, Inc. in Buffalo, Wyoming performing appraisals on various types of properties including large farms and ranches, recreational properties, and commercial properties.

From 2003-2005 Keith was employed with Michael S. Cook & Associates, Inc. and conducted appraisals on residential properties, unimproved land, apartment complexes, office buildings, industrial properties, and other types of commercial property.

Mr. Wade has conducted valuations for numerous financial institutions, real estate developers, real estate investors, attorneys, and individuals. Property types regularly analyzed include timberland, unimproved land, residential and commercial subdivisions, single-family residences, condominiums, 1-4 family properties, multi-family apartment complexes, single-user office buildings, multi-user office buildings, single-user retail facilities, neighborhood shopping centers, and light manufacturing or industrial facilities.

Education

Keith Wade is a graduate of Norman High School in Norman, Oklahoma and received a Bachelor of Science degree from Oklahoma State University in Stillwater, Oklahoma in 1994.

Professional Organizations

MAI Designation, Appraisal Institute

Professional Licenses

Texas Certified General Appraiser License (TX-1335136-G) issued June 22, 2015

Oklahoma Certified General Appraiser License (12678CGA) issued May 20, 2015

Mr. Wade has also completed the following real estate appraisal courses.

American Society of Farm Managers and Rural Appraisers

- Fundamentals of Rural Appraisal (A-10)
- ASFMRA Code of Ethics (A-12)
- National USPAP (A-12(II))
- Principles of Rural Appraisal (A-20)
- Highest and Best Use (A-29)

Appraisal Institute

- Basic Income Capitalization (310)
- National USPAP (410)
- Advanced Income Capitalization (510)
- Highest and Best Use and Market Analysis (520)
- Advanced Sales and Cost Approaches (530)
- Report Writing and Valuation Analysis (540)
- Advanced Applications (550)



Certified General Real Estate Appraiser

Appraiser: **Michael Keith Wade**

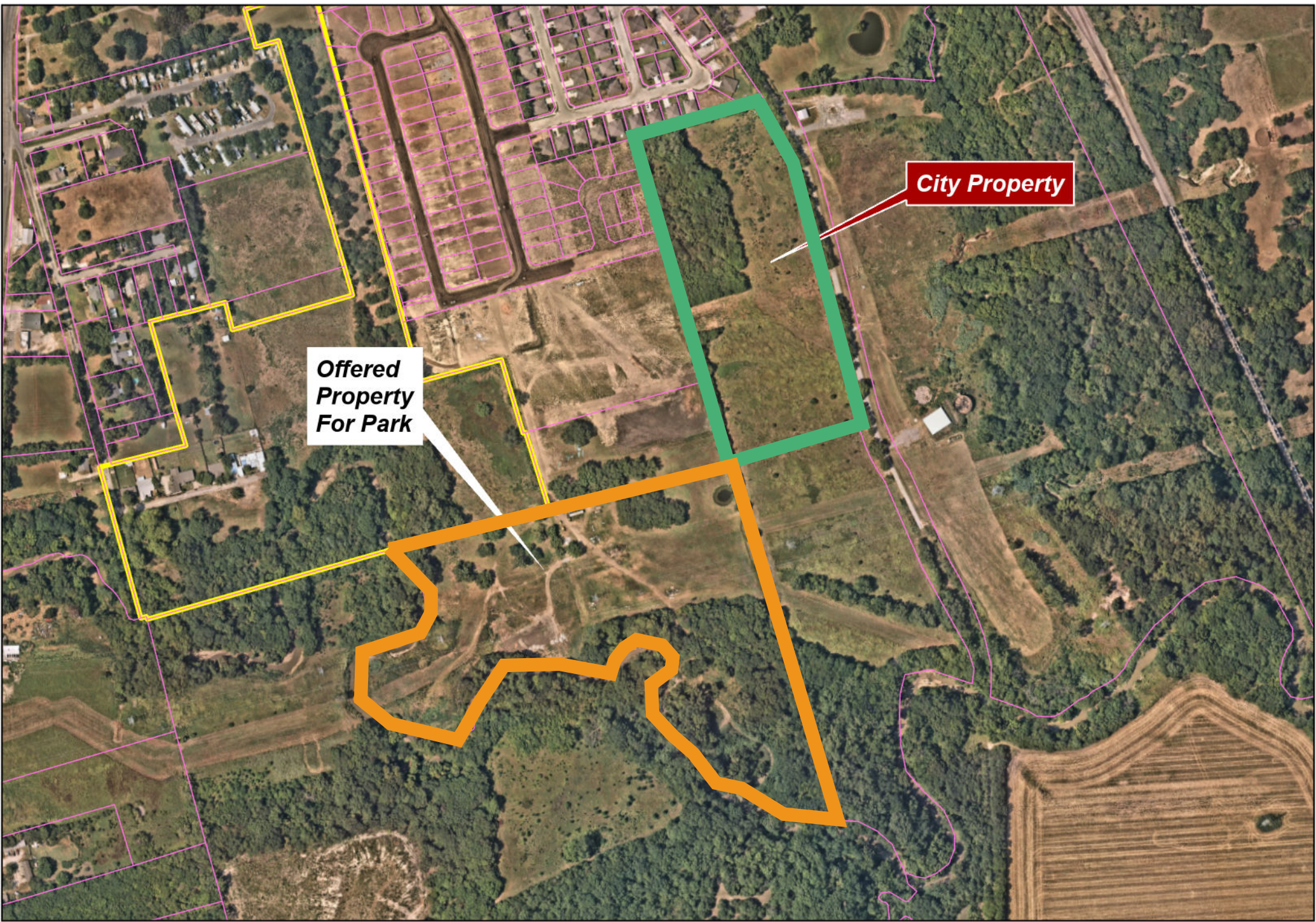
License #: **TX 1335136 G**

License Expires: **07/31/2025**

Having provided satisfactory evidence of the qualifications required by the Texas Appraiser Licensing and Certification Act, Occupations Code, Chapter 1103, authorization is granted to use this title:
Certified General Real Estate Appraiser

For additional information or to file a complaint please contact TALCB at www.talcb.texas.gov.

Chelsea Buchholtz
Commissioner



City Property

**Offered
Property
For Park**



City Council Regular Meeting

Agenda Item No. G.1.

Meeting Date: 1/16/2024

Prepared By: Teri Fine, Assistant to the City Manager

Approved By: Robby Hefton, City Manager

Caption:

OTHER BUSINESS

Consider Approval of the Annexation Scheduling Plan for the Proposed Annexation of Approximately 220.18 acres of land located West of F.M. 1417 (Heritage Parkway) and North of OB Groner Road adjacent to the Sherman City Limits and in the City of Sherman's Extraterritorial Jurisdiction; and Directing the Department of Engineering Services to Develop a Service Plan for the Area to be Annexed Upon Approval of the Annexation Scheduling Plan

Issue:

To consider approval of the schedule for annexation of approximately 220.18 acres of land located west of F.M. 1417 (Heritage Parkway) and north of OB Groner Road , adjacent to the Sherman City Limits, and in the City's extraterritorial jurisdiction (ETJ), in accordance with state law and the City Charter

Background:

The property owner, Flato Developments, has requested annexation into the city limits of approximately 220.18 acres of land located west of F.M. 1417 (Heritage Parkway) and north of OB Groner Road, adjacent to the Sherman City Limits and in the City's ETJ. City staff recommends the public hearing on the request to annex be held at the February 5, 2024 meeting and that action on the Annexation Ordinance be taken at the same meeting. Additionally, Council will consider approval of the developer's application for Planned Development approval at that same meeting.

Origination:

Letter from Flato Developments Inc.

Financial Consideration:

A cost benefit analysis will be prepared prior to final action on this item.

Staff Recommendation:

City Staff recommends that the public hearing on the intent to annex be held at the February 5, 2024 regular meeting and that action on the Annexation Ordinance be taken at the same meeting.

Alternatives:

None Proposed

Attachments:

1. Request for Annexation
2. Annexation Agreement

3. Exhibit A - Drawing
4. Exhibit A - Legal Description
5. Aerial Location Map
6. Annexation Schedule



4 October 2023

Amber Doan, Engineering Coordinator
City of Sherman
220 W. Mulberry Street
Sherman, TX 75090

RE: Annexation Request Letter – Flato
Relationship: PD Greenway

To Ms. Doan and City of Sherman,

This is our letter requesting voluntary annexation into the City of Sherman, Texas. We are requesting annexation to develop the property to support residential and commercial growth in Sherman. This development and growth are detailed in our PD submission for Greenway to the city (complete application submitted on Sept 19 and accepted). Information to support this process are as follows:

Property Owner:
Shakir Rehmatullah, President
FLATO Sherman Community One, LLC
3621 Highway 7 East, Suite #503
Markham, ON L3R 0G6 Canada
Phone: 905-479-9292 | Email: shakir@flatogroup.com

The property identifier is GCAD ID #125114 and the nearest major intersection to the +/-220.18 property is South Heritage Parkway (TX 1417) and OB Groner Road. The property is located to the west and northwest of this intersection. The annexation boundary survey is attached to the email with letter.

We are looking forward to building a long-term relationship with the City of Sherman. Let me know if there are any questions you may have.

Sincerely,

A handwritten signature in blue ink, consisting of a stylized 'S' and 'R'.

Shakir Rehmatullah
FLATO Sherman Community One, LLC

CC: Rick Leisner, AICP PLA, Norris Design and Jorge Garay, PE, Atwell

ANNEXATION SERVICE PLAN AGREEMENT

This SERVICE PLAN AGREEMENT ("Agreement") is made and entered into by and among the CITY OF SHERMAN, TEXAS, a home-rule municipality ("Sherman"), and FLATO SHERMAN COMMUNITY ONE, LLC, a Texas limited liability company ("Landowner" or "Developer"). Sherman and Landowner or Developer are each referred to herein as a "party" or collectively as the "parties."

WHEREAS, Landowner is the sole owner of that certain tract of land consisting of 220.18± acres, situated in the Elizabeth Jones Survey, Abstract No. 625 and the Jason Stamps Survey, Abstract No. 1115, Grayson County, Texas, as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein for all purposes (the "Property" or "Annexed Area"); and

WHEREAS, Landowner submitted to Sherman a voluntary request for annexation of the Property into the corporate limits of Sherman pursuant to Subchapter C-3 of Chapter 43 of the Texas Local Government Code; and

WHEREAS, Landowner acknowledges and agrees that in submitting the voluntary request for annexation of the Property, Landowner has fully investigated and is aware of the rights, duties and obligations that will apply to Landowner and its successors and assigns, as owner of the Property, in the event that the Sherman City Council adopts an ordinance annexing the Property into the corporate limits of Sherman (the "Annexation Ordinance"); and

WHEREAS, Landowner acknowledges and agrees that Sherman has complied or will comply with all requirements for the consideration of Landowner's request for annexation of the Property pursuant to Chapter 43 of the Texas Local Government Code, including holding a public hearing and providing the required public notices regarding the requested annexation; and

WHEREAS, Landowner acknowledges and agrees that the Property is eligible for annexation in all respects under Texas law; and

WHEREAS, the parties desire to enter into this Agreement pursuant to Section 43.0672 of the Texas Local Government Code to memorialize their agreement regarding the services Sherman will provide to the Property provided that the Sherman City Council adopts the Annexation Ordinance; and

WHEREAS, Landowner acknowledges and agrees that this Agreement fully complies with Section 43.0672 of the Texas Local Government Code; and

WHEREAS, Sherman has investigated and determined that it would be advantageous and beneficial to Sherman and its citizens to enter into this Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the covenants and conditions contained in this Agreement, Sherman and Landowner agree as follows:

1. **Incorporation of Recitals.** The representations, covenants and recitations set forth in the forth in the foregoing recitals of this Agreement are true and correct, are incorporated into the body of this Agreement and are adopted as findings of Sherman and Landowner.
2. **Land Subject to Agreement.** The land that is subject to this Agreement is the Property. Landowner represents that he is the sole owner of the Property.
3. **Agreement Conditioned on Annexation.** This Agreement and the rights, duties and obligations herein are subject to and conditioned on the Sherman City Council adopting the Annexation Ordinance within ninety (90) days after the Effective Date (hereinafter defined) of this Agreement. In the event that the Sherman City Council does not adopt the Annexation Ordinance within ninety (90) days after the Effective Date of this Agreement, this Agreement shall not be effective and neither party shall have any rights, duties or obligations of any kind under this Agreement. In the event Landowner argues or claims that a term, condition or provision of this Agreement or the Annexation Ordinance is invalid, illegal, void, unenforceable or unlawful, then Sherman has the option to terminate this Agreement, effective immediately.
4. **Agreed Service Plan.** Subject to the terms and conditions of this Agreement, the parties agree that Sherman shall furnish or provide for the following municipal services to the Property after annexation at the following levels and in accordance with the following schedule:
 - (a) Police Services.
 - (i) Patrolling, responses to calls and other routine police services, within the limits of existing personnel and equipment and in a manner consistent with the methods of Sherman, will be provided in the Annexed Area on the effective date of the Annexation Ordinance.
 - (ii) Upon ultimate development of the Annexed Area, the same level of police services will be provided to the Annexed Area as are furnished throughout Sherman at that time.
 - (b) Fire Services.
 - (i) Fire protection and emergency ambulance services and equipment, within the limits of existing personnel and equipment and the limits of available water and distances from existing fire stations and in a manner consistent with the methods of Sherman, will be provided to the Annexed Area upon the effective date of the Annexation Ordinance.
 - (ii) Upon ultimate development of the Annexed Area, the same level of fire and emergency ambulance services will be provided to the Annexed Area as are furnished throughout Sherman at that time.

- (c) Environmental Health and Code Enforcement Services.
 - (i) Enforcement of Sherman's environmental health ordinances and regulations, including but not limited to, weed and brush ordinances, junked and abandoned vehicle ordinances and animal control ordinances, shall be provided within the Annexed Area within sixty (60) days of the effective date of the Annexation Ordinance. Sherman's environmental health ordinances and regulations will be enforced through the use of existing personnel.
 - (ii) As development and construction commence in the Annexed Area, sufficient personnel will be provided to furnish the Annexed Area with the same level of environmental health and code enforcement services as are furnished throughout Sherman at that time.
- (d) Building Inspections.
 - (i) Inspection services, including the review of building plans, the issuance of permits and the inspection of all buildings, plumbing, mechanical and electrical work to ensure compliance with Sherman's codes, regulations and ordinances will be provided within sixty (60) days of the effective date of the Annexation Ordinance. Existing personnel will be used to provide such services.
 - (ii) All inspection services furnished by Sherman but not mentioned above will be provided to the Annexed Area beginning within sixty (60) days of the effective date of the Annexation Ordinance.
- (e) Planning and Zoning Services.
 - (i) The planning and zoning jurisdiction of Sherman will extend to the Annexed Area upon the effective date of the Annexation Ordinance. Sherman city planning will thereafter encompass the Annexed Area, and it shall be entitled to consideration for zoning in accordance with Sherman's Zoning Ordinance and Comprehensive Plan.
 - (ii) Sherman's zoning, subdivision, sign and other ordinances shall be enforced in the Annexed Area beginning on the effective date of the Annexation Ordinance.
- (f) Park and Recreation Services.
 - (i) Inhabitants of the Annexed Area may utilize all existing park and recreational services, facilities and sites throughout Sherman beginning on the effective date of the Annexation Ordinance.

- (ii) Additional facilities and sites to serve the Annexed Area will be acquired, developed and maintained at locations and times provided by applicable plans, policies, programs and decisions of Sherman. The Annexed Area will be included in all future plans for providing parks and recreation services to Sherman.
 - (iii) Existing parks, playgrounds, swimming pools and other recreational facilities within the Annexed Area shall, upon dedication to and acceptance by Sherman, be maintained and operated by Sherman, but not otherwise.
- (g) Solid Waste Collection Services.
 - (i) Solid waste collection services shall be provided to the Annexed Area in accordance with Sherman's existing policies, beginning on the effective date of the Annexation Ordinance.
 - (ii) As development and construction commence in the Annexed Area and population density increases in the Annexed Area, solid waste collection services shall be provided to the Annexed Area in accordance with Sherman's policies regarding frequency, changes and the like as are existing at that time.
- (h) Streets.
 - (i) Sherman's existing policies with regard to street maintenance, applicable throughout Sherman, shall apply to the Annexed Area beginning on the effective date of the Annexation Ordinance. Unless a street within the Annexed Area has been constructed or is improved to Sherman's standards and specifications, such street will not be maintained by Sherman. Notwithstanding anything to the contrary herein, private streets within the Annexed Area shall remain private streets after annexation and Sherman and the Landowner agree that Sherman shall have no obligation to maintain, repair or improve the private streets or to pay the costs thereof.
 - (ii) As development, improvement or construction of streets to Sherman's standards commences within the Annexed Area, the policies of Sherman with regard to participation in the costs thereof, acceptance upon completion thereof and maintenance after completion thereof shall apply as such policies exist at that time.
 - (iii) The same level of maintenance shall be provided to streets within the Annexed Area that are accepted by Sherman as is provided to streets throughout Sherman.
 - (iv) Street lighting installed on streets improved to Sherman's standards and specifications shall be maintained by the appropriate franchise holder in accordance with existing Sherman policies.

(i) Water Services.

- (i) Connection to existing Sherman water mains for water service for domestic, commercial and industrial use within the Annexed Area will be provided in accordance with existing Sherman policies. Upon connection to existing mains, water will be provided at rates established by Sherman ordinances for such service throughout Sherman.
- (ii) As development and construction commence on the Annexed Area, Sherman water mains will be extended in accordance with provisions of the Subdivision Ordinance and other applicable ordinances and regulations in effect at that time. Sherman's participation in the costs of such extensions shall be in accordance with the applicable Sherman ordinances and regulations in effect at that time. Such extensions will be commenced in accordance with state law.
- (iii) Water mains installed or improved to Sherman's standards which are within the Annexed Area and are within dedicated easements shall be maintained by Sherman beginning on the effective date of the Annexation Ordinance.
- (iv) Private water lines within the Annexed Area shall be maintained by their respective owners in accordance with existing policies applicable throughout Sherman.

(j) Sanitary Sewer Services.

- (i) Connections to existing Sherman sanitary sewer mains for sanitary sewer service in the Annexed Area will be provided in accordance with existing Sherman policies. Upon connection, sanitary sewer service will be provided at rates established by Sherman ordinances for such service throughout Sherman.
- (ii) Sanitary sewer mains and/or lift stations installed or improved to Sherman's standards that are located in dedicated easements, are within the Annexed Area and are connected to Sherman mains will be maintained by Sherman beginning on the effective date of the Annexation Ordinance.
- (iii) As development and construction commence in the Annexed Area, Sherman sanitary sewer services will be extended in accordance with provisions of the Subdivision Ordinance and other applicable Sherman ordinances and regulations in effect at that time. Sherman's participation in the costs of such extensions shall be in accordance with the applicable Sherman ordinances and regulations in effect at that time. Such extensions will be commenced in accordance with state law.

(k) Miscellaneous.

- (i) General municipal administration and administrative services of Sherman shall be available to the Annexed Area beginning on the effective date of the Annexation Ordinance.
 - (ii) Notwithstanding anything set forth above, this Service Plan does not require all municipal services be provided as set forth above if different characteristics of topography, land use and population density are considered a sufficient basis for providing different levels of service.
- 5. **Default.** If Sherman fails to comply with the terms and conditions of this Agreement and such failure is not cured within a reasonable period of time after Sherman receives written notice of such failure from Landowner, then Landowner may seek disannexation pursuant to Section 43.141 of the Texas Local Government Code as its sole and exclusive remedy. In no event shall Sherman be liable to Landowner or any other owner or inhabitant of the Annexed Area for any direct, indirect, incidental, special or consequential damages arising out of this Agreement or for the cost of procurement of substitute services.
- 6. **Covenant Running with the Land.** This Agreement shall be a covenant running with the land and Property and shall be binding on Landowner and Landowner's successors and assigns.
- 7. **Limitations of Agreement.** Sherman ordinances covering property taxes, utility rates, permit fees, inspection fees, tree mitigation fees, impact fees, development fees, tap fees, pro-rata fees and the like are not affected by this Agreement. Further, this Agreement does not waive or limit any of the obligations of Landowner to Sherman under any ordinance, whether now existing or in the future arising.
- 8. **Notices.** Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States Mail, addressed to the Party to be notified, postage pre-paid and registered or certified with return receipt requested; by facsimile; by electronic mail, with documentation evidencing the addressee's receipt thereof; or by delivering the same in person to such party a via hand-delivery service, or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notification, the addresses of the parties shall be as follows:

If to Sherman, addressed to it at:

City of Sherman
Attn: Robby Hefton, City Manager
220 West Mulberry Street
Sherman, Texas 75090
Telephone: (903) 892-7200
Facsimile: (903) 892-7355
Email: robbyh@cityofsherman.com

with a copy to:

Abernathy, Roeder, Boyd & Hullett, P.C.
Attention: Ryan D. Pittman
1700 Redbud Blvd., Suite 300
McKinney, Texas 75069
Telephone: (214) 544-4000
Facsimile: (214) 544-4044
Email: rpittman@abernathy-law.com

If to Landowner, addressed to him at:

FLATO Sherman Community One, LLC
Attn: Shakir Rehmatullah, President
3621 Highway 7 East, Suite #503
Markham, ON L3R 0G6 Canada
Telephone: (905) 479-9292
Email: shakir@flatogroup.com

10. **Release.** LANDOWNER HEREBY RELEASES, WAIVES AND HOLDS HARMLESS SHERMAN AND ITS COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES FROM ALL DAMAGES, INJURIES, CLAIMS, OBJECTIONS, LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS ARISING OUT OF OR RELATED TO SHERMAN'S ANNEXATION OF THE PROPERTY, SHERMAN'S CONSIDERATION OF ANNEXATION OF THE PROPERTY AND SHERMAN'S ADOPTION OF THE ANNEXATION ORDINANCE. THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.
11. **Vested Rights/Chapter 245 Waiver.** This Agreement shall confer no vested rights on the Property, or any portion thereof. In addition, nothing contained in this Agreement shall constitute a "permit" as defined in Chapter 245 of the Texas Local Government Code, as amended, and nothing in this Agreement provides Sherman with fair notice of any project of Landowner. LANDOWNER WAIVES ANY STATUTORY CLAIM UNDER CHAPTER 245 OF THE TEXAS LOCAL GOVERNMENT CODE, AS AMENDED, UNDER THIS AGREEMENT. THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.
12. **Warranties/Representations.** All warranties, representations and covenants made by one party to the other in this Agreement or in any certificate or other instrument delivered by one party to the other under this Agreement shall be considered to have been relied upon by the other party and will survive the satisfaction of any fees under this Agreement, regardless of any investigation made by either party.
13. **Entire Agreement.** This Agreement contains the entire agreement of the parties with respect to the matters contained herein and may not be modified or terminated except upon the provisions hereof or by the mutual written agreement of the parties.

14. **Governing Law; Venue.** The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Agreement, without regard to conflict of law principles. This Agreement is performable in Grayson County, Texas, and the exclusive venue for any action arising out of this Agreement shall be a court of appropriate jurisdiction in Grayson County, Texas.
15. **Consideration.** This Agreement is executed by the parties without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.
16. **Multiple Counterparts.** This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. An electronic mail or facsimile signature will also be deemed to constitute an original if properly executed and delivered to the other party.
17. **Authority to Execute.** The individuals executing this Agreement on behalf of the respective parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the Effective Date (hereinafter defined). Landowner acknowledges that each and every owner of the Property must sign this Agreement in order for the Agreement to take full effect, and **Landowner covenants and agrees to indemnify, hold harmless, and defend Sherman and its Council members, officers, agents, representatives and employees against any and all claims asserted by any person claiming an ownership interest in the Property who has not signed the Agreement that arise in any way from Sherman's reliance on this Agreement.**
18. **Savings; Severability.** In the event that a term, condition or provision of this Agreement is determined to be invalid, illegal, 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 as if such invalid, illegal, void, unenforceable or unlawful provision had never been contained in this Agreement.
19. **Representations.** Each party represents that it has carefully read this Agreement, knows the contents hereof, has consulted with an attorney of its choice regarding the meaning and effect hereof and is signing the same solely of its own judgment.
20. **No Third Party Beneficiaries.** Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third party beneficiaries by entering into this Agreement.
21. **Immunity.** It is expressly understood and agreed that, in the execution and performance of this Agreement, Sherman has not waived, nor shall be deemed hereby to have waived, any defense or immunity, including governmental, sovereign and official immunity, that would otherwise be available to it against claims arising in the exercise of governmental

powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein.

22. **Miscellaneous Drafting Provisions.** This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this document.

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective when all the parties have signed it. The date this Agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature below) will be deemed the effective date of this Agreement ("Effective Date").

CITY OF SHERMAN, TEXAS,
a home-rule municipality

By: _____
Robby Hefton, City Manager
Date: _____

Attested to by:

Linda Ashby, City Clerk

Approved as to Form and Content:
The Law Firm of Abernathy,
Roeder, Boyd & Hullett, P.C.

By: _____
Name: Ryan D. Pittman
Title: City Attorney

FLATO SHERMAN COMMUNITY ONE, LLC,
a Texas limited liability company

By: _____
Printed Name: Shakir Rehmatullah
Title: President
Date: January 2, 2024

STATE OF TEXAS §
 §
COUNTY OF GRAYSON §

BEFORE ME, the undersigned authority, on this day personally appeared **Robby Hefton**, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me that he is the City Manager and duly authorized representative of the **CITY OF SHERMAN, TEXAS**, a home-rule municipality, and that he executed the same for the purposes and consideration therein stated and in the capacity therein stated as the act and deed of the City of Sherman, Texas.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this _____ day of _____, 20__.

Notary Public, State of Texas
My Commission Expires:_____

STATE OF _____ §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared **Shakir Rehmatullah**, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he/she acknowledged to me that he/she executed the same for the purposes and consideration therein stated and in the capacity therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this 2nd day of January, 2024

[Signature]
Notary Public, State of Ontario (Province)
My Commission Expires: N/A

Jaspreet Kaur Minhas
Barrister, Solicitor & Notary Public
In and for the Province of Ontario.
My commission is of unlimited duration
No Legal advice given.



Exhibit A

BEING a 220.18 acre (9,591,031 square feet) tract of land, lying within the Elizabeth Jones Survey, Abstract No. 625 and the Jason Stamps Survey, Abstract No. 1115, and being all of a called 220.18 acre tract of land conveyed to FLATO SHERMAN COMMUNITY ONE, LLC as recorded in Document No. 2023-25044 in the Official Records of Grayson County, described as follows:

BEGINNING at a 1/2 inch rebar with an illegible cap for the southwest corner of the herein described tract, the southeast corner of Western Acres Addition, Installment No. Two to Grayson County, Texas, as shown by plat recorded under Volume 6, Page 12, Plat Records of Grayson County, Texas, and being in the centerline of OB Groner road (no record information found) for the POINT OF BEGINNING;

THENCE N15°19'21"W, with the east line of said Western Acres Addition, a distance of 3,918.57' to a 1/2 inch rebar with cap stamped "3694" found for the westernmost corner of the herein described tract, the northeast corner of said Western Acres Addition, and in the south line of a tract of land described by deed to Eunice Wible Cumming, as recorded under Volume 1139, Page 270, Deed Records, Grayson County, Texas;

THENCE N73°26'26"E, with the north line of the herein described tract and the south line of said Cumming tract, a distance of 268.29 feet to a 60D nail found for an ell corner of the herein described tract and the southeast corner of said Cumming tract;

THENCE N14°52'21"W, with the west line of the herein described tract and the east line of said Cumming tract, a distance of 1,823.86 feet to a 1/2 inch rebar with an illegible cap found for the northernmost northwest corner of the herein described tract, the northeast corner of said Cumming tract, and being in the south line of Setting Sun Estates, Section One to Grayson County, Texas, as shown by plat of record recorded in Volume 6, Page 37, Plat Records, Grayson County, Texas;

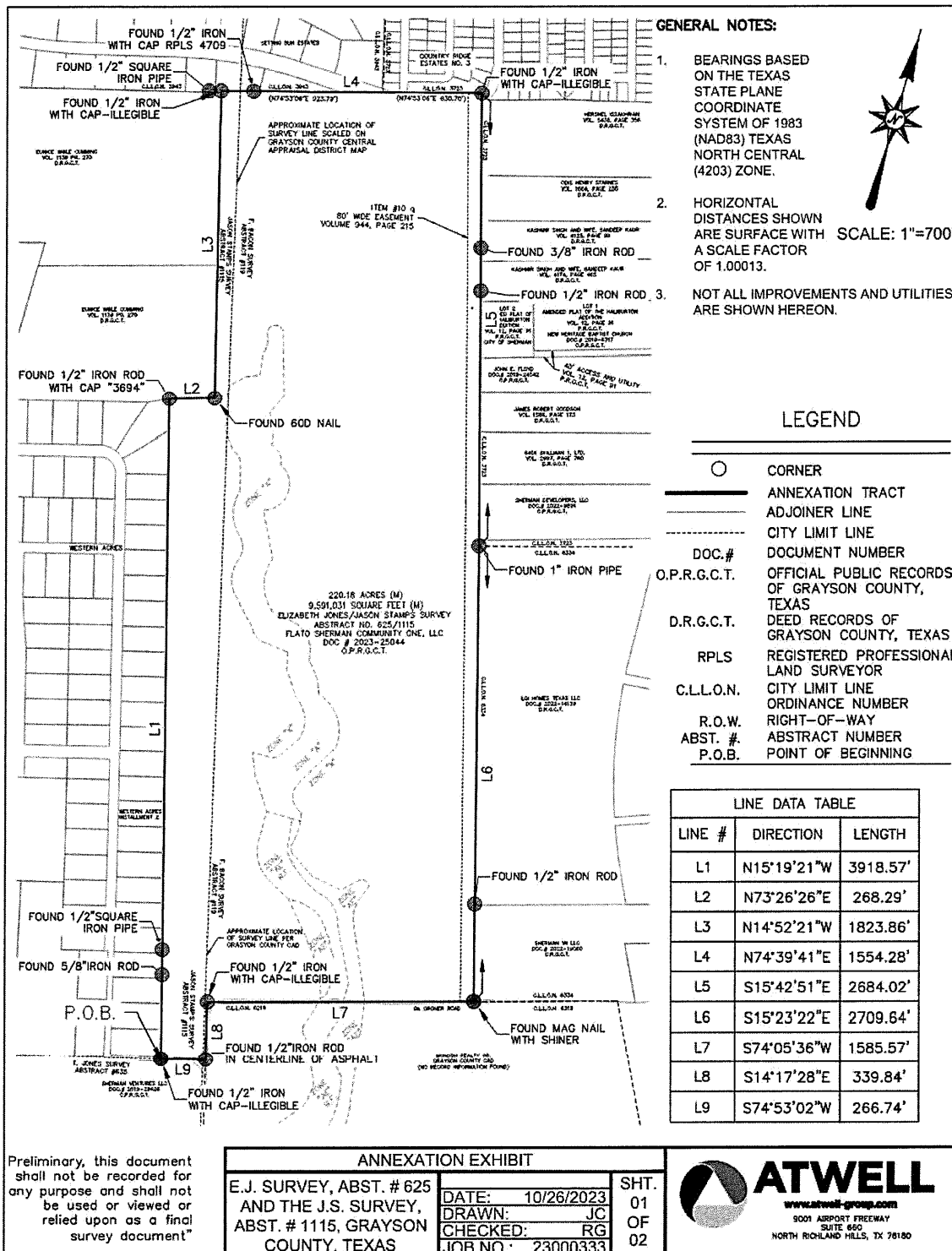
THENCE N74°39'41"E, with the north line of the herein described tract and the south line of said Setting Sun Estates, a distance of 1,554.28 feet to a 1/2 inch rebar with an illegible cap for the northeast corner of the herein described tract;

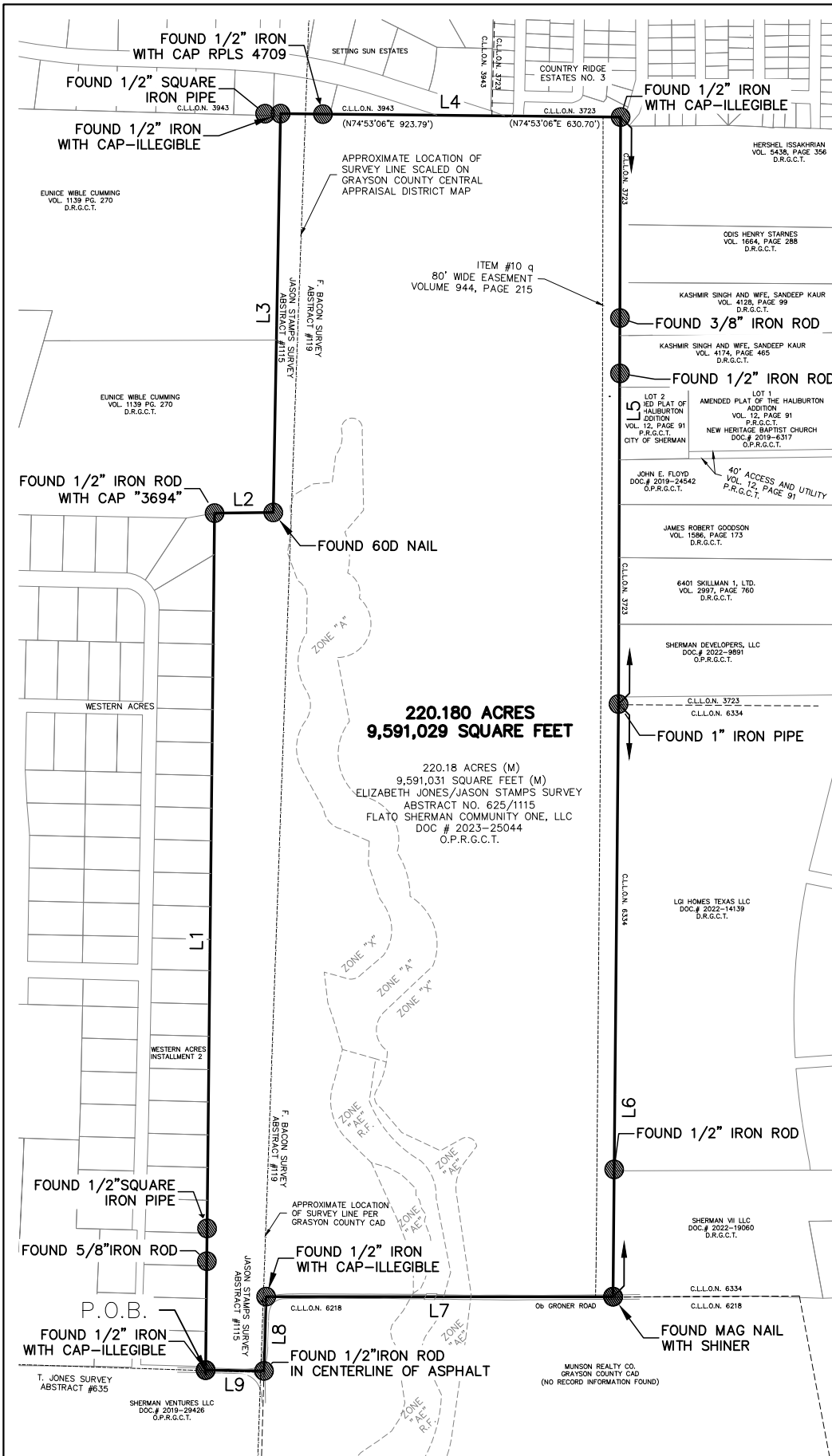
THENCE S15°42'51"E, with the east line of the herein described tract and following the west line of a tract of land described by deed to Hershel Issakhrian, as recorded under Volume 5438, Page 356, Deed Records of Grayson County, Texas, a tract of land described by deed to Odis Henry Starnes, as recorded under Volume 1664, Page 288, Deed Records of Grayson County, Texas, a tract of land described by deed to Kashmir Singh and wife, Sandeep Kaur, as recorded under Volume 4128, Page 99, Deed Records of Grayson County, Texas, a tract of land described by deed to Kashmir Singh and wife Sandeep Kaur, as recorded under Volume 4174, Page 465, Deed Records of Grayson county, Texas, Lot 2 of Amended Plat of the Haliburton Addition, an addition to Grayson County, Texas, as recorded under Volume 12, Page 91, Plat Records of Grayson County, Texas, a tract of land described by deed to John E. Floyd, as recorded under Document Number 2019-24542, Official Public Records of Grayson County, Texas, a tract of land described by deed to James Robert Goodson, as recorded under Volume 1586, Page 173, Deed Records of Grayson County, Texas, a tract of land described by deed to 6401 Skillman 1, LTD. Volume 2997, Page 760, Deed Records of Grayson County, Texas, a tract of land described by deed to Sherman Developers, LLC, as recorded under Document Number 2022-9891, Official Public Records of Grayson County, Texas, a tract of land described by deed to LGI Homes Texas, LLC, as recorded under Document Number 2022-14139, Official Public Records of Grayson County, Texas, a distance of 2,684.02 feet to a 1 inch iron pipe found for corner in the west line of said LGI Homes Texas tract;

THENCE S15°23'22"E, with the east line of the herein described tract and the west line of said LGI Homes Texas tract, and a tract of land described by deed to Sherman VII LLC, as recorded under Document Number 2022-19060, Official Public Records of Grayson County, Texas, a distance of 2,709.64 feet to a mag nail with shiner found in the center of said OB Groner Road for the southeast corner of the herein described tract, the southwest corner of said Sherman VII LLC Tract;

THENCE with the south line of the herein described tract and the centerline of said OB Groner Road, the following calls:

1. S74°05'36"W, a distance of 1,585.57 feet to a 1/2 inch rebar with an illegible cap;
2. S14°17'28"E, a distance of 339.84 feet to a 1/2 inch rebar found;
3. S74°53'02"W, a distance of 266.74 feet to the POINT OF BEGINNING and enclosing 220.18 acres (9,591,031 square feet) of land, more or less.





GENERAL NOTES:

- BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM OF 1983 (NAD83) TEXAS NORTH CENTRAL (4203) ZONE.
- HORIZONTAL DISTANCES SHOWN ARE SURFACE WITH SCALE: 1"=700' A SCALE FACTOR OF 1.00013.
- NOT ALL IMPROVEMENTS AND UTILITIES ARE SHOWN HEREON.

LEGEND

○	CORNER
—	ANNEXATION TRACT
—	ADJOINER LINE
---	CITY LIMIT LINE
DOC.#	DOCUMENT NUMBER
O.P.R.G.C.T.	OFFICIAL PUBLIC RECORDS OF GRAYSON COUNTY, TEXAS
D.R.G.C.T.	DEED RECORDS OF GRAYSON COUNTY, TEXAS
RPLS	REGISTERED PROFESSIONAL LAND SURVEYOR
C.L.L.O.N.	CITY LIMIT LINE ORDINANCE NUMBER
R.O.W.	RIGHT-OF-WAY
ABST. #	ABSTRACT NUMBER
P.O.B.	POINT OF BEGINNING

LINE DATA TABLE		
LINE #	DIRECTION	LENGTH
L1	N15°19'21"W	3918.57'
L2	N73°26'26"E	268.29'
L3	N14°52'21"W	1823.86'
L4	N74°39'41"E	1554.28'
L5	S15°42'51"E	2684.02'
L6	S15°23'22"E	2709.64'
L7	S74°05'36"W	1585.57'
L8	S14°17'28"E	339.84'
L9	S74°53'02"W	266.74'

ANNEXATION EXHIBIT

E.J. SURVEY, ABST. # 625
AND THE J.S. SURVEY,
ABST. # 1115, GRAYSON
COUNTY, TEXAS

DATE: 11/09/2023
DRAWN: JC
CHECKED: RG
JOB NO.: 23000333

SHT.
01
OF
02



ATWELL

www.atwell-group.com
9001 AIRPORT FREEWAY
SUITE 660
NORTH RICHLAND HILLS, TX 76180

AS-SURVEYED LEGAL DESCRIPTION

BEING a 221.481 acre (9,647,731 square feet) tract of land, lying within the Elizabeth Jones Survey, Abstract No. 625 and the Jason Stamps Survey, Abstract No. 1115, and being all of a called 220.18 acre tract of land conveyed to FLATO SHERMAN COMMUNITY ONE, LLC as recorded in Document No. 2023-25044 in the Official Public Records of Grayson County, a portion of a tract to Munson Realty Co., no record information found, and a portion of a tract to Sherman Ventures LLC as recorded in Document No. 2019-29426 in the Official Public Records of Grayson County described as follows:

BEGINNING at a 1/2 inch rebar with an illegible cap for the southwest corner of said 220.18 acre tract, the southeast corner of Western Acres Addition, Installment No. Two to Grayson County, Texas, as shown by plat recorded under Volume 6, Page 12, Plat Records of Grayson County, Texas, and being in the centerline of OB Groner road (no record information found) for the POINT OF BEGINNING;

THENCE N15°19'21"W, with the east line of said Western Acres Addition, a distance of 3,918.57' to a 1/2 inch rebar with cap stamped "3694" found for the westernmost corner of the herein described tract, the northeast corner of said Western Acres Addition, and in the south line of a tract of land described by deed to Eunice Wible Cumming, as recorded under Volume 1139, Page 270, Deed Records, Grayson County, Texas;

THENCE N73°26'26"E, with the north line of the herein described tract and the south line of said Cumming tract, a distance of 268.29 feet to a 60D nail found for an ell corner of the herein described tract and the southeast corner of said Cumming tract;

THENCE N14°52'21"W, with the west line of the herein described tract and the east line of said Cumming tract, a distance of 1,823.86 feet to a 1/2 inch rebar with an illegible cap found for the northernmost northwest corner of the herein described tract, the northeast corner of said Cumming tract, and being in the south line of Setting Sun Estates, Section One to Grayson County, Texas, as shown by plat of record recorded in Volume 6, Page 37, Plat Records, Grayson County, Texas;

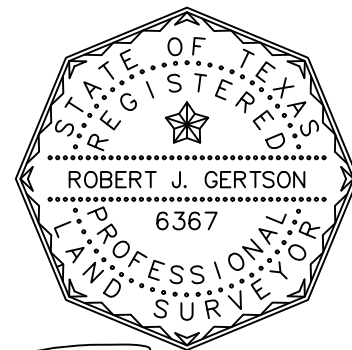
THENCE N74°39'41"E, with the north line of the herein described tract and the south line of said Setting Sun Estates, a distance of 1,554.28 feet to a 1/2 inch rebar with an illegible cap for the northeast corner of the herein described tract;

THENCE S15°42'51"E, with the east line of the herein described tract and following the west line of a tract of land described by deed to Hershel Issakhrian, as recorded under Volume 5438, Page 356, Deed Records of Grayson County, Texas, a tract of land described by deed to Odis Henry Starnes, as recorded under Volume 1664, Page 288, Deed Records of Grayson County, Texas, a tract of land described by deed to Kashmir Singh and wife, Sandeep Kaur, as recorded under Volume 4128, Page 99, Deed Records of Grayson County, Texas, a tract of land described by deed to Kashmir Singh and wife Sandeep Kaur, as recorded under Volume 4174, Page 465, Deed Records of Grayson County, Texas, Lot 2 of Amended Plat of the Haliburton Addition, an addition to Grayson County, Texas, as recorded under Volume 12, Page 91, Plat Records of Grayson County, Texas, a tract of land described by deed to John E. Floyd, as recorded under Document Number 2019-24542, Official Public Records of Grayson County, Texas, a tract of land described by deed to James Robert Goodson, as recorded under Volume 1586, Page 173, Deed Records of Grayson County, Texas, a tract of land described by deed to 6401 Skillman 1, LTD. Volume 2997, Page 760, Deed Records of Grayson County, Texas, a tract of land described by deed to Sherman Developers, LLC, as recorded under Document Number 2022-9891, Official Public Records of Grayson County, Texas, a tract of land described by deed to LGI Homes Texas, LLC, as recorded under Document Number 2022-14139, Official Public Records of Grayson County, Texas, a distance of 2,684.02 feet to a 1 inch iron pipe found for corner in the west line of said LGI Homes Texas tract;

THENCE S15°23'22"E, with the east line of the herein described tract and the west line of said LGI Homes Texas tract, and a tract of land described by deed to Sherman VII LLC, as recorded under Document Number 2022-19060, Official Public Records of Grayson County, Texas, a distance of 2,709.64 feet to a mag nail with shiner found in the center of said OB Groner Road for the southeast corner of said 220.18 acre tract, the southwest corner of said Sherman VII LLC Tract and being on the north line of said Munson Realty Co. tract;

THENCE with the south line of the herein described tract and the centerline of said OB Groner Road, the following calls:

1. S74°05'36"W, a distance of 1,585.57 feet to a 1/2 inch rebar with an illegible cap found;
2. S14°17'28"E, a distance of 339.84 feet to a 1/2 inch rebar found;
3. S74°53'02"W, a distance of 266.74 feet to the POINT OF BEGINNING and enclosing 220.180 acres (9,591,029 square feet) of land, more or less.



12/11/2023

ROBERT J. GERTSON
RPLS NO. 6367
ATWELL LLC
805 LAS CIMAS
PARKWAY, STE. 310
AUSTIN, TX 78746
512.904.0505

ANNEXATION EXHIBIT		
E.J. SURVEY, ABST. # 625 AND THE J.S. SURVEY, ABST. # 1115, GRAYSON COUNTY, TEXAS	DATE:	11/09/2023
	DRAWN:	JC
	CHECKED:	RG
	JOB NO.:	23000333
	SHT.	02 OF 02



ATWELL

www.atwell-group.com
9001 AIRPORT FREEWAY
SUITE 660
NORTH RICHLAND HILLS, TX 76180

PROPERTY DESCRIPTION

BEING a 220.18 acre (9,591,031 square feet) tract of land, lying within the Elizabeth Jones Survey, Abstract No. 625 and the Jason Stamps Survey, Abstract No. 1115, and being all of a called 220.18 acre tract of land conveyed to FLATO SHERMAN COMMUNITY ONE, LLC as recorded in Document No. 2023-25044 in the Official Records of Grayson County, described as follows:

BEGINNING at a 1/2 inch rebar with an illegible cap for the southwest corner of the herein described tract, the southeast corner of Western Acres Addition, Installment No. Two to Grayson County, Texas, as shown by plat recorded under Volume 6, Page 12, Plat Records of Grayson County, Texas, and being in the centerline of OB Groner road (no record information found) for the POINT OF BEGINNING;

THENCE N15°19'21"W, with the east line of said Western Acres Addition, a distance of 3,918.57' to a 1/2 inch rebar with cap stamped "3694" found for the westernmost corner of the herein described tract, the northeast corner of said Western Acres Addition, and in the south line of a tract of land described by deed to Eunice Wible Cumming, as recorded under Volume 1139, Page 270, Deed Records, Grayson County, Texas;

THENCE N73°26'26"E, with the north line of the herein described tract and the south line of said Cumming tract, a distance of 268.29 feet to a 60D nail found for an ell corner of the herein described tract and the southeast corner of said Cumming tract;

THENCE N14°52'21"W, with the west line of the herein described tract and the east line of said Cumming tract, a distance of 1,823.86 feet to a 1/2 inch rebar with an illegible cap found for the northernmost northwest corner of the herein described tract, the northeast corner of said Cumming tract, and being in the south line of Setting Sun Estates, Section One to Grayson County, Texas, as shown by plat of record recorded in Volume 6, Page 37, Plat Records, Grayson County. Texas;

THENCE N74°39'41"E, with the north line of the herein described tract and the south line of said Setting Sun Estates, a distance of 1,554.28 feet to a 1/2 inch rebar with an illegible cap for the northeast corner of the herein described tract;

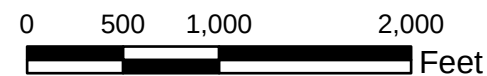
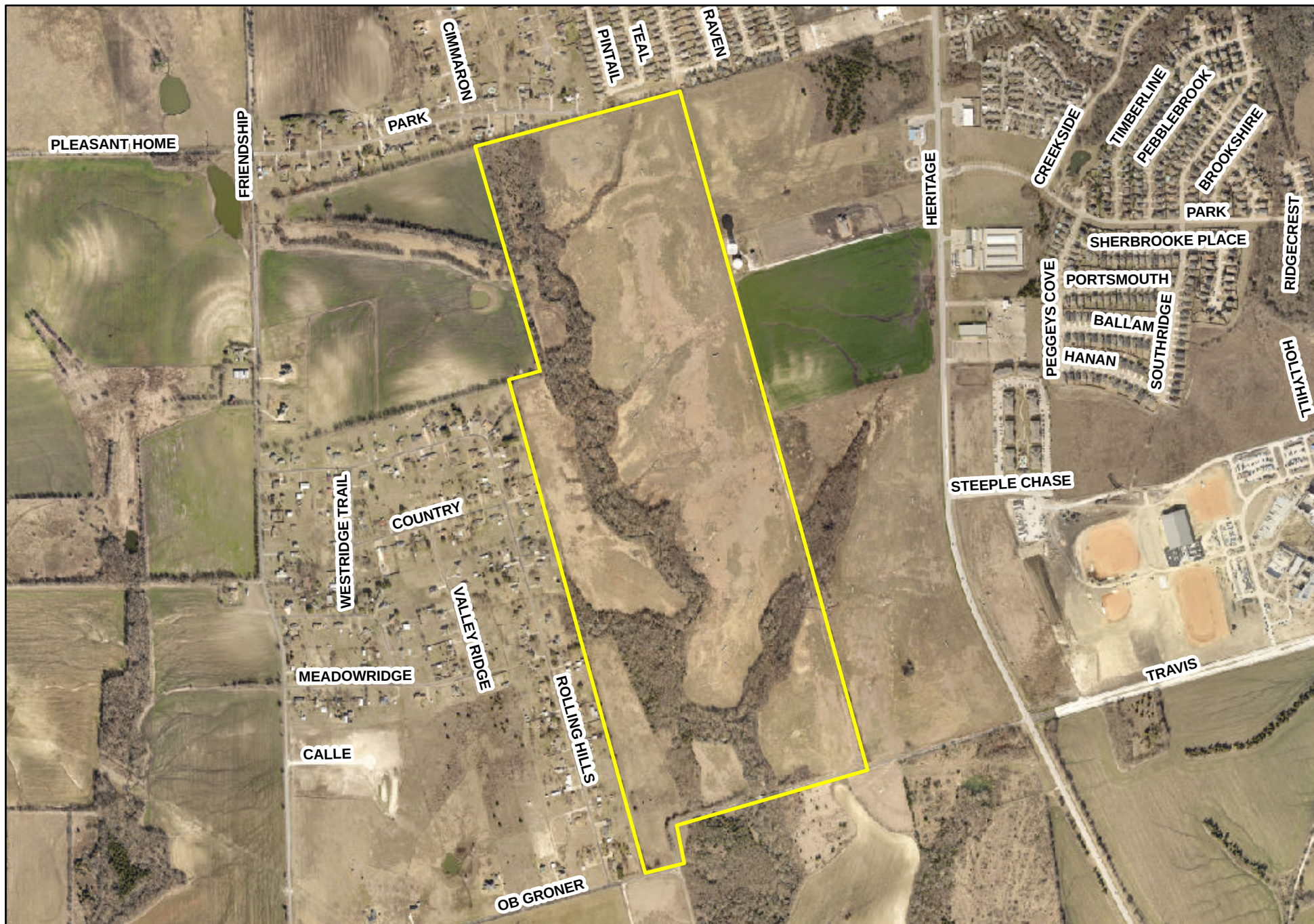
THENCE S15°42'51"E, with the east line of the herein described tract and following the west line of a tract of land described by deed to Hershel Issakhrian, as recorded under Volume 5438, Page 356, Deed Records of Grayson County, Texas, a tract of land described by deed to Odis Henry Starnes, as recorded under Volume 1664, Page 288, Deed Records of Grayson County, Texas, a tract of land described by deed to Kashmir Singh and wife, Sandeep Kaur, as recorded under Volume 4128, Page 99, Deed Records of Grayson County, Texas, a tract of land described by deed to Kashmir Singh and wife Sandeep Kaur, as recorded under Volume 4174, Page 465, Deed Records of Grayson county, Texas, Lot 2 of Amended Plat of the Haliburton Addition, an addition to Grayson County, Texas, as recorded under Volume 12, Page 91, Plat Records of Grayson County, Texas, a tract of land described by deed to John E. Floyd, as recorded under Document Number 2019-24542, Official Public Records of Grayson County, Texas, a tract of land described by deed to James Robert Goodson, as recorded under Volume 1586, Page 173, Deed Records of Grayson County, Texas, a tract of land described by deed to 6401 Skillman 1, LTD. Volume 2997, Page 760, Deed Records of Grayson County, Texas, a tract of land described by deed to Sherman Developers, LLC, as recorded under Document Number 2022-9891, Official Public Records of Grayson County, Texas, a tract of land described by deed to LGI Homes Texas, LLC, as recorded under Document Number 2022-14139, Official Public Records of Grayson County, Texas, a distance of 2,684.02 feet to a 1 inch iron pipe found for corner in the west line of said LGI Homes Texas tract;

THENCE S15°23'22"E, with the east line of the herein described tract and the west line of said LGI Homes Texas tract, and a tract of land described by deed to Sherman VII LLC, as recorded under Document Number 2022-19060, Official Public Records of Grayson County, Texas, a distance of 2,709.64 feet to a mag nail with shiner found in the center of said OB Groner Road for the southeast corner of the herein described tract, the southwest corner of said Sherman VII LLC Tract;

THENCE with the south line of the herein described tract and the centerline of said OB Groner Road, the following calls:

1. S74°05'36"W, a distance of 1,585.57 feet to a 1/2 inch rebar with an illegible cap;
2. S14°17'28"E, a distance of 339.84 feet to a 1/2 inch rebar found;
3. S74°53'02"W, a distance of 266.74 feet to the POINT OF BEGINNING and enclosing 220.18 acres (9,591,031 square feet) of land, more or less.

10/4/2023



ANNEXATION SCHEDULING PLAN

Annexation of approximately 220.18 acres of land adjacent to the city limits, located West of F.M. 1417 (Heritage Parkway) and North of OB Groner Greenway

- Tuesday, January 16, 2024City Council sets public hearing date and accepts annexation application.
- Wednesday, January 17, 2024Send written notice via certified mail, RRR, to property owner(s) in area to be annexed, public or private entities that provide services in the area and any railroads that have ROW in the area to be annexed. Send written notice via certified mail, RRR, to each public school district in the area to be annexed. Such notices must contain the details described in Section 43.0561 of the Local Government Code. Provide draft of proposed annexation service plan agreement in accordance with Section 43.0672 of the Local Government Code.
- Friday, January 19, 2024Publish notice of public hearing in the City's official newspaper. Obtain required affidavit of publication from newspaper. Post notice of public hearing on City's website and keep posting up until the date of the hearing.
- Thursday, February 1, 2024Post notice of public hearing as required by Open Meetings Act.
- Monday, February 5, 2024Hold public hearing. (Regular Council Meeting)
- Monday, February, 2024Adopt ordinance. (Regular Council Meeting)



City Council Regular Meeting

Agenda Item No. G.2.

Meeting Date: 1/16/2024

Prepared By: Rob Rae, Developmental Services Director

Approved By: Robby Hefton, City Manager

Caption:

OTHER BUSINESS

Presentation from Development Services Director on Amending Chapter 3 of the Code of Ordinances, entitled "Building Regulations"

Issue:

Staff presentation on proposed changes to Chapter 3 Building Regulations

Background:

Chapter 3 of the Code of Ordinances regulates the building standards for the City of Sherman. This section was last updated on December 7, 2020 to the International Code Council (ICC) standards of 2018 and the National Electrical Code of 2020.

The International Code Council has since published regulations for the year 2021 and many of Sherman's peer cities have begun adopted this new code cycle.

This presentation will summarize the significant changes in moving from 2018 to 2021 building codes and 2020 to 2023 electrical codes. In addition, staff will present proposed amendment to the building regulations, including amendments to the fire code.

The update will also recommend adoption of the 2021 ICC Property Maintenance Code and consider new regulations and standards regarding a Residential Rental Property License program.

Origination:

Rob Rae, Director of Development Services

Larry Bollier, Building Official

Dillon Stewart, Fire Marshal

Financial Consideration:

None

Staff Recommendation:

No Action is Required

Alternatives:

None

Attachments:

None



City Council Regular Meeting

Agenda Item No. G.3.

Meeting Date: 1/16/2024

Prepared By: Teri Fine, Assistant to the City Manager

Approved By: Teri Fine, Assistant to the City Manager

Caption:

OTHER BUSINESS

Receive Quarterly Progress Report from Sherman Economic Development Corporation President Kent Sharp

Issue:

To receive the Sherman Economic Development Cororation (SEDCO) quarterly progress report from President Kent Sharp

Background:

The brief presentation by the SEDCO President will provide the City Council with an overview of SEDCO's activities and accomplishments during the period from October 2023 to December 2023. SEDCO's last update was presented at the Joint Meeting of the City Council and the SEDCO Board of Directors on September 12, 2023.

Origination:

City Council

Financial Consideration:

This presentation is for information purposes only and has no impact on the City's revenues or expenses.

Staff Recommendation:

No action is required of the City Council.

Alternatives:

None recommended

Attachments:

1. SEDCO Quarterly Report - January 2024

REPORTING FORM FOR BOARDS AND COMMISSIONS

Name of Board: Sherman Economic Development Corporation

Name of Chair: Janie Bates

Name of Vice-Chair: Scott Bandemir

Date of Report to City Council: January 16, 2024

- 1. In simple terms and as briefly as possible, please describe the mission of your board.**
 - *The mission of the Sherman Economic Development Corporation (SEDCO) is to grow and diversify the economy of Sherman and the surrounding area through the addition of new jobs and investment of primary employers.*
- 2. Please list the top accomplishments of your board within the past quarter. (Please limit the list to five or fewer items).**
 - *SEDCO and the City of Sherman were awarded the Community Economic Development Award (Pop. 20,001 - 50,000) from the Texas Economic Development Council (TEDC) for our work on the \$5 Billion GlobalWafers project.*
 - *Provided \$150,000 in matching funds for the High Demand Job Training (HDJT) grant from the Texas Workforce Commission (TWC) for a total of \$300,000 to help meet the needs of the growing high-tech industry in Sherman. The grant was awarded to Sherman ISD and will be used to equip the new electronic engineering technology (EET) lab at the high school.*
 - *The Texoma Semiconductor Tech Hub (TSTH) was selected as one of the 31 tech hubs from 400 applications submitted across America and a Strategic Development Grant Recipient by the Biden-Harris.*
 - *SEDCO and Workforce Solutions Texoma were recognized at the Sherman Independent School Board meeting as the December Community Partners.*
- 3. What are your plans for this board in the next quarter?**
 - *Compete aggressively for the attraction of new jobs and investments to the city by narrowing our focus to those companies that align with our semiconductor cluster, both nationally and internationally.*
 - *Through the Business Retention and Expansion (BRE) Program, we will continue our BRE visits to the Sherman industries and work closely with companies that have announced new investments in Sherman to ensure they have the support to meet their goals and receive the incentives as identified in the performance agreements.*
 - *Participate in the second TSTH Workshop held at Austin College on Jan 8th and sponsor the lunch.*
 - *The SEDCO staff will attend ONCOR's Northeast Texas Economic Development Seminar on January 30th in Sulphur Springs. Ashton will speak on the Economic Developer Panel.*
 - *Kent, Ashton, and Shannon will attend the TEDC Winter Conference in San Antonio on February 21st – 23rd. During the conference, Ashton and Shannon will complete another Future Leaders Training (FLT) Seminar.*
 - *Host a Plant Manager and Safety Leader Forum at a Sherman industry.*

- *Host the Sherman Women-Owned and Minority-Owned (WOMO) Annual Event: Launch into Action on January 11th at the Sherman Municipal Ballroom. This event will provide networking, a vendor marketplace, and a workshop tailored to empower and elevate minority-owned and women-owned businesses in Sherman, TX.*
- *Host the Q1 Sherman WOMO Small Group Breakout Session and a committee meeting to recap the annual event and discuss the upcoming year.*
- *Continue to add contacts to the Sherman WOMO business directory.*
- *Contact each company with a job listing on shermantxjobs.com for updates. New listings will be boosted on social media.*
- *Shannon will continue the Leadership Sherman program and will visit Austin with the class on March 20th – 21st.*
- *Ashton and Shannon will attend the next two Grayson College Facilities Planning meetings as members of the committee.*
- *Kent will provide an economic development update to the Sherman Rotary in March.*
- *Start planning a recruitment trip to the SEMICON West Tradeshow in San Francisco this July.*
- *Update the digital aerial map.*
- *Produce marketing collateral for the TSTH recruitment campaign.*
- *Sponsor the Sherman Chamber Annual Awards Luncheon.*

4. How often did this board meet in the last quarter?

- *The SEDCO Board meets on the second Tuesday of each month and holds Special Called Meetings when needed. Since our last report, the SEDCO Board has held three Regular Scheduled Board Meetings (October 10th, November 14th, December 12th).*

5. In what percentage of those meetings was a quorum of board members present?

- *100%*

6. Did any member attend less than 75% of those meetings? If so, which member and how often did they attend?

- *Jason Brumm attended two of the three Regular Scheduled Board Meetings.*

7. What other information would your board like to communicate to the City Council? (Please be concise in your response).

- *Presently working 7 active projects with an estimated \$1.6 Billion CAPEX and approximately 1,365 new jobs.*
- *Completed six site visits and prospect calls with companies interested in relocating and/or expanding their operations to Sherman.*
- *During the last quarter, the SEDCO Board approved the following:*
 - *Resolution No. SEDCO-2023.25 (Project Yoyo) Authorizing and approving an amended and restated real estate sales contract for the sale and conveyance of an approximately 5.23 acres of land, located in the Sherod Dunman survey, abstract no. 329, City of Sherman, Grayson County, Texas to HPI Acquisition, LLC.*
 - *Resolution No. SEDCO-2023.26 (Project Zion) Authorizing and approving a real estate sales contract for the sale and conveyance of an approximately 5.08 acres of land, located in the Sherod Dunman survey, abstract no. 329, City of Sherman, Grayson County, Texas to Persys Engineering, Inc.*
 - *SEDCO Investment Policy – updated policy allowing for longer weighted average*

- maturity holding periods.*
 - *Resolution No. SEDCO-2023.27 (Douglass Appreciation) presented the Douglass family of Douglass Distributing a plaque as a token of our appreciation and gratitude for their immeasurable contributions to Sherman, Texas.*
 - *Resolution No. SEDCO-2023.28 (903 Brewers) authorizing the execution of a real estate sales contract for the acquisition of an approximately 10.781 acres of land, authorizing the execution of a related termination agreement and payment of certain ad valorem taxes owed on the property.*
 - *Resolution No. SEDCO-2023.30 (Water Line Easement) authorizing and approving a 0.041-acre water line easement with the City of Sherman.*
 - *Created Supplemental Compensation Agreement for Shannon Blake.*
 - *Amendment to the Travel & Expense Policy: Allowing mileage reimbursement over 150 miles per trip for employees receiving an automobile allowance (only applies to President currently).*
- *Kent met with GlobalWafers and City of Sherman staff to discuss the sewer extension needs and requirements within Progress Park.*
- *Hosted the Fall Leadership Lunch with 30 Plant Managers and community leaders in attendance.*
- *Co-sponsored the Red, White, and You Job Fair with 43 employers and 303 job seekers in attendance.*
- *Co-sponsored the Advanced Manufacturing Program (AMP) Kick-Off held at Grayson College for parents, students, and teachers to discuss the program's requirements and benefits.*
- *Coherent, Texas Instruments, Rayburn Electric, and Progress Rail participated in Manufacturing Day. Sherman ISD students toured the facilities to get a better understanding of career opportunities.*
- *Kent and Ashton attended Emerson's North America Parts Warehouse Celebration.*
- *Kent, Ashton, and Akshaya attended the Texoma Human Resource Management Association (THRMA) State of the Community forum where Kent served on the panel and discussed SEDCO projects, programs, and other current activities.*
- *Kent, Ashton, and Shannon attended the Lecture on Science and Leadership at Austin College.*
- *Ashton and Shannon attended the UT Dallas Economic Development Summit in Richardson.*
- *Kent attended the Texas Workforce Commission's Awards Luncheon in Houston, TX with Workforce Solutions Texoma.*
- *Ashton and Shannon participated in the first Grayson College Facilities Planning meeting as members of the committee. There will be a total of three meetings to discuss the future needs of Grayson College.*
- *Updated the Raising Innovative Sherman Entrepreneurs (RISE) Program. The most notable change was that businesses needed to be in business for at least one year but no more than five years with a minimum of one year of sales. There were two applicants and one applicant advanced to Round 2. The applicant has decided not to continue in this year's competition due to scaling back operations at this time. We are looking forward to kicking-off the planning of the 2025 challenge in the summer of this year.*
- *Met with partners of Mackey Mask for an update and to discuss next year's RISE challenge.*
- *April completed the Basic Economic Development Course in McKinney.*
- *April graduated with her associate degree from Grayson College.*

- *Attended the TEDC Annual Conference in Houston, TX. While at the conference, Ashton and Shannon participated in the FLT Seminar.*
- *Kent and Ashton attended the TEDC Board Retreat in Dallas. Kent serves as the Vice-Chair, Chair Elect and Ashton serves as the Political Action Committee (PAC) Co-Chair.*
- *Gail Utter hosted the Sherman WOMO small group 4th quarter breakout session at Elizabeth Garden to discuss their unique business, and the attendees shared updates, announcements, wants/needs, and business challenges.*
- *Hosted a WOMO Committee Meeting to discuss committee member terms and ideas for the annual event scheduled for January 2024. Continued planning the upcoming WOMO Annual Event: Launch Into Action being held on January 11, 2024. Promoted the WOMO Annual Event at News at Noon, Sherman Chamber of Commerce Plug-in, and on social media.*
- *Held the first WOMO Workshop at Taylor'd Trends to provide Marketing 101 training to Sherman WOMO businesses.*
- *Shannon attended the World Awaits Conference hosted by Black Women Wall Street.*
- *Met with Nancy Smith, HUB, to discuss Sherman-Denison Comprehensive Housing and Growth.*
- *SEDCO staff attended the DFW Marketing Team End of Year Celebration at the Oncor Headquarters in Dallas.*
- *Ashton and Shannon attended the Sherman Young Professionals Lunch and Learn at First United Bank featuring a United Way presentation.*
- *Ashton served a Principal for the Day at Fairview Elementary School.*
- *Collaborated with 2x2 Media to create a new Texoma Tech Hub Workshop Video, WOMO Sizzle Reel, and the 2023/2024 annual reels.*
- *Updated sedco.org with new data and graphics.*
- *SEDCO staff participated in Trunk or Treat on Travis and Wall Streets and the City of Sherman Christmas Parade.*
- *SEDCO staff participated in multiple webinars, committee meetings, and community events.*
- *Sponsored eight ads on Facebook highlighting Sherman Industries, available jobs, Sherman WOMO, and the Sherman community including downtown:*
 - *Total Reach: 54,740*
 - *Total Link Clicks: 1,947*
 - *Total Post Engagement: 21,25*
 - *Thru Plays: 39,422*

Additional note to City Council

- *In the third quarter, SEDCO updated the Financial Assistance Application by introducing a Community Involvement Section. This section mandates that companies benefiting from a SEDCO incentive in the form of cash and/or land must allocate an amount equivalent to 1% of the total incentive value to support a non-profit or community organization in Sherman.*



City Council Regular Meeting

Agenda Item No. G.4.

Meeting Date: 1/16/2024

Prepared By: Mary Lawrence, Chief Financial Officer

Approved By: Robby Hefton, City Manager

Caption:

OTHER BUSINESS

Approve Investment Report for Quarter Ended December 31, 2023

Issue:

To approve the Investment Report for the quarter ended December 31, 2023

Background:

The total operating portfolio book value of about \$32.4 million decreased by about \$2.3 million from the previous quarter due to the maturities of State of Texas Political Subdivision Obligations and withdrawals in the Local Government Investment Pool (LGIP) accounts. The underlying investments were adequately diversified among six different types of securities. The portfolio's weighted-average maturity of 364 days decreased from 406 days last quarter. The portfolio yield of 3.68% was 111 basis points below our benchmark 1-year Constant Maturity Treasury Index. Book value slightly exceeds market value (\$0.4 million).

The debt proceeds portfolio balance of \$83.5 million decreased by \$3.4 million due to payments for capital projects. The portfolio includes a Local Government Investment Pool and U.S. Agencies. The portfolio's weighted-average maturity of 55 days increased from 10 days last quarter. The portfolio yield of 5.26% was 34 basis points below the benchmark yield for this portfolio, the 4-week Constant Maturity Index of 5.6%. Book value approximated market value.

Origination:

Finance Department

Financial Consideration:

None

Staff Recommendation:

Staff recommends the Council accept the Investment Report as presented.

Alternatives:

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

Attachments:

1. 2023-12-31 Investment Reports w_Memo

DATE: January 9, 2024

TO: The City of Sherman Investment Committee
Councilman Juston Dobbs
Deputy Mayor Pam Howeth
Robby Hefton, City Manager

FROM: Mary Lawrence, Chief Financial Officer *ML*

SUBJECT: Investment Reports for the Quarter Ended December 31, 2023.

Enclosed is a copy of the quarterly investment reports for December 31, 2023. As of that date, the City followed all applicable state laws and internal policies for the portfolio.

The total operating portfolio book value of about \$32.4 million decreased by about \$2.3 million from the previous quarter due to the maturities of State of Texas Political Subdivision Obligations and withdrawals in the Local Government Investment Pool (LGIP) accounts. The underlying investments were adequately diversified among six different types of securities. The portfolio's weighted-average maturity of 364 days decreased from 406 days last quarter. The portfolio yield of 3.68% was 111 basis points below our benchmark 1-year Constant Maturity Treasury Index. Book value slightly exceeds market value (\$0.4 million).

The debt proceeds portfolio balance of \$83.5 million decreased by \$3.4 million due to payments for capital projects. The portfolio includes a Local Government Investment Pool and U.S. Agencies. The portfolio's weighted-average maturity of 55 days increased from 10 days last quarter. The portfolio yield of 5.26% was 34 basis points below the benchmark yield for this portfolio, the 4-week Constant Maturity Index of 5.6%. Book value approximated market value.

The investment reports will be on the January 16, 2024, City Council agenda for their review and approval. Please call me if you have any questions about this item.

attachment (as stated above)



CITY OF SHERMAN, TEXAS
INVESTMENT PORTFOLIO SUMMARY
For the Quarter Ending December 31, 2023

Total Portfolio Summary				
	Current Quarter 12/31/2023	Prior Quarter 9/30/2023	Change From Prior Quarter	
Book Value	\$ 32,397,443	\$ 34,708,768	\$	(2,311,325)
Market Value	\$ 32,021,206	\$ 34,041,569	\$	(2,020,363)
Weighted Average Maturity - Days	364	406		(42)
Weighted Average Yield	3.68%	3.68%		0.00%
Earned Income	\$ 313,744	\$ 342,897	\$	(29,153)
Earned Income - Year-to-Date	\$ 313,744	\$ 1,122,512	\$	(808,768)

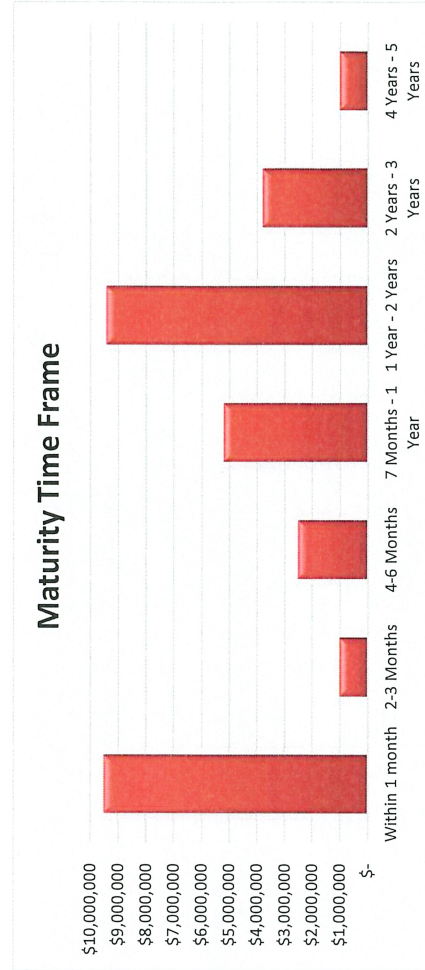
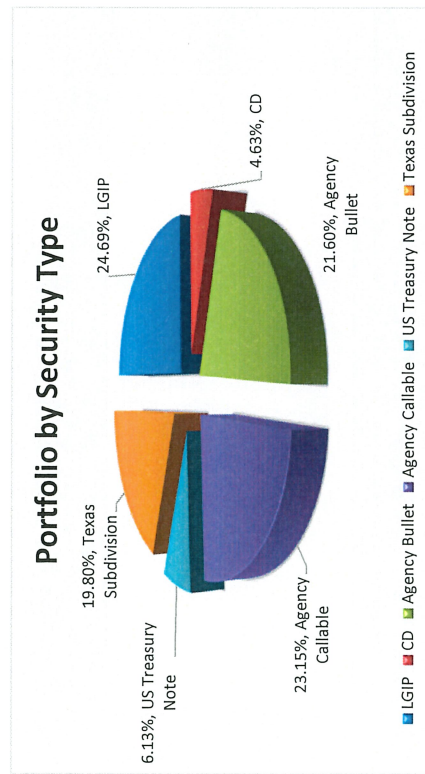
This report complies with the requirements of the public funds investment law and covers all the funds of the City of Sherman that are subject to that law.

As of December 31, 2023, the City's portfolio had a book value of \$32.4 million and a market value of \$32 million. Of this amount, approximately \$8 million was held in Local Government Investment Pools (LGIP), \$1.5 million was held in Certificates of Deposit (CD), \$14.5 million was held in U.S. Agency Securities, \$2.0 million was held in U.S. Treasury Notes and \$6.4 million was held in State of Texas political subdivision obligations.

The portfolio value decreased by \$2.3 million from the previous quarter due to maturities of State of Texas Political Subdivisions of \$0.9 million and withdrawals of Local Government Investment Pools (LGIP) of \$1.4 million.

The weighted average yield of the portfolio was 3.68%, which is 111 basis points less than the 1-year Constant Maturity Treasury Index of 4.79%, and the same as the previous quarter.

The weighted average maturity of the portfolio decreased from 406 days at September 30, 2023, to 364 days at December 31, 2023.



Mary Lawrence

Mary Lawrence, Chief Financial Officer and City of Sherman Investment Officer

Jana Walker

Jana Walker, Controller and City of Sherman Investment Officer

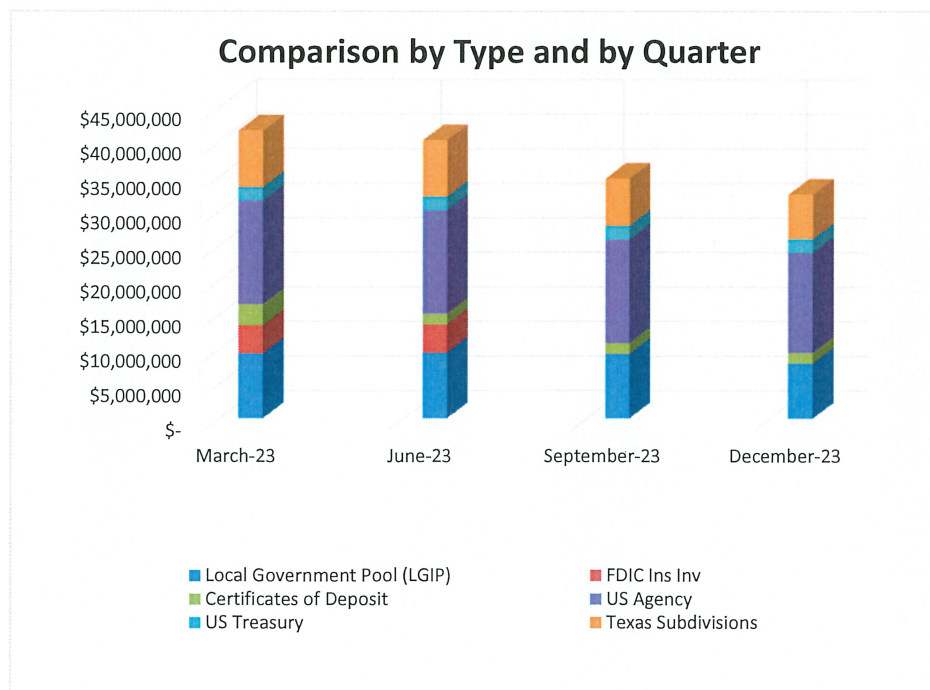
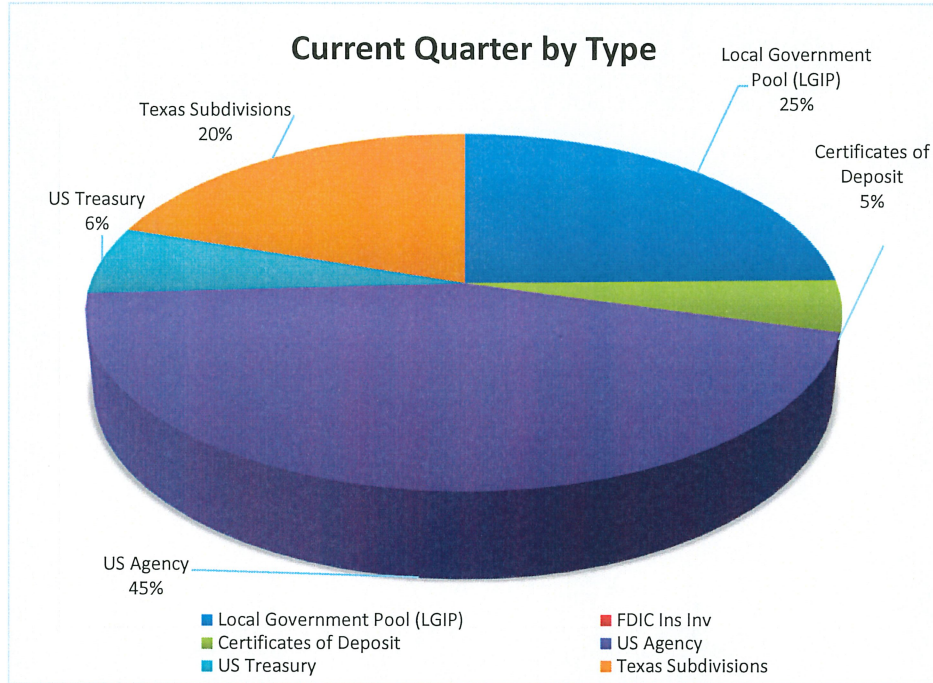
CUSIP	Settlement Date	Security Type	Security Description	CPN Rate	Maturity Date	Credit Rating	Par Value	Purchase Price	Original Cost	Book Value	Market Price	Market Value	Days to Maturity	YTM
TexPool		LGIP	TexPool		1/1/2024	AAAm	\$ 3,963,157	100.00	\$ 3,963,157	\$ 3,963,157	100.00	\$ 3,963,157	1	5.38%
TexStar		LGIP	TexSTAR		1/1/2024	AAAm	2,157,336	100.00	2,157,336	2,157,336	100.00	2,157,336	1	5.33%
TexPool ARPA		LGIP	TexPool ARPA		1/1/2024	AAAm	1,878,037	100.00	1,878,037	1,878,037	100.00	1,878,037	1	5.38%
CDARS 1026654471	01/05/23	CDARS	Bank of Texas	4.50%	1/4/2024	AAAm	1,500,000	100.00	1,500,000	1,500,000	100.00	1,500,000	4	4.60%
9128CBM2	02/22/21	US Treasury Note	US Treasury Note B Class	0.13%	2/15/2024	AA+	1,000,000	99.76	997,578	999,916	99.38	993,792	46	0.21%
3133EMVD1	04/05/21	Agency Callable	FFCB	0.33%	4/5/2024	AA+	1,000,000	100.00	1,000,000	1,000,000	98.68	986,754	96	0.33%
3130ARPNS	04/26/22	Agency Bullet	FHLB	2.61%	4/26/2024	AA+	1,000,000	100.00	1,000,000	1,000,000	99.16	991,621	117	2.61%
3130AML1M2	06/07/21	Agency Callable	FHLB	0.38%	6/7/2024	AA+	500,000	100.00	500,000	500,000	97.92	489,614	159	0.38%
442349EL6	03/24/23	Texas Subdivision	Houston Tx apt Sys Rev	1.27%	7/1/2024	AA	1,000,000	100.00	968,714	986,391	98.14	981,443	183	4.10%
811275HB5	11/23/21	Texas Subdivision	Scurry Rosser TX ISD	1.23%	8/15/2024	Aa3	205,000	106.91	219,155	208,243	99.85	204,694	228	0.45%
3130AV3D2	03/06/23	Agency Callable	FHLB	5.45%	9/6/2024	AA	1,000,000	100.00	1,000,000	1,000,000	99.88	998,754	250	5.45%
3136G43H4	03/29/21	Agency Callable	FHLB	0.40%	9/16/2024	AA+	1,000,000	99.850	998,500	999,692	96.80	968,039	260	0.44%
3130APNE1	11/18/21	Agency Callable	FHLB	0.90%	11/18/2024	AA+	1,000,000	100.000	1,000,000	1,000,000	96.38	963,790	323	0.90%
3130AUZ56	03/24/23	Agency Callable	FHLB	5.25%	12/20/2024	AA	1,000,000	100.000	1,005,562	1,000,419	99.72	997,193	355	4.75%
386166JC7	02/24/22	Texas Subdivision	Grand Prairie TX TXbl Ref	3.00%	1/1/2025	AA	310,000	103.887	322,050	314,224	97.95	303,654	367	1.60%
983064YX8	03/11/21	Texas Subdivision	City of Wylie, TX GO	3.00%	2/15/2025	AA	250,000	110.740	276,852	257,691	99.92	249,799	412	0.25%
3133ENPY0-A	02/25/22	Agency Bullet	FFCB	1.75%	2/25/2025	AA+	1,000,000	99.986	999,660	999,869	96.88	968,821	422	1.76%
3133ENPY0-B	03/11/22	Agency Bullet	FFCB	1.75%	2/25/2025	AA+	1,000,000	99.513	995,913	998,882	96.68	966,820	422	1.92%
882808ES7	03/24/23	Texas Subdivision	Texas St. Tech Univ Rev	2.96%	2/15/2025	AA+	885,000	98.381	870,672	876,479	97.86	866,081	412	3.86%
88213AKC8	01/24/23	Texas Subdivision	Texas St. A&M Univ R	2.69%	5/15/2025	AA	510,000	96.496	492,130	499,377	97.29	496,179	501	4.30%
88213ABW4	03/24/23	Texas Subdivision	Texas St A&M Univ R	2.88%	5/15/2025	AA	115,000	97.770	113,668	113,359	97.55	112,179	501	3.98%
91282CEY3	01/23/23	US Treasury Note	US Treasury	3.00%	7/15/2025	AA	1,000,000	97.740	977,431	986,337	97.83	978,320	562	3.97%
248775W2	02/07/23	Texas Subdivision	Denton Cnty TX	0.77%	7/15/2025	AA	1,335,000	92.332	1,233,264	1,270,291	94.35	1,259,554	562	4.11%
87638QQW2	03/24/23	Texas Subdivision	Tarrant Cnty TX Cult Hosp Rev	1.39%	9/1/2025	AA	100,000	93.750	93,854	95,709	94.22	94,221	610	4.12%
3130ARCN9	03/29/22	Agency Bullet	FHLB	2.00%	9/29/2025	AA+	1,000,000	100.000	1,000,000	1,000,000	95.95	959,544	638	2.00%
3134GX3U6	10/24/22	Agency Bullet	Freddie Mac	5.15%	10/24/2025	AA+	1,000,000	100.000	1,000,000	1,000,000	99.64	996,379	663	5.15%
3130AUBX1	12/29/22	Agency Bullet	FFCB	5.00%	12/29/2025	AA+	1,000,000	100.000	1,000,000	1,000,000	99.45	994,484	729	5.00%
79625GFC2	04/13/22	Texas Subdivision	San Antonio Tx Elec & Gas TXBI	3.15%	2/1/2026	AA+	350,000	100.000	350,000	350,000	97.10	339,834	763	3.15%
232769JW0	09/02/22	Texas Subdivision	Cypress-Fairbanks TX Ind Sch	5.00%	2/15/2026	AA+	500,000	104.770	523,031	514,678	101.36	506,787	777	3.52%
3134GYH96	02/27/23	Agency Bullet	FHLMC	5.20%	2/24/2026	AA	1,000,000	100.000	1,000,000	1,000,000	99.85	998,464	786	5.20%
3130AMMJ8	06/06/21	Agency Callable	FHLB	1.50%	6/9/2026	AA+	1,000,000	100.000	1,000,000	1,000,000	94.07	940,653	891	0.40%
876448DY4	01/24/23	Texas Subdivision	Tarrant Tx Regl Water Dist	0.75%	9/1/2026	AA	400,000	89.195	356,780	368,043	90.74	362,966	975	4.00%
4637778E5	02/07/23	Texas Subdivision	Iring Tx Table	1.47%	9/15/2026	AA	600,000	91.000	549,467	559,313	92.43	554,577	989	4.18%
3134GYXS6	07/26/23	Agency Callable	FHLMC	6.00%	7/27/2028	AA+	1,000,000	100.000	1,000,000	1,000,000	99.77	997,656	1,670	6.00%

Total \$ 32,558,530 \$ 32,342,810 \$ 32,397,443 \$ 32,021,206

CUSIP	Settle Date	Security Description	Maturity Date	Market Value 9/30/2023	Change in Market Value	Market Value 12/31/2023
TexPool		TexPool		\$ 5,402,137	\$ (1,438,980)	\$ 3,963,157
TexStar		TexStar		2,128,609	28,727	2,157,336
Landing Rock		Landing Rock		5,631	(5,631)	-
TexPool ARPA		TexPool ARPA		1,852,860	25,177	1,878,037
CDARS 1026654471		CDARS	1/4/2024	1,500,000	-	1,500,000
02301EED9	6/16/2021	Amarillo Potter TX	11/15/2023	444,929	(444,929)	-
3134GXXQ2	7/19/2022	Freddie Mac	12/28/2023	497,372	(497,372)	-
9128CBM2	2/22/2021	US Treasury Note B Class	2/15/2024	980,625	13,167	993,792
3133EMVD1	4/5/2021	FFCB	4/5/2024	973,598	13,166	986,764
3130ARPN5	4/26/2022	FHLB	4/26/2024	984,094	7,527	991,621
3130AMLM2	6/7/2021	FHLB	6/7/2024	482,560	7,054	489,614
442349EL6	3/24/2023	Houston Tx aprt Sys Rev	7/1/2024	967,585	13,858	981,443
811275HB5	11/23/2021	Scurry Rosser TX ISD	8/15/2024	202,508	2,186	204,694
3130AV3D2	3/6/2023	FHLB	9/6/2024	996,389	2,365	998,754
3136G43H4	3/29/2021	FHLB	9/16/2024	952,069	15,970	968,039
3130APNE1	11/18/2021	FHLB	11/18/2024	949,460	14,330	963,790
3130AUZ56	3/24/2023	FHLB	12/20/2024	993,341	3,852	997,193
386166JC7	2/24/2022	Grand Praire TX TXbl Ref	1/1/2025	299,902	3,752	303,654
983064YX8	3/11/2021	City of Wylie, TX GO	2/15/2025	245,040	4,759	249,799
882806ES7	3/24/2023	Texas St. Tech Univ Rev	2/15/2025	855,790	10,291	866,081
3133ENPY0-A	2/25/2022	FFCB	2/25/2025	953,731	15,090	968,821
3133ENPY0-B	3/11/2022	FFCB	2/25/2025	951,732	15,088	966,820
88213AKC8	1/24/2023	Texas St. A&M Univ R	5/15/2025	488,734	7,445	496,179
88213ABW4	3/24/2023	Texas St A&M Univ R	5/15/2025	110,551	1,628	112,179
91282CEY3	1/23/2023	US Treasury	7/15/2025	963,711	14,609	978,320
2487757W2	2/7/2023	Denton Cnty TX	7/15/2025	1,233,038	26,516	1,259,554
87638QQW2	3/24/2023	Tarrant Cnty TX Cult Hosp Rev	9/1/2025	92,168	2,053	94,221
3130ARCN9	3/29/2022	FHLB	9/29/2025	942,810	16,734	959,544
3134GX3U6	10/24/2022	Freddie Mac	10/24/2025	988,443	7,936	996,379
3130AUBX1	12/29/2022	FFCB	12/29/2025	985,237	9,247	994,484
79625GFC2	4/13/2022	San Antonio Tx Elec & Gas TXBI	2/1/2026	332,922	6,912	339,834
232769JW0	9/2/2022	Cypress-Fairbanks TX Ind Sch	2/15/2026	498,819	7,968	506,787
3130AMMJ8	6/6/2021	FHLB	6/9/2026	915,919	24,734	940,653
876448DY4	1/24/2023	Tarrant Tx Regl Water Dist	9/1/2026	354,029	8,937	362,966
3134GYH96	2/27/2023	FHLMC	2/24/2026	986,889	11,575	998,464
4637778E5	2/7/2023	Irving Tx Table	9/15/2026	539,941	14,636	554,577
3134GYXS6	7/27/2028	FHLMC	7/27/2028	988,396	9,260	997,656
Total				\$ 34,041,569	\$ (2,020,363)	\$ 32,021,206

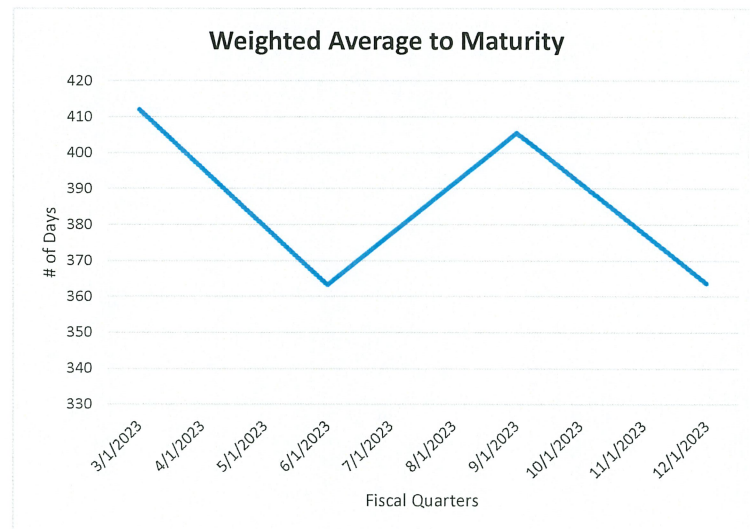
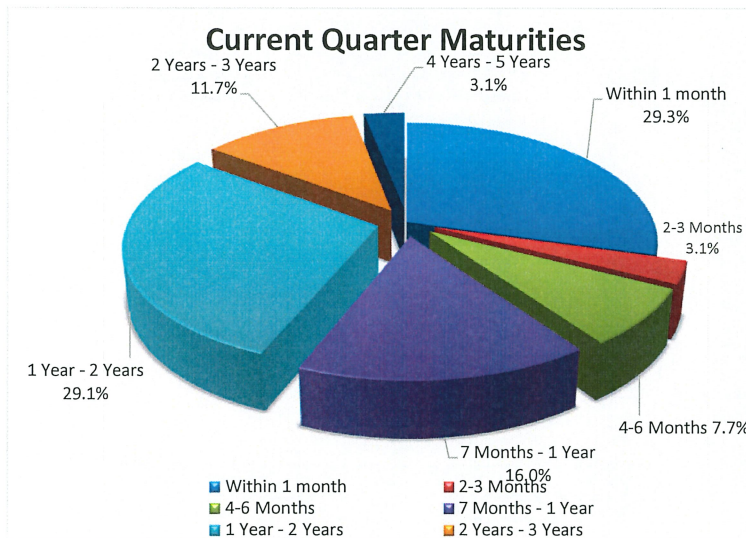
Trade Date	Settle Date	CUSIP	Security Description	Coupon	Maturity Date	Call Date	Par Value	Principal Amount	Interest Purchased/Received	Total Amount	YTM
<u>Maturities, Calls and Withdrawals</u>											
	11/1/2023		Landing Rock	5.23%			5,656	5,656	-	5,656	5.23%
	11/6/2023		Texpool	5.37%			1,500,000	1,500,000	-	1,500,000	5.37%
	11/15/2023	02301EED9	Amarillo Potter TX	4.00%	11/15/2023		445,000	483,826	8,900	492,726	0.37%
	12/28/2023	3134GXXQ2	Freddie Mac	2.25%	12/28/2023		500,000	497,100	8,250	505,350	3.38%
<u>Purchases</u>											
<u>Income Payments</u>											
	12/31/2023	TexPool	LGIP	5.37%					61,020	61,020	5.37%
	12/31/2023	TexStar	LGIP	5.34%					28,726	28,726	5.34%
	11/30/2023	Landing Rock	FDIC Ins Inv	5.23%					25	25	5.23%
	12/31/2023	TexPool-ARPA	LGIP	5.37%					25,177	25,177	5.37%
	12/31/2023	CDARS 1026654471	Bank of Texas	4.50%	1/4/2024				17,045	17,045	4.60%
	10/2/2023	3130ARCN9	FHLB	2.00%	9/29/2025				10,000	10,000	2.01%
	10/5/2023	3133EMVD1	FFCB	0.33%	4/5/2024				1,650	1,650	0.33%
	10/24/2023	3134GX3U6	Freddie Mac	5.15%	10/24/2025				26,250	26,250	5.15%
	10/26/2023	3130ARPNS	FHLB	2.61%	4/26/2024				13,050	13,050	2.61%
	11/18/2023	3130APNE1	FHLB	0.90%	11/18/2024				4,500	4,500	0.90%
	11/15/2023	88213ABW4	Texas St A&M Univ Rev	2.88%	5/15/2025				1,658	1,500	3.98%
	11/15/2023	88213AKC8	Texas St A&M Univ R	2.69%	5/15/2025				6,849	27,250	4.30%
	12/7/2023	3130AAML2	FHLB	0.38%	6/7/2024				938	938	0.38%
	12/9/2023	3130AMMJ8	FHLB	0.40%	6/9/2026				7,500	7,500	0.40%
	12/29/2023	3130AUBX1	FHLB	5.00%	12/29/2025				25,000	2,000	5.00%
Total										\$ 246,038	

Cash/Investment Type	Balance 3/31/2023	Balance 6/30/2023	Balance 9/30/2023	Balance 12/31/2023	Percent of Portfolio	Portfolio Cap
Local Government Pool (LGIP)	\$9,382,641	\$9,498,982	\$ 9,383,606	\$ 7,998,530	25%	50.00%
FDIC Ins Inv	4,079,402	4,124,812	5,631	-	0%	50.00%
Certificates of Deposit	3,016,360	1,500,000	1,500,000	1,500,000	5%	50.00%
US Agency	14,995,964	14,996,970	14,997,932	14,498,862	45%	50.00%
US Treasury	1,978,430	1,980,911	1,983,772	1,986,253	6%	50.00%
Texas Subdivisions	8,159,048	8,168,734	6,837,827	6,413,798	20%	50.00%
Total	\$ 41,611,845	\$ 40,270,409	\$ 34,708,768	\$ 32,397,443	100.00%	



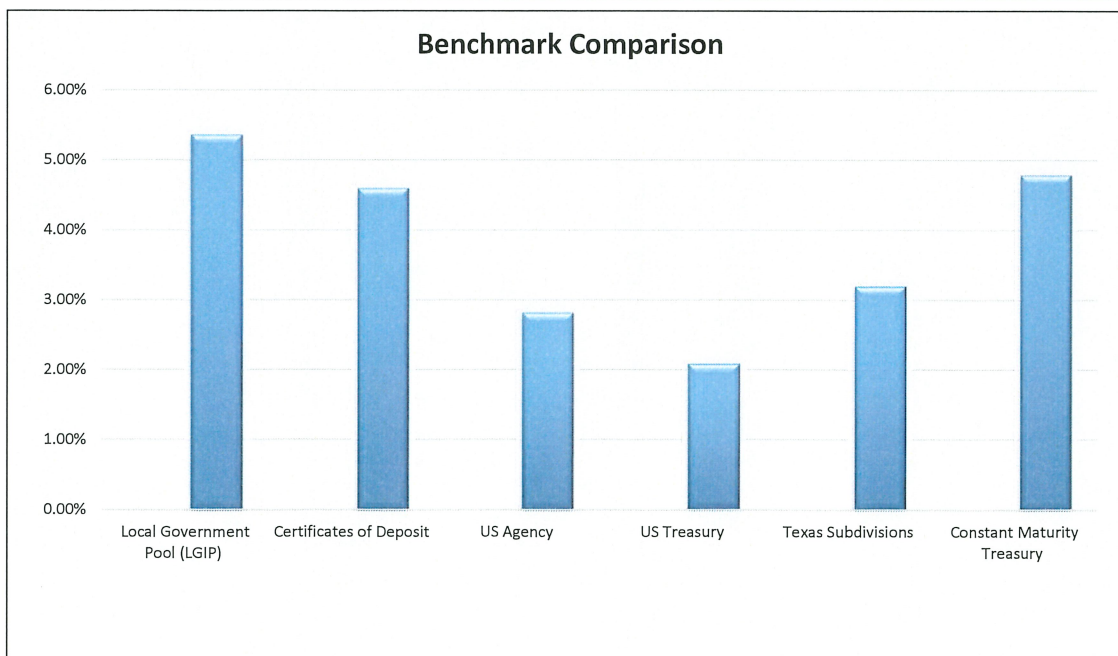
Maturity Time Frame	Balance 3/31/2023	Balance 6/30/2023	Balance 9/30/2023	Balance 12/31/2023	Percent of Portfolio
Within 1 month	\$ 13,462,043	\$ 14,623,773	\$ 9,389,237	\$ 9,498,530	29.3%
2-3 Months	1,516,360	1,349,861	946,520	999,916	3.1%
4-6 Months	2,358,922	950,039	2,499,712	2,500,000	7.7%
7 Months - 1 Year	3,452,862	4,999,507	5,688,750	5,194,745	16.0%
1 Year - 2 Years	11,126,777	9,240,085	9,397,532	9,412,218	29.1%
2 Years - 3 Years	7,787,622	8,193,275	5,787,018	3,792,034	11.7%
3 Years - 4 Years	1,907,259	913,869	-	-	0.0%
4 Years - 5 Years	-	-	1,000,000	1,000,000	3.1%
	\$ 41,611,845	\$ 40,270,409	\$ 34,708,769	\$ 32,397,443	100.00%

Liquidity Indicator					Maximum Allowable
Weighted Average Maturity	412.08	363.29	405.61	363.74	500.00



Date	Received/ Purchased	CUSIP	Security Description	Coupon	YTM	Interest Purchased/ Received	Accrued Interest/ Amortization	Income Earned
12/31/2023	TexPool		TexPool			\$ 61,020	\$ -	\$ 61,020
12/31/2023	TexStar		TexStar			28,726	-	28,726
12/31/2023	Landing Rock		Landing Rock			25	-	25
12/31/2023	TexPool-ARPA		TexPool			25,177	-	25,177
12/31/2023	CDARS 1026654471		Bank of Texas	4.50%	4.60%	17,045	(1)	17,044
10/2/2023	3130ARC9		FHLB	2.00%	2.00%	10,000	(5,000)	5,000
10/5/2023	3133EMVD1		FFCB	0.33%	0.33%	1,650	(825)	825
10/24/2023	3134AGX3UG		Freddie Mac	5.15%	5.15%	25,750	(12,875)	12,875
10/26/2023	3130ARPN5		FHLB	2.61%	2.61%	13,050	(6,525)	6,525
11/15/2023	88213ABW4		Texas ST A&M Univ R	2.83%	3.98%	1,658	(531)	1,127
11/15/2023	88213AKC8		Texas ST A&M Univ R	2.69%	4.29%	6,849	(1,489)	5,360
11/15/2023	02301EED9		Amarillo Potter TX	4.00%	0.37%	8,900	(8,686)	214
11/18/2023	3130APNE1		FHLB	0.90%	0.90%	4,500	(2,250)	2,250
12/7/2023	3130AMLM2		FHLB	0.38%	0.38%	938	(469)	469
12/9/2023	3130AMMJ8		FHLB	0.40%	0.40%	7,500	(3,750)	3,750
12/28/2023	3134GXXQ2		Freddie Mac	2.25%	3.39%	8,250	(3,726)	4,524
12/29/2023	3130AUBX1		FHLB	5.00%	5.00%	25,000	(12,500)	12,500
12/31/2023	3134GYXS6		FHLMC	6.00%	6.00%	-	15,000	15,000
12/31/2023	386166JC7		Grand Praire TX TXbl Ref	3.00%	1.60%	-	1,269	1,269
12/31/2023	442349EL6		Houston Tx Apt Sys Rev	1.27%	4.10%	-	9,947	9,947
12/31/2023	91282CEY3		US Treasury	3.00%	3.97%	-	9,777	9,777
12/31/2023	2487757W2		Denton Cnty TX	0.77%	4.11%	-	13,077	13,077
12/31/2023	4637778E5		Irving TX Table	1.47%	4.18%	-	5,942	5,942
12/31/2023	237269JWO		Cypress-Fairbanks Tx Ind Sch	5.00%	3.52%	-	4,523	4,523
12/31/2023	811275HB5		Scurry Rosser TX ISD	3.00%	0.45%	-	240	240
12/31/2023	983064YX8		City of Wylie, TX GO	3.00%	0.25%	-	166	166
12/31/2023	9128CBM2		US Treasury Note B Class	0.13%	0.21%	-	519	519
12/31/2023	882806ES7		Texas St Tech Univ Rev	2.96%	3.86%	-	8,445	8,445
12/31/2023	3130AUZ56		FHLB	5.25%	4.75%	-	13,017	13,017
12/31/2023	3134GYH96		FHLMC	5.20%	5.20%	-	13,000	13,000
12/31/2023	3133ENPY0-A		FFCB	1.75%	1.76%	-	4,403	4,403
12/31/2023	3133ENPY0-B		FFCB	1.75%	1.92%	-	4,786	4,786
12/31/2023	876448DY4		Tarrant TX Reg WD	0.75%	4.00%	-	3,749	3,749
12/31/2023	79625GFC2		San Antonio Tx Elec & Gas TXBI	3.15%	3.15%	-	2,752	2,752
12/31/2023	87638QQW2		Tarrant Cnty Tx Cultural Hosp Rev	1.39%	4.12%	-	988	988
12/31/2023	3130AV3D22		FHLB	5.45%	5.45%	-	13,625	13,625
12/31/2023	3136G43H4		FMNA	0.40%	0.44%	-	1,108	1,108

\$ 246,038 \$ 67,707 \$ 313,744



CITY OF SHERMAN, TEXAS
DEBT PROCEEDS PORTFOLIO SUMMARY
For the Quarter Ending December 31, 2023

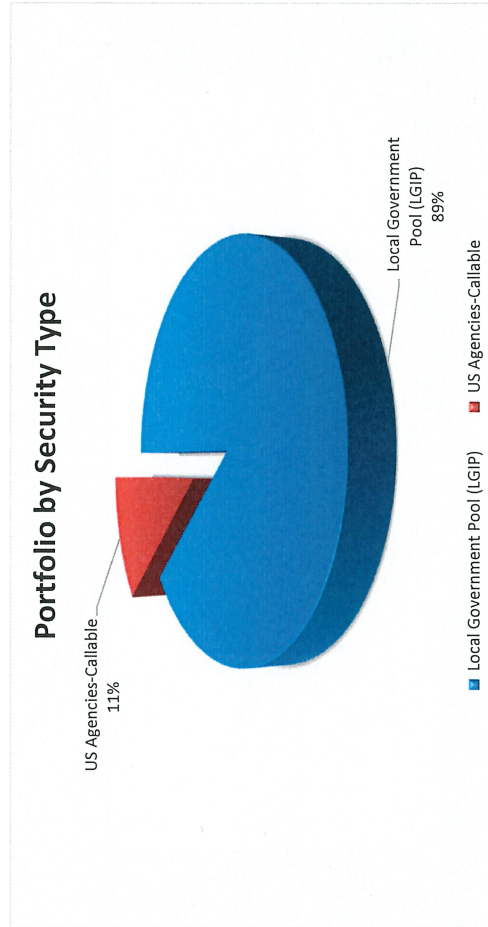
Total Portfolio Summary			
	Current Quarter 12/31/2023	Prior Quarter 9/30/2023	Change From Prior Quarter
Book Value	\$ 83,589,901	\$ 86,971,686	\$ (3,381,785)
Market Value	\$ 83,524,331	\$ 86,870,768	\$ (3,346,437)
Weighted Average Maturity - Days	55	10	45
Weighted Average Yield	5.26%	5.14%	0.12%
Earned Income	\$ 1,136,224	\$ 227,770	\$ 908,454
Earned Income - Year-to-Date	\$ 1,136,224	\$ 632,515	\$ 503,709

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.

As of December 31, 2023, the City of Sherman's debt proceeds portfolio had a book value of about \$83.5 million, which approximates the market value. Of this amount, \$74 million was held in Local Government Investment Pools (LGIP) and \$9.5 million was held in U.S. Agency Securities.

The portfolio value decreased by \$3.4 million from the previous quarter due to draws for project payments.

The weighted average yield on the portfolio was 5.26%, 34 basis points below the 4-week Constant Maturity Treasury Index of 5.6%, and 12 basis points above the previous quarter.



Mary Lawrence

Mary Lawrence, Chief Financial Officer and City of Sherman Investment Officer

Jana Walker

Jana Walker, Controller and City of Sherman Investment Officer

Name/CUSIP	Debt Issuance	Settlement Date	Security Type	Security Description	Maturity Date	Par Value	Purchase Price	Original Cost	Book Value	Market Price	Market Value	Days to Maturity	YTM
TexPool	2021 Certificates of Obligation		LGIP	TexPool	1/1/2024	5,227,314	100.00	5,227,314	5,227,314	100.00	5,227,314	1	5.37%
TexPool	2023 Certificates of Obligation		LGIP	TexPool	1/1/2024	68,861,332	100.00	68,861,332	68,861,332	100.00	68,861,332	1	5.37%
Landing Rock	2017 Certificates of Obligation		Ins Inv	Landing Rock	1/1/2024	1,255	100.00	1,255	1,255	100.00	1,255	1	5.23%
31300AMZQ8	2021 Certificates of Obligation	06/30/21	US Agency-Callable	FHLB	8/30/2024	1,000,000	100.00	1,000,000	1,000,000	97.05	970,548	243	0.51%
3130AMHGO	2021 Certificates of Obligation	05/27/21	US Agency-Callable	FHLB	11/26/2024	1,000,000	100.00	1,000,000	1,000,000	95.99	959,907	331	0.48%
3130AXYF9	2023 Certificates of Obligation	12/06/23	US Agency-Callable	FHLB	6/6/2025	7,500,000	100.00	7,500,000	7,500,000	100.05	7,503,975	523	5.45%
Total						\$ 83,589,901		\$83,589,901	\$ 83,589,901		\$ 83,524,331		

CUSIP	Security Type / Description	Maturity Date	Market Value 9/30/2023	Change in Market Value	Market Value 12/31/2023
TexPool 2021 CO	LGIP		6,416,191	(1,188,877)	5,227,314
TexPool 2023 CO	LGIP		77,646,825	(8,785,493)	68,861,332
Landing Rock 2017 CO	Ins Inv		891,635	(890,380)	1,255
Landing Rock 2021 CO	Ins Inv		17,035	(17,035)	-
31300AMZQ8-FHLB 2021 CO	US Agency-Callable	8/30/2024	955,132	15,416	970,548
3130AMHGO-FHLB 2021 CO	US Agency-Callable	11/26/2024	943,950	15,957	959,907
3130AXYF9-FHLB 2023 CO	US Agency-Callable	6/6/2025	-	7,503,975	7,503,975
Total			\$ 86,870,768	\$ (3,346,437)	\$ 83,524,331

Settle Date	Name	Security Description	Coupon	Maturity Date	Par Value	Price	Principal Amount	Interest Purchased/Received	Total Amount	YTM
<u>Project Payments/Draws</u>										
11/1/2023	Landing Rock 2021 CO	LGIP			\$ 17,111		\$ 17,111	\$ -	\$ 17,111	
12/27/2023	TexPool 2021 CO	LGIP			1,292,552		1,292,552	-	1,292,552	
10/23/2023	Landing Rock 2017 CO	Ins Inv			358,111		358,111	-	358,111	
11/22/2023	Landing Rock 2017 CO	Ins Inv			202,190		202,190	-	202,190	
12/27/2023	Landing Rock 2017 CO	Ins Inv			336,879		336,879	-	336,879	
10/24/2023	TexPool 2023 CO	Ins Inv			220,446		220,446	-	220,446	
11/24/2023	TexPool 2023 CO	LGIP			869,819		869,819	-	869,819	
12/1/2023	TexPool 2023 CO	LGIP			7,500,000		7,500,000	-	7,500,000	
12/28/2023	TexPool 2023 CO	LGIP			1,208,300		1,208,300	-	1,208,300	
<u>Deposits/Purchases</u>										
11/6/2023	3130AXYF9-FHLB 2023 CO Purchase	LGIP	5.45%	6/6/2025	7,500,000		7,500,000	-	7,500,000	5.45%
<u>Income Payments</u>										
10/31/2023	Landing Rock 2017 CO	Ins Inv	5.23%				\$ 3,498	3,498	3,498	5.23%
10/31/2023	Landing Rock 2021 CO	Ins Inv	5.23%				76	76	76	5.23%
10/31/2023	TexPool 2021 CO	LGIP	5.36%				29,202	29,202	29,202	5.36%
10/31/2023	TexPool 2023 CO	LGIP	5.36%				353,138	353,138	353,138	5.36%
11/30/2023	Landing Rock 2017 CO	Ins Inv	5.23%				2,047	2,047	2,047	5.23%
11/30/2023	TexPool 2021 CO	LGIP	5.37%				28,524	28,524	28,524	5.37%
11/30/2023	TexPool 2023 CO	LGIP	5.37%				342,551	342,551	342,551	5.37%
11/26/2023	3130AMHGO	FHLB	0.48%				2,375	2,375	2,375	0.48%
12/31/2023	Landing Rock 2017 CO	Ins Inv	5.23%				1,255	1,255	1,255	5.23%
12/31/2023	TexPool 2021 CO	LGIP	5.37%				28,839	28,839	28,839	5.37%
12/31/2023	TexPool 2023 CO	LGIP	5.37%				317,382	317,382	317,382	5.37%
Total								\$ 1,108,887		

Cash / Investment Type	Balance 3/31/2023	Balance 6/30/2023	Balance 9/30/2023	Balance 12/31/2023	Percent of Portfolio	Portfolio Cap
Local Government Pool (LGIP)	\$ 3,620,367	\$ 1,927,074	\$84,063,016	\$ 74,088,646	88.63%	100.00%
FDIC Insured Investment (Ins Inv)	7,575,069	7,659,392	908,670	1,255	0.00%	100.00%
US Agency-Callable	2,000,000	2,000,000	\$2,000,000	9,500,000	11.37%	100.00%
Total	\$ 13,195,436	\$ 11,586,466	\$ 86,971,686	\$ 83,589,901	100.00%	

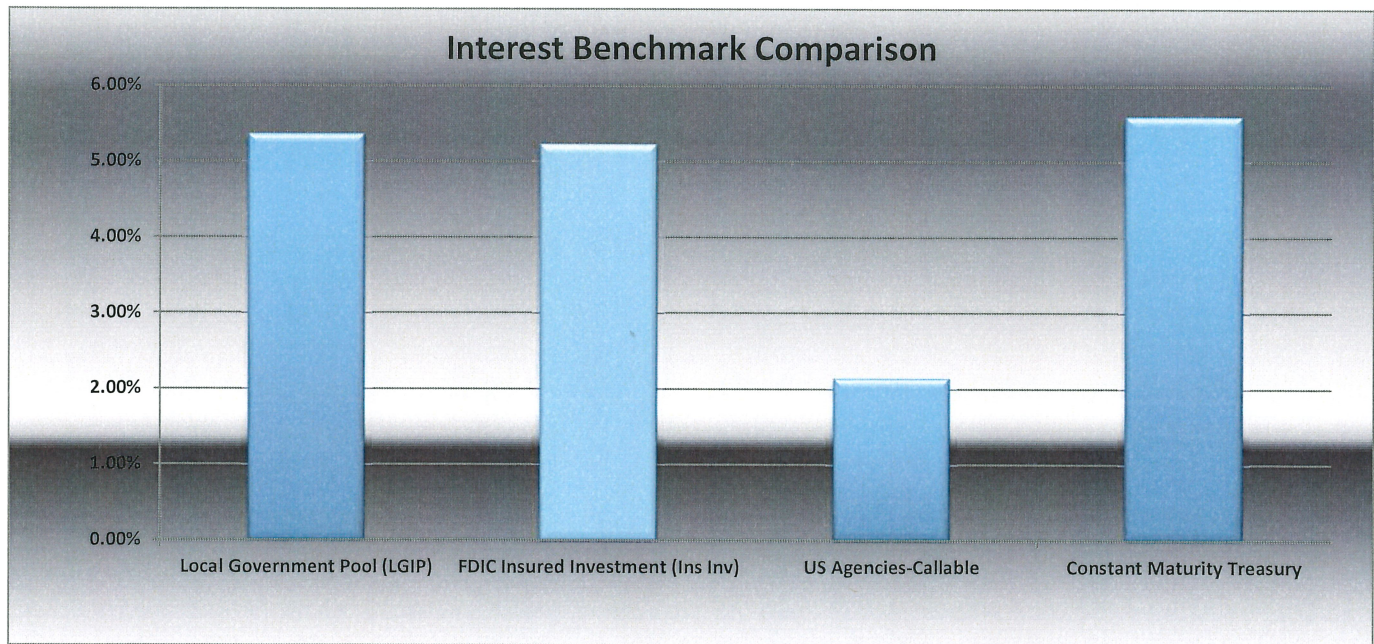


CITY OF SHERMAN, TX
Portfolio by Maturity
AS of 12/31/2023

Maturity Time Frame	Balance 3/31/2023	Balance 6/30/2023	Balance 9/30/2023	Balance 12/31/2023	Percent of Portfolio	Maximum Allowable
Within 1 month	\$ 11,195,436	\$ 9,586,466	\$ 84,971,686	\$ 74,089,901	88.6%	100%
2 months - 1 year	-	-	-	2,000,000	2.4%	
1 year - 2 years	2,000,000	2,000,000	2,000,000	7,500,000	9.0%	
2 years - 3 years	-	-	-	-	0.0%	
3 years - 4 years	-	-	-	-	0.0%	
	\$ 13,195,436	\$ 11,586,466	\$ 86,971,686	\$ 83,589,901		

Liquidity Indicator				
Weighted Average Maturity	86.03	82.13	9.69	54.68

Date Received/ Purchased	Name	Security Description	Coupon	YTM	Interest Purchased/ Received	Accrued Interest/ Amortization	Income Earned
10/31/2023	Landing Rock 2017 CO	Insured Investment		5.23%	\$ 3,498	\$ -	\$ 3,498
10/31/2023	Landing Rock 2021 CO	Insured Investment		5.23%	\$ 76	-	76
10/31/2023	TexPool 2021 CO	LGIP		5.37%	\$ 29,202	-	29,202
10/31/2023	Texpool 2023 CO	LGIP		5.38%	\$ 353,138	-	353,138
11/30/2023	Landing Rock 2017 CO	Insured Investment		5.23%	\$ 2,047	-	2,047
11/30/2023	TexPool 2021 CO	LGIP		5.37%	\$ 28,524	-	28,524
11/30/2023	Texpool 2023 CO	LGIP		5.38%	\$ 342,551	-	342,551
12/31/2023	Landing Rock 2017 CO	Insured Investment		5.23%	\$ 1,255	-	1,255
12/31/2023	TexPool 2021 CO	LGIP		5.37%	\$ 28,839	-	28,839
12/31/2023	Texpool 2023 CO	LGIP		5.32%	\$ 317,382	-	317,382
11/26/2023	3130AMHGO-FHLB 2021 CO	US Agency-Callable		0.48%	\$ 2,375	(1,188)	1,187
12/31/2023	31300AMZQ8-FHLB 2021 CO	US Agency-Callable		0.51%	\$ -	1,275	1,275
12/31/2023	3130AXYF9-FHLB 2021 CO	US Agency-Callable		5.45%	\$ -	27,250	27,250
					\$ 1,108,887	\$ 27,337	\$ 1,136,224



Council Calendar

January						
Su	Mo	Tu	We	Th	Fr	Sa
	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						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	8	8	9	10
12	13	13	14	15	16	17
18	19	20	22	22	23	24
25	26	27	28	29		

March						
Su	Mo	Tu	We	Th	Fr	Sa
					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						
Su	Mo	Tu	We	Th	Fr	Sa
	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						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	25	24	25
26	27	28	29	30	31	

June						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	6	7	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						
Su	Mo	Tu	We	Th	Fr	Sa
	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						
Su	Mo	Tu	We	Th	Fr	Sa
				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						
Su	Mo	Tu	We	Th	Fr	Sa
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						
Su	Mo	Tu	We	Th	Fr	Sa
		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						
Su	Mo	Tu	We	Th	Fr	Sa
					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						
Su	Mo	Tu	We	Th	Fr	Sa
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				

	Holiday
	Holiday for Firefighters/Police Only
	City Council Regular Meeting
	Special Called Meeting
	Budget Workshop
	Cancelled City Council Meeting

[illegible]