

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

- A.1. CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN**
- A.2. PLEDGE OF ALLEGIANCE AND INVOCATION LED BY DEPUTY MAYOR SHAWN TEAMANN**
- A.3. APPROVE MINUTES OF THE REGULAR CITY COUNCIL MEETING OF THE REGULAR CITY COUNCIL MEETING OF JANUARY 16, 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.

Consent Agenda

C.1. CONSENT AGENDA

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

Proclamations

D.1. PROCLAMATIONS

"United Acts of Kindness Day" - February 16, 2024

Special Presentations

E.1. SPECIAL PRESENTATION

Receive Presentation from the Leadership Sherman's Class of 2024

Public Hearing

F.1. PUBLIC HEARING

Public Hearing on the Reauthorization for the Industrial and Commercial Tax Abatement Program to Promote Development/Redevelopment in Certain Areas of the City

F.2. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6689

Extending the Corporate Limits of Said City so as to Annex an Area of Land Consisting of Approximately 220.18 acres of Land Located West of F.M. 1417 (Heritage Parkway) and North of O.B. Groner Road Adjacent to the Sherman City Limits and in the City of Sherman's Extraterritorial Jurisdiction, on Application of the Landowner; Providing that the Owners and Inhabitants of the Subject Area of Land shall be Entitled to the

Rights and Privileges of Other Citizens of the City of Sherman and Shall be Bound by the Acts and Ordinances now in Effect and hereinafter Adopted; Authorizing Execution of the Annexation Service Plan Agreement; Providing for a Penalty for a Violation of this Ordinance and Sherman's General Zoning Ordinance, Ordinance No. 2280; Providing a Savings/Repealing Clause, Severability Clause and an Effective Date; and Providing for the Publication of the Caption hereof

F.3. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6690 - (UNDER APPEAL FROM P&Z)

Amending Sherman's Zoning Ordinance/Code of Ordinances Chapter 14, to Rezone a Tract of Land Consisting of 220.18 acres being a part of the Elizabeth Jones Survey, Abstract No. 625 and the Jason Stamps Survey, Abstract No. 1115, City of Sherman, Grayson County, Texas, Located in the 3000 Block West OB Groner Road and the 4500 Block West Park Avenue, Heretofore Zoned R-A (Residential Agriculture) District; Rezoning and Placing the Tract in the PD (Planned Development) Zoning Classification, Shakir Rehmatullah, Flato Development, Inc. (Owner), Rick Leisner, Norris Design (Representative) and Atwell-Group (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

F.4. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6691

Amending the Code of Ordinances of the City of Sherman, Texas, Chapter 3 (Building Regulations) and Appendix C (Comprehensive Fee Schedule); Modifying Certain Existing Regulations and Establishing Certain New Regulations Relating to Buildings, Contractor Registration, Building Permits and Inspections, Substandard Structures, Backflow Devices, Manufactured Housing, Mobile Homes and Travel Trailers, Streets and Sidewalks, Residential Rental Property License and Standards, Flood Damage Prevention, Stormwater Discharges Resulting from Construction Activities and Administrative Provisions; Adopting Technical Building Codes and the International Property Maintenance Code, 2021 Edition, and Amendments Thereto; Providing for Rights of Appeal; Modifying Certain Existing Fees and Charges and Establishing Certain Fees and Charges; Providing a Penalty Clause with a Maximum Fine of \$2,000, Savings/Repealing Clause, Severability Clause and an Effective Date; Providing for the Publication of the Caption Hereof

F.5. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6692

Amending the Code of Ordinances of the City of Sherman, Texas, Chapter 14 (Zoning Ordinance), Section 14.04.006 (Residential and Non-Residential Landscaping Requirements); Modifying Certain Existing Regulations Relating to Residential and Non-Residential Landscaping Requirements and the Preservation and Addition of Plants and Trees; Providing a Penalty Clause with a Maximum Fine of \$2,000, Savings/Repealing Clause, Severability Clause and an Effective Date; Providing for the Publication of the Caption Hereof

F.6. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6693

Amending the Composition and Powers of the Board of Directors for the Sherman, Texas, Tax Increment Reinvestment Zone Number Seven, City of Sherman, Texas, Established Pursuant to Chapter 311 of the Texas Tax Code, Extending the Term of the Zone, and Modifying Certain Provisions related to the Tax Increment Base and the Tax Increment Fund for the Zone; Amending Ordinance No. 6081, Previously Approved by the City Council on December 4, 2017, as Amended by Ordinance No. 6262, Approved by the City Council on November 8, 2019; Providing a Repealer Clause, Severability Clause and an Effective Date.

F.7. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6694

Closing and Abandoning the Platted Alley West of Lots 7-10, Block 1, Post Oak Addition and East of Austin Street Cemetery, in the City of Sherman, Grayson County, Texas, as Shown in Volume 35, Page 58, Deed Records, Grayson County, Texas, and Being more Particularly Described in the Exhibits "A" and "B" Attached Hereto and Made a Part hereof for all Purposes

Close Public Hearing and Consider Adoption of Ordinances

G.1. CLOSING OF PUBLIC HEARING

Consider Adoption of Ordinance Numbers 6689, 6690, 6691, 6692, 6693 & 6694.

Resolutions

H.1. RESOLUTION NO. 7247

Awarding a Bid to Alterrain Capital, LLC for the Conveyance of approximately 0.5508 Acres of Land in the J.B. McAnair Survey, Abstract No. 763, City of Sherman, Grayson County, Texas, Generally Located at 1400 West Taylor Street; Authorizing Execution of Necessary Transaction Documents Related Thereto

H.2. RESOLUTION NO. 7248

Authorizing Execution of a Development Agreement Between the City of Sherman and Alterrian Capital, LLC for Certain Trail Improvements, Conveyance of a 1.9-acre Tract of Land from Alterrian Capital, LLC to the City of Sherman and Other Matters Involving Property Generally Located at 1400 West Taylor Street

H.3. RESOLUTION NO. 7249

Awarding a Bid to and Authorizing Execution of a Contract with W. Brown Enterprises, Inc. Based on an Invitation to Bid for the Westside Sanitary Sewer Replacement

H.4. RESOLUTION NO. 7250

Authorizing Execution of a Discretionary Service Agreement with Oncor Electric Delivery Company, LLC for the Relocation of Overhead Electric Supply along Shepherd Drive in the City of Sherman

H.5. RESOLUTION NO. 7251

Authorizing Execution of a Professional Services Agreement with Mead & Hunt, Inc. for the Post Oak Wastewater Treatment Facility TPDES Permitting Assistance

H.6. RESOLUTION NO. 7252

Approving the Greater Texoma Utility Authority's Intention to Award Bid Package 08-001 to Kiewit Water Facilities South for the Process Mechanical at the South Wastewater Treatment Plant.

H.7. RESOLUTION NO. 7253

Approving the Greater Texoma Utility Authority's Intention to Award Bid Package 05-002 to Kiewit Water Facilities South for the Underground Piping and Appurtenances at the South Wastewater Treatment Plant.

H.8. RESOLUTION NO. 7254

Reauthorizing Guidelines and Criteria for the City of Sherman's Industrial and Commercial Tax Abatement Program to Promote Development/Redevelopment in Certain Areas of the City

H.9. RESOLUTION NO. 7255

Appointing and Authorizing the City Manager to Negotiate an Agreement with Pattillo, Brown & Hill, LLP to Perform the Fiscal Year 2023 Audit and Authorizing the City Manager to Negotiate a Termination Agreement with FORVIS

H.10. RESOLUTION NO. 7256

Authorizing Execution of an Amended and Restated Collateral Assignment of the Master Development Agreement by RCICD Heritage Ranch LLC, for the Benefit of First United Bank and Trust Company

Request to Advertise

I.1. * REQUEST TO ADVERTISE

Requesting Authorization to Advertise for the Annual Supply of Water Chemicals

I.2. * REQUEST TO ADVERTISE

Requesting Authorization to Advertise for Public Bids to Redesign the City of Sherman website.

Other Business

J.1. OTHER BUSINESS

Discuss and Consider Approval of the Budget Calendar for Fiscal Year (FY) 2024-2025

J.2. * OTHER BUSINESS

Receive 2023 Racial Profiling Report

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:

L.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.

L.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.

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

L.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

L.5. TEX. GOV'T CODE § 551.076

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

L.6. 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.

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

L.7. 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.

The Council reconvenes into General Session

COUNCIL CALENDAR

N.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, February 2, 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 2nd day of February 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.

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.

<u>Mayor</u>	<u>Deputy Mayor</u>	<u>Council Members</u>	
David Plyler	Shawn C. Teamann	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

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

STATE OF TEXAS §
 January 16, 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 16, 2024.

MEMBERS PRESENT: MAYOR DAVID PLYLER.
 COUNCIL MEMBERS DOBBS, HOLLAND, MARROQUIN.

MEMBERS ABSENT: DEPUTY MAYOR SHAWN TEAMANN.
 COUNCIL MEMBERS HOWETH, STEVENSON.

CALL TO ORDER

Mayor Plyler called the meeting to order at 5:00 p.m. The Pledge of Allegiance and Invocation were led by Council Member Juston Dobbs.

CALL TO ORDER

APPROVE MINUTES

The Council reviewed the Minutes of the Regular City Council Meeting of January 2, 2024. Council Member Holland moved to approve the Minutes, as presented; Second by Council Member Dobbs; All present voted AYE.
MOTION CARRIED.

APPROVE MINUTES

CITIZEN'S COMMENTS

There were no citizen's comments.

CITIZEN'S COMMENTS

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

Tenitrus Bethel, Deputy City Secretary, from the City of McKinney, presented Tasheena Taylor, Administrative Assistant, with her certification from the Texas Municipal Clerk's Association. Ms. Taylor is now a Texas Registered Municipal Clerk.

**MUNICIPAL CLERK
CERTIFICATION**

Mayor Plyler introduced Ordinance No. 6683 and called for a public hearing:

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.

ORD 6683
ZONE CHANGE
(2505 N. HICKORY ST)

Rob Rae, Director of Development Services, briefed the Council on this zone change, adding that the Planning and Zoning Commission and the staff recommended approval of the request.

Terry Wright, 1430 S. Broadway, Carrollton, Texas

Mr. Wright appeared to represent the request and was available to answer any questions the Council might have.

No other citizens appeared before the City Council to discuss Ordinance No. 6683.

Mayor Plyler introduced Ordinance No. 6684 and called for a public hearing:

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/FM 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.

ORD 6684
SUP FOR SCHOOL
(2276 S. FM 1417)

Mr. Rae said the request was to allow a Charter School in a C-1 District. The Planning and Zoning Commission and the staff recommended approval of the request.

Michael Carlisle, Kimley-Horn, 200 N. Travis Street, Sherman

Mr. Carlisle appeared representing the engineering aspect of the school, and was available to answer any questions the Council might have.

No other citizens appeared before the City Council to discuss Ordinance No. 6684.

Mayor Plyler introduced Ordinance No. 6685 and called for a public hearing:

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. McANAI 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

ORD 6685
SUP FOR JUNK,
SALVAGE YARD,
WRECKING SERVICE
(415 E. HOUSTON ST)

SPECIFIC USE PERMIT; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00; PROVIDING A REPEALING/SAVINGS CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

Mr. Rae said this Specific Use Permit would allow a wrecking service in an M-2 District. The request came about after code enforcement action for cars parked along East Street. The use is not compatible with the Comprehensive Plan; however, the staff does recommend approval.

Justin Ellis, 2502 Canyon Creek, Sherman

Mr. Ellis appeared representing Ellis Auto, and asked the Council to recognize his “grandfather” status as being there before the ordinances were in place.

No other citizens appeared before the City Council to discuss Ordinance No. 6685.

Mayor Plyler introduced Ordinance No. 6686 and called for a public hearing:

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, 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.

ORD 6686
SUP FOR
RV RESORT
(3551 E. HWY 82)

Mr. Rae said the request is to allow an RV Park at the corner of Hwy 82 and Skaggs Road. The Planning and Zoning Commission recommended approval, however the staff does not recommend approval, since it would not be the highest and best use of the property.

Wendy Ferguson, Owner, KWLTL Assets, LLC

Ms. Ferguson appeared representing the request and was available to answer any questions the Council might have.

No other citizens appeared before the City Council to discuss Ordinance No. 6686.

Mayor Plyler introduced Ordinance No. 6687 and called for a public hearing:

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

ORD 6687
ZONE CHANGE
(413 S. WILLOW ST)

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.

Mr. Rae said the applicant is requesting a zone change to be in conformance with the City's zoning ordinance. The Planning and Zoning Commission and the staff recommend approval of the zone change.

No citizens appeared before the City Council to discuss Ordinance No. 6687.

Mayor Plyler introduced Ordinance No. 6688 and called for a public hearing:

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.

ORD 6688
SUP FOR AUTO
REPAIR
(3314 & 3318
TEXOMA PKWY)

Mr. Rae said the auto repair business wanted to add a new paint booth, and it was discovered that they did not have a Certificate of Occupancy for auto repair. They are requesting the SUP to come into conformance with the zoning ordinance.

The Planning and Zoning Commission and the staff recommend approval of the zone change.

Thomas Hardin, 1755 Meadowlake Drive, Sherman

Mr. Hardin appeared representing the applicant and was available to answer any questions.

No other citizens appeared before the City Council to discuss Ordinance No. 6688.

The Public Hearing was closed.

Ordinance 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.

ORD 6683
ZONE CHANGE
(2505 N. HICKORY ST)

Ordinance 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/FM 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.

ORD 6684
SUP FOR SCHOOL
(2276 S. FM 1417)

ACTION TAKEN.

Motion by Council Member Dobbs to approve Ordinance Nos. 6683 and 6684, as presented. Second by Council Member Holland.

VOTING AYE: Dobbs, Holland, Marroquin.

VOTING NAY: None.

MOTION CARRIED.

Ordinance 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

ORD 6685
SUP FOR JUNK,
SALVAGE YARD,
WRECKING SERVICE
(415 E. HOUSTON ST)

\$2,000.00; PROVIDING A REPEALING/SAVINGS CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

Council Member Dobbs asked Mr. Ellis if he would be willing to clean up the fence and replace the existing slats. Mr Ellis said he would do that.

Ryan Pittman, City Attorney, said the current draft would require a new fence to be installed, and screened from all sides. The decision was made to require screening on the East Street and Houston Street sides, but that the existing fence can stay in its current location.

ACTION TAKEN.

Motion by Council Member Dobbs to approve Ordinance No. 6685, allowing the existing fence to stay in its current location, but replacing existing screening, where needed, and adding screening along East Street. Second by Council Member Holland.

VOTING AYE: Dobbs, Holland, Marroquin.

VOTING NAY: None.

MOTION CARRIED.

Ordinance 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.

ORD 6688
SUP FOR AUTO
REPAIR
(3314 & 3318
TEXOMA PKWY)

ACTION TAKEN.

Motion by Council Member Holland to approve Ordinance No. 6688, as presented. Second by Council Member Dobbs.

VOTING AYE: Dobbs, Holland, Marroquin.

VOTING NAY: None.

MOTION CARRIED.

Ordinance 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

ORD 6687
ZONE CHANGE
(413 S. WILLOW ST)

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.

ACTION TAKEN.

Motion by Council Member Dobbs to approve Ordinance No. 6687, as presented. Second by Council Member Holland.

VOTING AYE: Dobbs, Holland, Marroquin.

VOTING NAY: None.

MOTION CARRIED.

Ordinance 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, KWLT 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.

ORD 6686
SUP FOR
RV RESORT
(3551 E. HWY 82)
(DENIED)

ACTION TAKEN.

Motion by Council Member Dobbs to deny Ordinance No. 6686, as presented. Second by Council Member Marroquin.

VOTING AYE: Dobbs, Holland, Marroquin.

VOTING NAY: None.

MOTION CARRIED TO DENY.

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

RES 7242
CITY HALL
RENOVATION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, 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.

Robby Hefton, City Manager, briefed the City Council on timing and modification of the current City Hall building to accommodate the growth in City departments.

Zach Flores, Assistant City Manager, said the project would include increasing the meeting space in the Council Chambers, the City

Manager's Conference Room, and a more secure entrance to City Hall. He introduced Aaron Babcock, Architect, Hidell & Associates Consultants, to discuss the project.

ACTION TAKEN.

Motion by Council Member Dobbs to approve Resolution No. 7242, as presented. Second by Council Member Holland.

VOTING AYE: Dobbs, Holland, Marroquin.

VOTING NAY: None.

MOTION CARRIED.

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

**RES 7243
36" WEST SHERMAN
WATER MAIN**

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.

Tom Pruitt, Utility Engineer, explained the bid packages that would be awarded through the Greater Texoma Utility Authority for the 36-inch West Sherman Water Main project.

ACTION TAKEN.

Motion by Council Member Holland to approve Resolution No. 7243, as presented. Second by Council Member Dobbs.

VOTING AYE: Dobbs, Holland, Marroquin.

VOTING NAY: None.

MOTION CARRIED.

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

**RES 7244
WWTP WATER
REUSE MASTER PLAN**

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.

Mr. Pruitt said this was the second amendment for the Wastewater Treatment Water Reuse Master Plan.

ACTION TAKEN.

Motion by Council Member Dobbs to approve Resolution No. 7244, as presented. Second by Council Member Holland.

VOTING AYE: Dobbs, Holland, Marroquin.

VOTING NAY: None.

MOTION CARRIED.

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

RES 7245
THREE OAKS
DEVELOPMENT

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.

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

RES 7246
THREE OAKS
DEVELOPMENT
CONVEYANCE OF
LAND

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.

Mr. Rae said the City posted a sale of land, which in conjunction with a Developer's Agreement, will secure property for a future park, Shark Tooth Park, at that location.

ACTION TAKEN.

Motion by Council Member Holland to approve Resolution Nos. 7245 and 7246, as presented. Second by Council Member Dobbs.

VOTING AYE: Dobbs, Holland, Marroquin.

VOTING NAY: None.

MOTION CARRIED.

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

ANNEXATION
SCHEDLUE
(GREENWAY)

DEPARTMENT OF ENGINEERING SERVICES TO DEVELOP A SERVICE PLAN FOR THE AREA TO BE ANNEXED UPON APPROVAL OF THE ANNEXATION SCHEDULING PLAN

Mr. Rae said this annexation is prompted by an upcoming appeal of a zoning item from the Planning and Zoning Commission. The City Council can't hear the appeal unless the property has been annexed. If annexed, the appeal will be on the February 5, 2024 City Council Meeting.

ACTION TAKEN.

Motion by Council Member Holland to approve the Annexation Schedule for approximately 220.18 acres, located west of FM 1417 (Heritage Parkway) and north of OB Groner Road, as presented. Second by Council Member Dobbs.

VOTING AYE: Dobbs, Holland, Marroquin.

VOTING NAY: None.

MOTION CARRIED.

PRESENTATION FROM DEVELOPMENT SERVICES DIRECTOR ON AMENDING CHAPTER 3 OF THE CODE OF ORDINANCES, ENTITLED "BUILDING REGULATIONS"

**BUILDING
REGULATIONS**

Mr. Rae said the staff recommends updating Chapter 3 of the Code of Ordinances, concerning building and fire code regulations. Larry Bollier, Building Official/Chief Plans Examiner; Dillon Stewart, Fire Marshal; and Steven Davis, Assistant Fire Marshal, discussed the proposed changes to the Code.

Mr. Rae said the proposed changes also included a Residential Rental Property Regulation, which would allow staff to have additional enforcement power on some "problem properties." This would apply to single family homes, as well as large apartment complexes. The purpose would be to improve the living conditions of all Sherman residents, especially rental tenants. It would allow staff to license and make inspections on rental property.

The proposed changes also include increasing building permit fees. Actual Council consideration of the proposed changes will be at the February 5, 2024 Council Meeting.

RECEIVE QUARTERLY PROGRESS REPORT FROM SHERMAN ECONOMIC DEVELOPMENT CORPORATION PRESIDENT KENT SHARP

**SEDCO QUARTERLY
PROGRESS REPORT**

Kent Sharp, President, Sherman Economic Development Corporation, presented the Quarterly Progress Report on their activities and accomplishments.

APPROVE INVESTMENT REPORT FOR QUARTER ENDED DECEMBER 31, 2023

INVESTMENT REPORT

Mary Lawrence, Director of Finance, presented the City's Investment Report for the quarter ended December 31, 2023.

ACTION TAKEN.

Motion by Council Member Dobbs to approve the Investment Report for the quarter ended December 31, 2023, as presented. Second by Council Member Holland.

COUNCIL MINUTES – JANUARY 16, 2024

VOTING AYE: Dobbs, Holland, Marroquin.
VOTING NAY: None.
MOTION CARRIED.

COUNCIL COMMENTS

- Congratulated Ms. Taylor on achieving her Certification as a Registered Municipal Clerk. (Council Member Dobbs)
- Urged citizens to keep their pets inside during the freezing weather. (Council Member Dobbs)
- Congratulated Mr. Rae on the proposed changes to the building code. (Council Member Marroquin)

ANNOUNCEMENTS

Mayor Plyler announced the following:

- Tickets are on sale for the Annual Parks and Recreation Father Daughter Dance, which will be held on February 9 and 10, 2024, in the Municipal Ballroom. Tickets are \$15 per person.
- The Sherman Chamber of Commerce will hold their Annual Awards Luncheon on January 26, 2024, at 11:00 a.m., at Austin College. The event will celebrate local community leaders.
- Habitat for Humanity will host their Annual “Habi-Taters” fundraiser on January 27, 2024, in the Municipal Ballroom.

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.

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

COUNCIL COMMENTS

ANNOUNCEMENTS

EXECUTIVE SESSION

**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**

(A) Greater Texoma Utility Authority Board of Directors (2)

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) Sherman Junction 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 6:21 p.m.**

**On Motion duly made and carried, the Executive Session recessed
at 6:49 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

GREATER TEXOMA UTILITY AUTHORITY BOARD OF DIRECTORS

(2)

ACTION TAKEN.

**Motion by Council Member Holland to reappoint Donald
Johnston and Matt Brown to the Greater Texoma Utility
Authority Board of Directors for a term from December 31, 2023
to December 31, 2025, as presented. Second by Council
Member Dobbs.**

GTUA

COUNCIL MINUTES – JANUARY 16, 2024

VOTING AYE: Dobbs, Holland, Marroquin.
VOTING NAY: None.
MOTION CARRIED.

ADJOURNMENT

On Motion duly made and carried, the meeting adjourned at 6:50 p.m.

ADJOURNMENT

MAYOR

CITY CLERK

Building Regulations Update

January 16, 2024



Building Code Background

- Chapter 3 last updated in 2020 (2018 code year)
- Consists of Residential, Building, Electrical, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Existing Building, Swimming Pool and Spa, and Fire
- Last year, many cities in DFW started transitioning to the 2021 code
- Staff recommends the update to 2021 code year
 - 2023 for Electrical (NEC)
- Adding the Property Maintenance Code to the Building Regulations
- Building official administers and oversees Chapter 3 in the City
 - Coordinates with Fire Marshal and City Engineer

Changes to the Building Regulations

- Testing of back flow devices
 - RPZ every year; PVBs every 5 years
- Form board surveys required for all new construction
- Sheer wall plans
- All commercial and residential buildings over 5,000 square feet must be designed, and signed by a licensed architect and/or professional engineer.



Changes to the Fire Regulations

- Here are some surrounding agencies that have adopted the 2021 International Fire Code: Grayson County, Bells, Collin County, McKinney, Frisco, Denton, and North Central Texas Council of Governments Region.
- We have made amendments to the 2021 Fire Codes to clarify questions that we receive on a regular basis. With the large amount of development that is coming or wanting to come to the City of Sherman, our changes will speed up the design process and create a written set standard. These changes are standards that we currently enforce through the 2018 Fire Codes under the provisions when fire codes state “where required by the *fire code official*” or “*as determined by the AHJ*”.
- We have removed prior amendments to the 2018 International Fire Code that were equal to the 2021 International Fire Code requirements.

Changes to the Fire Regulations

- Requirement for a single horn strobe to be provided on the exterior of the building that activates when a kitchen hood suppression system activates.
- Requirement for new and existing buildings that have a fire sprinkler riser, standpipe system and/or a fire alarm control panel to provide a Knox key box that contains keys for access.
- Added the method for measuring a hose lay. The hose lay should be measured from the centerline of the fire lane along an unobstructed level path measuring 10 feet in width.
- Requirement for fire department connections to be located not more than 100 ft (30.5 m) from the nearest fire hydrant.
- Requirement for fire department connections to be a 2.5-inch threaded fitting design.
- Requirement for fire department connections to be equipped with locking Knox caps that operate with the Authority Having Jurisdiction's Knox key.
- Requirement for an exterior access door directly into the sprinkler control room.

Residential Rental Property Regulations

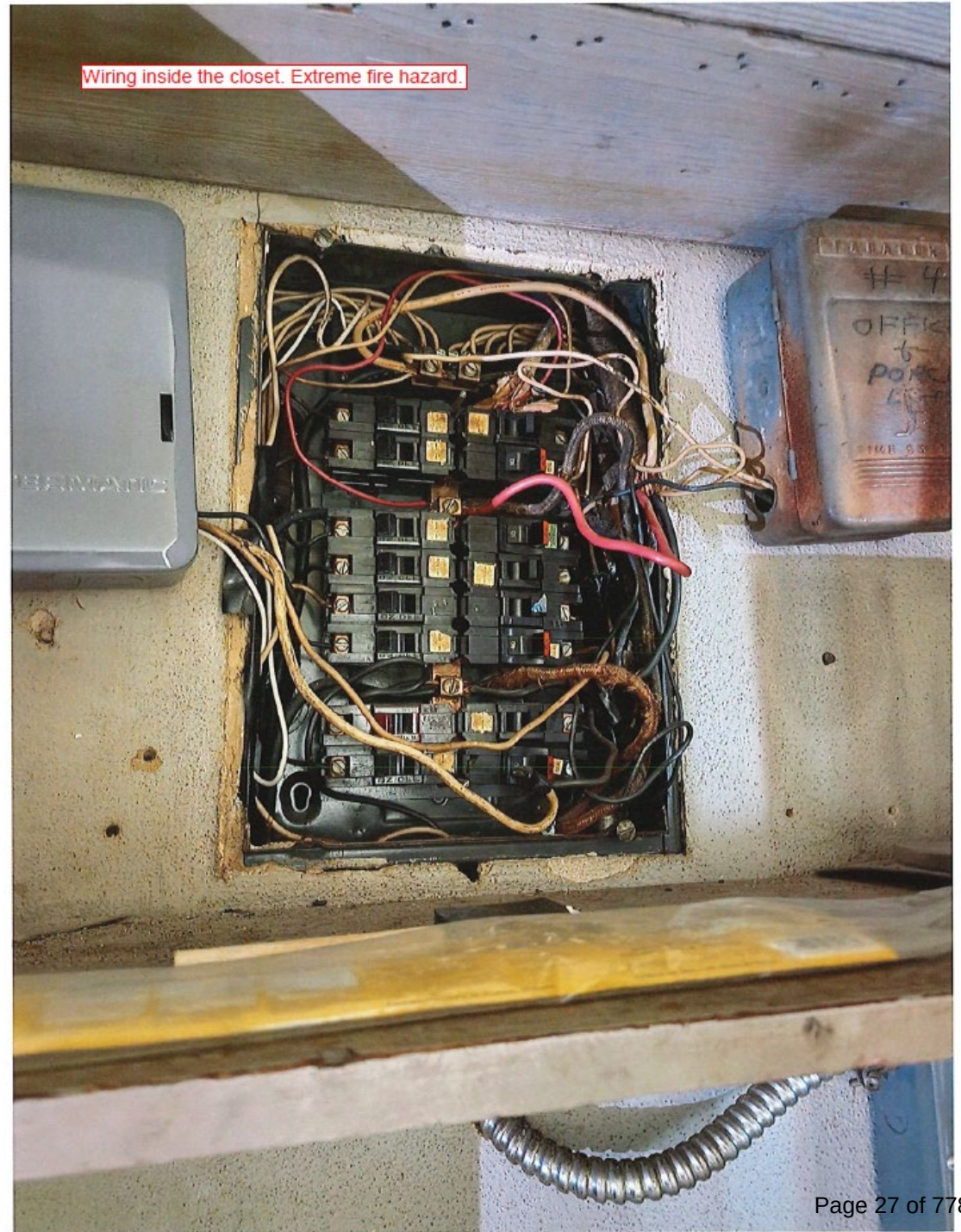
- Proposed new section to regulate rental properties in the City of Sherman
- Purpose – To improve the living conditions and quality for rental tenants in the City.
- License – New regulations would require a rental license for any residential property in the city that is being leased to another.
- Puts all rental properties on a level playing field



Residential Rental Property Regulations

- Staff has inspected the following properties due to poor living conditions and as part of the Community Improvement Initiative:
 - Crossroads Inn
 - Lone Star Inn
 - OK Inn
 - The Baltic Apartments
 - St. Charles Apartments
 - The Norwegian Woods Apartments
 - Westwood Gardens Apartments
 - Candlelight Apartments







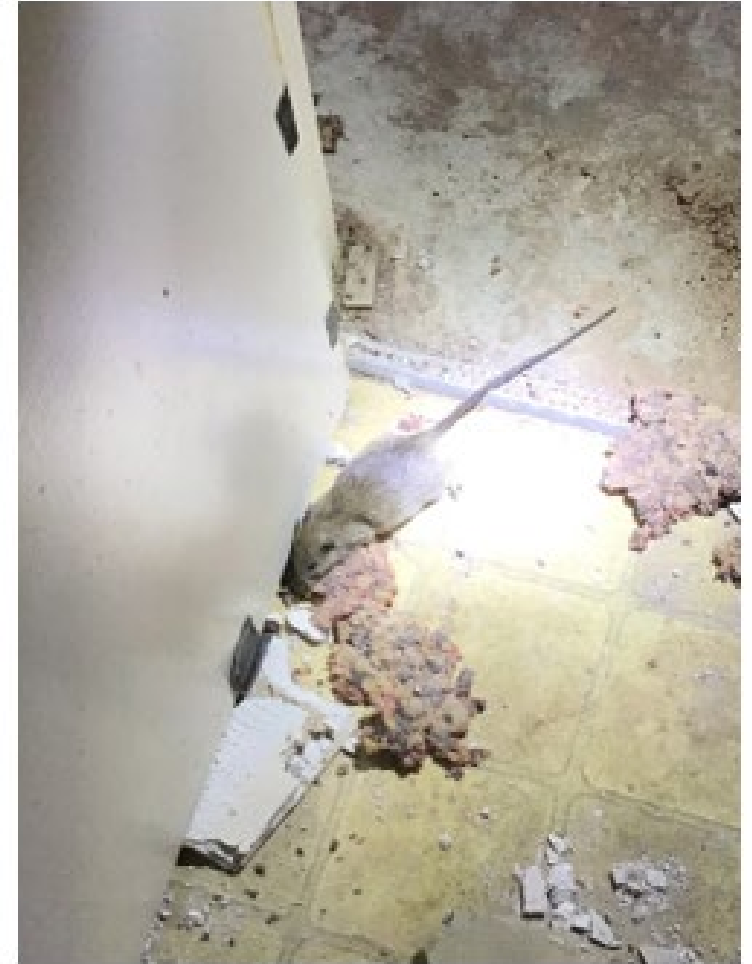
Feces found throughout the apt on the side of the commode and walls. Piles of beer cans scattered throughout the apt. This apt is a hazard to health and safety. Baltic Apt 22.



Drain line is draining into a bucket. Baltic Apt 36.



The faucet in this photo is not useable and it is also leaking. Apt 2 of the St. Charles.





The upper left is a smoke detector that is not working. The upper right is where someone has replaced the water heater three times without the required permits. These old heaters must be removed. The water lines are not protected with insulation to prevent freezing as per code. Section 305.4 of the 2018 IPC. In the lower left is a light fixture missing its protective cover. The lower right is missing the fixture, leaving the wiring exposed.

The water heater in the upper left corner, is missing the protective cover and the conduit does not attach to the intended cover as intended. The upper right corner shows a fixture that has come loose from the ceiling and is missing its protective cover. The lower left corner has a 2x4 attached to the roof to hold wiring in place. This must be corrected. The wall heater in the lower right corner is missing the grates. These wall heaters must be code approved. All items throughout the property, such as these shall be addressed and corrected.



Residential Rental Property Regulations (Con't)

- Allow for city inspectors to schedule annual property inspections with 30 days notice to property owner and tenants.
- Regulations to ensure that the following are meeting minimum standards:
 - Structural integrity of the building
 - Safe egress is provided
 - Exterior wall deterioration
 - Railings, stairs, and balcony safety
 - Plumbing, electrical and HVAC systems are working
 - General Maintenance of grounds and premises
 - Fire safety (already required)

Rental Fees

Number of Units	Frisco	Little Elm	Prosper	Anna	Denison	Celina
1-3	\$5-15	\$85	\$200	\$300	\$0	\$50-150
4-49	\$20-245	\$185-1,310	\$200-490	\$300-1,225	\$0	\$200-1,130
50-99	\$250-495	\$1,335-2,560	\$500-990	\$1,250-2,475	\$0	\$1,150-2,130
100-299	\$500-1,495	\$2,585-7,560	\$1,000-2,990	\$2500-7,475	\$0	\$2,150-6,130
300	\$1,500	\$7,585	\$3,000	\$7,500	\$0	\$6,150

Building Regulation Fees

LAND USE	SHERMAN (Current)	SHERMAN (Proposed)	ANNA	MELISSA	CELINA	MCKINNEY	PROSPER
New Residential Building Permit (ie. 2,000 sq ft home)	\$0.30/square foot (\$600)	\$0.50/square foot (\$1000)	\$2,700 per home	Varies based on SQFT (\$1,750)	\$1.10/square foot (\$2,200)	\$0.68/square foot (\$1,360)	Varies based on SQFT (\$1,750)
New Multi-family Building Permit (ie. 330,000 sq ft apartment complex, 340 units)	\$0.30/square foot (\$99,000)	\$0.50/square foot (\$165,000)	\$1,400 per unit (\$476,000)	Varies based on SQ FT (\$93,200)	\$0.90/square foot (\$297,000)	\$520 per unit (\$176,800)	Varies based on SQ FT (\$102,000)
New Commercial Building Permit (ie. 60,000 sq ft hotel, \$9M in valuation)	\$0.30/square foot (\$18,000)	\$0.50/square foot (\$30,000)	\$0.70/square foot (\$42,000)	Based on Valuation (\$30,800)	???	Based on Valuation (\$30,800)	Based on Valuation (\$30,500)
Mechanical, Electrical, and Plumbing permits (a la carte)	\$50	\$75 plus \$30 for each additional inspection	\$125	\$80	\$100	Varies Depending on scope of work (min \$40)	Based on Valuation
Minimum fee for other items • CO • Roofing repair or replacement • Accessory building	\$50	\$75	\$100 (COs are \$50)	\$80 (COs are \$50)	\$100	Varies between \$40 and \$200	\$50

Building Regulations Update

QUESTIONS?





City Council Regular Meeting

Agenda Item No. C.1.

Meeting Date: 2/5/2024

Prepared By:

Approved By:

Caption:

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

Issue:

I.1. * REQUEST TO ADVERTISE

Requesting Authorization to Advertise for the Annual Supply of Water Chemicals

I. 2. * REQUEST TO ADVERTISE

Requesting Authorization to Advertise for Public Bids to Redesign the City of Sherman website.

J. 2. * OTHER BUSINESS

Receive 2023 Racial Profiling Report

Background:

Origination:

Financial Consideration:

Staff Recommendation:

Alternatives:

Attachments:

None



City Council Regular Meeting

Agenda Item No. D.1.

Meeting Date: 2/5/2024

Prepared By: Linda Ashby, City Clerk

Approved By:

Caption:

PROCLAMATIONS

"United Acts of Kindness Day" - February 16, 2024

Issue:

To present a proclamation designating February 16, 2024, as "United Acts of Kindness Day" in the City of Sherman.

Background:

First United Bank has sponsored "United Acts of Kindness Day" since 2021, and has set a goal this year to complete 350,000 acts of kindness, to spread joy, hope, and love to friends, family, co-workers, and neighbors.

Origination:

Ginger Nye, First United Bank

Financial Consideration:

There is no financial consideration

Staff Recommendation:

It is the staff's recommendation to present the proclamation designating February 16, 2024, as "United Acts of Kindness Day" in Sherman.

Alternatives:

The Council could choose not to present the proclamation.

Attachments:

1. United Acts of Kindness Day Proclamation

Proclamation

WHEREAS, in 2021, First United Bank in Dallas sponsored the first "United Acts of Kindness Day" to spread kindness throughout the community, and had a goal to complete 10,000 acts of kindness in one day, and

WHEREAS, this has now become an annual event, and First United Banks, throughout Texas and Oklahoma, have joined with their community partners and valued customers to spread joy, hope, and love to friends, family, co-workers, and neighbors, and

WHEREAS, in 2024, the goal is to complete 350,000 acts of kindness, which could be as simple as buying someone a cup of coffee, or hugging someone to show you care, and

WHEREAS, through the generosity of citizens, community leaders, churches, nonprofits, and businesses, we can be a light of hope in a world that may often feel like darkness.

NOW THEREFORE, I, David Plyler, Mayor of the City of Sherman, Texas, by the authority vested in me, do hereby proclaim February 16, 2024

UNITED ACTS OF KINDNESS DAY

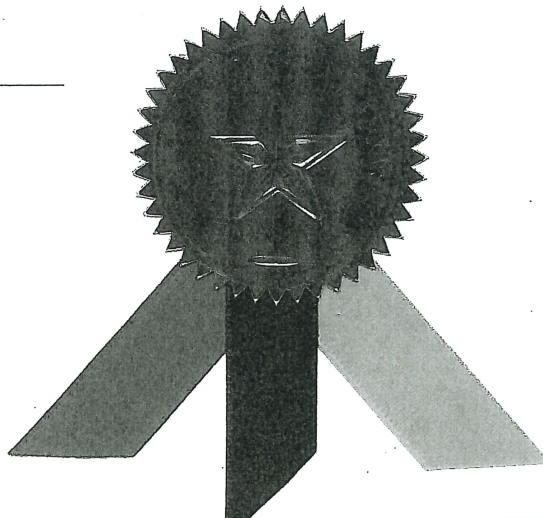
in the City of Sherman and ask all citizens to join with First United Bank to spread joy, hope, and love throughout their community with random acts of kindness.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Sherman to be affixed this the 5th day of February, 2024.

Mayor

ATTEST:

Linda Ashby
City Clerk





City Council Regular Meeting

Agenda Item No. E.1.

Meeting Date: 2/5/2024

Prepared By: Teri Fine, Assistant to the City Manager

Approved By:

Caption:

SPECIAL PRESENTATION

Receive Presentation from the Leadership Sherman's Class of 2024

Issue:

Leadership Sherman Class of 2024 is partnering with the North Texas Youth Connection (NTYC) for their class community reinvestment project.

Background:

Leadership Sherman is working with NTYC to renovate their current building. The 2024 class is specifically raising funds and providing labor to update and repair the bathrooms in the living space. Total cost of the bathroom project is estimated to be \$15,000. Any additional funds will stay with NTYC to help with signage, painting and other repairs the facility may need.

Origination:

Sherman Chamber of Commerce / Leadership Sherman

Financial Consideration:

There is no financial impact to be considered.

Staff Recommendation:

This presentation is for information only and requires no action by the City Council.

Alternatives:

None.

Attachments:

None



City Council Regular Meeting

Agenda Item No. F.1.

Meeting Date: 2/5/2024

Prepared By: Mary Lawrence, Chief Financial Officer

Approved By: Robby Hefton, City Manager

Caption:

PUBLIC HEARING

Public Hearing on the Reauthorization for the Industrial and Commercial Tax Abatement Program to Promote Development/Redevelopment in Certain Areas of the City

Issue:

To Hold a Public Hearing on a Resolution to Reauthorize the City's Industrial and Commercial Tax Abatement Program

Background:

Tax Code, Chapter 312, Section 312.002 requires the City to hold a public hearing before a governing body reauthorizes its guidelines and criteria for their Industrial and Commercial Tax Abatement Program. The Resolution is on this agenda.

The last renewal was approved at the February 7, 2022, City Council meeting. This program, which began on July 18, 1988, with the City Council's adoption of Resolution No. 2455, is intended to promote industrial and commercial development and the creation of jobs.

The updates to the guidelines and criteria are wording changes to more closely align with the Tax Code and clarify requirements of the application.

Origination:

City Manager

City Attorney Ryan Pittman

Financial Consideration:

There is no immediate impact to reauthorizing the guidelines and criteria for the City's Industrial and Commercial Tax Abatement Program. The impact of a particular abatement is evaluated when the abatement agreement is presented to the City Council.

Staff Recommendation:

Staff recommends holding the public hearing.

Alternatives:

Council could decline to reauthorize the tax abatement program.

Attachments:

1. Resolution No. 7254 - Renewal of Industrial & Commercial Tax Abatement Program
2. Amended Industrial_and_Commercial_Tax_Reinvestment_Procedures_Manual_and_Application 2024-02-05 (ID 365123)
3. Amended Industrial_and_Commercial_Tax_Reinvestment_Procedures_Manual_and_Application Redline (ID 365122)

RESOLUTION NO. 7254

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, REAUTHORIZING GUIDELINES AND CRITERIA FOR THE CITY OF SHERMAN'S INDUSTRIAL AND COMMERCIAL TAX ABATEMENT PROGRAM TO PROMOTE DEVELOPMENT/REDEVELOPMENT IN CERTAIN AREAS OF THE CITY; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, by Resolution No. 6846 passed and approved on February 7, 2022, the City of Sherman declared its eligibility and intention to participate in the Tax Abatement Program to promote development/redevelopment in certain areas of the City and adopted Tax Abatement Guidelines and Criteria for use in all Tax Abatement Programs; and

WHEREAS, the City of Sherman is required to renew the guidelines and criteria adopted for this program every two years;

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

SECTION 1. That the City Council of the City of Sherman, Texas, hereby renews the following Tax Abatement Guidelines and Criteria for use in all Industrial and Commercial Tax Abatement Programs, as required by law:

CITY OF SHERMAN'S RENEWED INDUSTRIAL AND COMMERCIAL TAX ABATEMENT GUIDELINES AND CRITERIA

Criteria for Reinvestment Zone. An area to be designated as a reinvestment zone must:

1. Substantially arrest or impair the sound growth of the City, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:
 - a. a substantial number of substandard, slum, deteriorated, or deteriorating structures;
 - b. the predominance of defective or inadequate sidewalks or streets;
 - c. faulty size, adequacy, accessibility, or usefulness of lots;
 - d. unsanitary or unsafe conditions;
 - e. the deteriorating of site or other improvements;
 - f. tax or special assessment delinquency exceeding the fair value of the land;
 - g. defective or unusual conditions of title;
 - h. conditions that endanger life or property by fire or other cause; or
 - i. any combination of these factors;
2. be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality;

3. be in a federally assisted new community located in a home-rule municipality or in an area located in a home-rule municipality;
 4. be located entirely in an area that meets the requirements for federal assistance under Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5318);
 5. encompass signs, billboards, or other outdoor advertising structures designated by the governing body of the municipality for relocation, reconstruction, or removal for the purpose of enhancing the physical environment of the municipality, which the legislature declares to be a public purpose; or
 6. be reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the municipality.
2. A tax abatement agreement will not be entered into where a company is only changing its location within Grayson County, without increasing the number of employees, significantly expanding the facilities, or unless failure to grant such abatement would mean the loss of the business operation in Grayson County.
3. Tax abatement agreements will be considered for both new facilities and structures and for the expansion or modernization of existing facilities and structures.
4. The City Council of the City of Sherman will approve or deny a tax abatement request based upon the subjective evaluation of the following guidelines and criteria. The Council may consider any advisory recommendations received from the Tax Reinvestment Advisory Committee as it may choose:

- **Employment Impact**

How many jobs will be brought to Sherman?

What types of jobs will be created?

List the number of jobs by class that will be created and the wage range of each class of job.

What will the total annual payroll be? Include current and increase factors.

Expectation for jobs filled by transfers from other company locations vs. locally-filled jobs.

- **Fiscal Impact**

How much real and personal property ~~value~~ will be added to the tax rolls, in square footage and in estimated value?

What is the economic life of the personal property?

What is the expected depreciation of the taxable value of the real and personal property?

How much direct sales tax will be generated for the City of Sherman during construction and after operations have commenced?

How will this project affect existing businesses and/or office facilities?

What infrastructure construction would be required?

What is the total annual operating budget of this facility projected to be? (For expansion, state current and projected increase.)

What is the estimated water use?

- **Community Impact**

What effect would the project have on the local housing market?

Is the project compatible with existing long-range or comprehensive plans?

What is the environmental impact of the project?

SECTION 2. That these Industrial and Commercial Tax Abatement Guidelines and Criteria shall be effective immediately upon the passage of this resolution.

SECTION 3. 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 5th day of February 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 PITMAN, CITY ATTORNEY**

**INDUSTRIAL AND COMMERCIAL
TAX REINVESTMENT
PROCEDURES MANUAL
AND
APPLICATION**



SHERMAN, TEXAS

Adopted February 5, 2024

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GENERAL PURPOSE AND OBJECTIVES

The City of Sherman is committed to the promotion of high-quality development, long-term revenue growth, job creation, and an ongoing improvement in the quality of life for its citizens. As these objectives are generally served by the enhancement and expansion of the local economy, the City of Sherman will, on a case-by-case basis, consider providing a tax abatement to stimulate economic development in Sherman. It is the policy of the City of Sherman that consideration will be provided in accordance with the procedures and criteria outlined in this document. Nothing herein shall imply or suggest that the City of Sherman is under any obligation to provide tax abatement to any applicant. All applicants shall be considered on a case-by-case basis.

The following process shall pertain to review of tax abatement requests for the City of Sherman only. The City of Sherman shall not be responsible for providing information to or seeking responses from other taxing entities on the behalf of any applicant.

DEFINITION OF TERMS

Act – The Property Redevelopment and Tax Abatement Act, Texas Tax Code 312.001, et seq., as amended from time to time.

Agreement – A contractual agreement between a property owner and/or lessee and taxing entity for the purpose of tax abatement.

Applicant – An owner of real property located in a reinvestment zone who requests tax abatement in accordance with these guidelines.

Economic Life – The number of years a property improvement is expected to be in service in a facility.

Depreciation – reduction in the appraised and or taxable value (before abatement), of an asset with the passage of time.

Expansion – The addition or enlargement of buildings, structures, fixed machinery or equipment for the purposes of increasing production capacity.

Facility – Property improvements completed or in the process of construction which together comprise an integral whole.

Modernization – The replacement and upgrading of existing facilities which increases the productive input or output, updates the technology, or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration, or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing.

New Facility – A property previously undeveloped that is placed into service by means other than or in conjunction with expansion or modernization.

Reinvestment Zone – An area designated in accordance with the Act by the City of Sherman, or if outside the city limits of Grayson County. Only property in a Reinvestment Zone is eligible for tax abatement.

Total Facility – All buildings and structures including fixed machinery and equipment at the site(s) where the “abatement facility” is located.

APPLICANT ELIGIBILITY

A Facility may be eligible for abatement if it is in a Reinvestment Zone.

As provided in the Act, abatement may only be granted for the value of eligible property subsequent to and listed in an abatement agreement between the taxing entity and the property owner and lessee (if required), subject to such limitations as the taxing entity may require.

Abatement may be granted for new facilities and improvements to existing facilities and structures and for the expansion or modernization of existing facilities and structures.

Eligible Property – Abatement may be extended to the value of real and tangible personal property for both new facilities and structures, and for the expansion or modernization of existing facilities and structures that are reasonably likely as a result of being granted abatement to contribute to the retention or expansion of primary employment or to attract major investment in the reinvestment zone that would be a benefit to the property and that would contribute to the economic development within the City of Sherman.

Ineligible Property – The following types of property shall be fully taxable and ineligible for abatement: land, existing improvements, real property and tangible personal property used primarily to provide retail sales or services to the public, real property used for residential purposes, real property with a productive life of less than 10 years, tangible personal property that the Grayson Central Appraisal District classifies as inventory or supplies, real or tangible personal property located in the reinvestment zone prior to the effective date of the tax abatement agreement, or any other property for which abatement is not allowed by law.

Owned/Leased Facilities – If a leased facility is granted an abatement, the agreement shall be executed with the lessor and the lessee. Further constraints will be considered under any lease hold facility.

Value and Term of Abatement – Upon determination that a Tax Abatement should be offered to the applicant, the value, and terms of the abatement to be considered will be up to ten (10) years and up to 100% abatement including the construction period as provided by Texas State Law.

Required Investment – Generally, a project must include at least \$5,000,000 in investment to be considered for a tax abatement.

COMMITTEE

The Tax Reinvestment Committee may be convened on a case-by-case basis to advise the City Council on an application for a tax abatement, or to include a certain geographic area in a Reinvestment Zone.

CRITERIA

Any request for tax abatement shall be evaluated based upon a subjective review of the following criteria which each applicant may be requested to address in narrative format in the application:

Employment Impact

- How many jobs will be brought to Sherman?
- What types of jobs will be created?
- List the number of jobs by class that will be created and the wage range of each class of job.
- What will the total annual payroll be? Include current and increase factors.
- Expectation for jobs filled by transfers from other company locations vs. locally filled jobs.

Fiscal Impact

- How much real and personal property will be added to the tax rolls, in square footage and in estimated value?
- What is the economic life of the personal property?
- What is the expected depreciation of the taxable value of the real and personal property?
- How much direct sales tax will be generated for the City of Sherman during construction and after operations have commenced?
- How will this project affect existing businesses and/or office facilities?
- What infrastructure construction would be required?
- What is the total annual operating budget of this facility projected to be? (For expansion, state current and projected increase.)
- What is the estimated water use?

Community Impact

- What effect would the project have on the local housing market?
- How compatible is the project with the City's Comprehensive Plan?
- What environmental impact, if any, will be created by the project?

PROCEDURES

Any person, partnership, organization, corporation, or other entity desiring that the City of Sherman consider providing tax abatement to encourage location of operations within the city

limits of Sherman may be required to comply with the following procedural guidelines. Nothing within these guidelines shall imply or suggest that Sherman be under any obligation to provide a tax abatement in any amount of value to any applicant.

1. Preliminary Application Steps. The Applicant may be required to submit a written request to the attention of the City Manager, City of Sherman, Texas, 220 W. Mulberry Street, Sherman, TX 75090. The request should include all necessary information to evaluate the request, and should contain the following information, if required:
 - A. Applicant shall submit an "Application for Tax Abatement."
 - B. Applicant shall address all criteria questions outlined in Section II in narrative form.
 - C. Applicant shall prepare a survey map showing the precise location of the property, all roadways within five hundred (500) feet of the site, all existing land uses and zoning within five hundred (500) feet of the site, and the kind, number and location of all proposed improvements.
 - D. City may request applicant to provide substantiation of the economic feasibility of the overall project to assist in determining the long-term benefit to the City.
 - E. A complete legal description shall be provided.
 - F. Applicant shall complete all forms and information detailed in Items A through B above and submit them to the City of Sherman or the Sherman Economic Development Corporation (SEDCO).

Once a request has been submitted to the City Manager, it shall be regarded as public information and will be available for inspection by the public as allowed by the Texas Public Information Act. Any proprietary information included as a part of the request should be so indicated, marked in advance and supplied in such a manner to be readily separated from the remainder of the materials.

2. All information in the application package detailed above will be reviewed for completeness and accuracy. Additional information may be required as needed.

Applicant may be asked to meet with representatives of the City and SEDCO to discuss the details of the application and prepare it for a presentation of proposal to the Tax Reinvestment Committee. These meetings are held in confidence.

3. The representatives of each taxing entity are responsible for requesting this item be placed on their respective agendas for discussion.

If the Applicant's facility is not in a Reinvestment Zone, the City of Sherman's representatives will propose an ordinance to the City Council, designating the Tax Reinvestment Zone and approving the terms of percentage and duration of tax abatement. If the Applicant is located outside the Sherman city limits, and is within Grayson County, the Tax Reinvestment Zone would be designated by Grayson County.

The governing bodies of the Sherman Independent School District, Grayson College, and Grayson County may consider participation in the tax abatement agreement between the City of Sherman and the Applicant.

LEGAL DOCUMENTATION PREPARATION

The governing body eligible for initiating the designation of the Reinvestment Zone (City or County) will be responsible for drafting the proposed agreement pursuant to the approved Tax Abatement, as well as all collateral documentation.

The legal document is to include the following:

1. Estimated value of expansion or new construction to be abated.
2. Percent of value to be abated each year.
3. Commencement date and the termination date of abatement.
4. Proposed use of the facility, nature of construction, time schedule, map, property description and improvements list as provided in the application.
5. Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture and administration.

EXECUTION OF AGREEMENT

TAX ABATEMENT APPLICATION

SECTION I

1. Property Owner: _____
Mailing Address: _____
Telephone Numbers: _____
2. Property Owner's Representative: _____
Mailing Address: _____
Telephone Numbers: _____
3. Physical Property Address: _____
4. Property Legal Description (include as an attachment with metes and bounds)
5. Property is located within: City of Sherman? _____
Sherman I.S.D.? _____
Grayson County? _____
6. Description of Project: _____

7. Date of projected occupation of project/initiation of operations: _____
8. Narrative response to criteria questions in Section II of application? _____
(Yes or No, and include attachment)

SECTION II

Employment Impact

How many jobs will be brought to Sherman?

What types of jobs will be created?

List the number of jobs that will be created and the wage range of each class of job.

What will the total annual payroll be? Include current and increase factors.

Expectation for jobs filled by transfers from other company locations vs. locally-filled jobs.

Fiscal Impact

How much real and personal property will be added to the tax rolls, in square footage and in estimated value?

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What is the estimated water use?

Community Impact

What effect would the project have on the local housing market?

How compatible is the project with the City's Comprehensive Plan?

What environmental impact, if any, will be created by the project?

**INDUSTRIAL AND COMMERCIAL
TAX REINVESTMENT
PROCEDURES MANUAL
AND
APPLICATION**



SHERMAN, TEXAS

Adopted February 5, 2024

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GENERAL PURPOSE AND OBJECTIVES

The City of Sherman is committed to the promotion of ~~high-quality~~high-quality development, long-term revenue growth, job creation, and in all parts of the City and to an ongoing improvement in the quality of life for its citizens. As these objectives are generally served by the enhancement and expansion of the local economy, the City of Sherman will, on a case-by-case basis, ~~give consideration-consider~~to providing a tax abatement ~~as a stimulation for~~ to stimulate economic development in Sherman. It is the policy of the City of Sherman that ~~said~~ consideration will be provided in accordance with the procedures and criteria outlined in this document. Nothing herein shall imply or suggest that the City of Sherman is under any obligation to provide tax abatement to any applicant. All applicants shall be considered on a case-by-case basis.

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Total Facility – All buildings and structures including fixed machinery and equipment at the site(s) where the “abatement facility” is located.

APPLICANT ELIGIBILITY

A Facility may be eligible for abatement if it ~~is located in~~ is in a Reinvestment Zone.

As provided in the Act, abatement may only be granted for the value of eligible property subsequent to and listed in an abatement agreement between the taxing entity and the property owner and lessee (if required), subject to such limitations as the taxing entity may require.

Abatement may be granted for new facilities and improvements to existing facilities and structures and for the expansion or modernization of existing facilities and structures. ~~for purposes of modernization or expansion.~~

Eligible Property – Abatement may be extended to the value of real and tangible personal property for both new facilities and structures, and for the expansion or modernization of existing facilities and structures that are reasonably likely as a result of being granted abatement to contribute to the retention or expansion of primary employment or to attract major investment in the reinvestment zone that would be a benefit to the property and that would contribute to the economic development within the City of Sherman.

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COMMITTEE

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CRITERIA

Any request for tax abatement shall be evaluated based upon a subjective review of the following criteria which each applicant may be requested to address in narrative format in the application:

Employment Impact

- How many jobs will be brought to Sherman?
- What types of jobs will be created?
- List the number of jobs by class that will be created and the wage range of each class of job.
- What will the total annual payroll be? Include current and increase factors.
- Expectation for jobs filled by transfers from other company locations vs. ~~locally-filled~~locally filled jobs.

Fiscal Impact

- How much real and personal property will be added to the tax rolls, in square footage and in estimated value?
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- How much direct sales tax will be generated for the City of Sherman during construction and after operations have commenced?
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- What is the total annual operating budget of this facility projected to be? (For expansion, state current and projected increase.)
- What is the estimated water use?

Community Impact

- What effect would the project have on the local housing market?
- How compatible is the project with the City's Comprehensive Plan?
- What environmental impact, if any, will be created by the project?

PROCEDURES

Any person, partnership, organization, ~~corporation~~corporation, or other entity desiring that the City of Sherman consider providing tax abatement to encourage location of operations within the

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 - D. City may request applicant to provide substantiation of the economic feasibility of the overall project to assist in determining the long-term benefit to the City.
 - E. A complete legal description shall be provided.
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2. All information in the application package detailed above will be reviewed for completeness and accuracy. Additional information may be required as needed.

Applicant may be asked to meet with representatives of the City and SEDCO to discuss the details of the application and prepare it for a presentation of proposal to the Tax Reinvestment Committee. These meetings are held in confidence.

3. The representatives of each taxing entity are responsible for requesting this item be placed on their respective agendas for discussion.

If the Applicant's facility is not in a Reinvestment Zone, the City of Sherman's representatives will propose an ordinance to the City Council, designating the Tax Reinvestment Zone and approving the terms of percentage and duration of tax abatement. If the Applicant is located outside the Sherman city limits, and is within Grayson County, the Tax Reinvestment Zone would be designated by Grayson County.

The governing bodies of the Sherman Independent School District, Grayson College, and Grayson County may consider participation in the tax abatement agreement between the City of Sherman and the Applicant.

LEGAL DOCUMENTATION PREPARATION

The governing body eligible for initiating the designation of the Reinvestment Zone (City or County) will be responsible for drafting the proposed agreement pursuant to the approved Tax Abatement, as well as all collateral documentation.

The legal document is to include the following:

1. Estimated value of expansion or new construction to be abated.
2. Percent of value to be abated each year.
3. Commencement date and the termination date of abatement.
4. Proposed use of the facility, nature of construction, time schedule, map, property description and improvements list as provided in the application.
5. Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture and administration.

~~TAX REINVESTMENT ZONE TAX ABATEMENT APPLICATION~~

SECTION I

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SECTION II

Employment Impact

How many jobs will be brought to Sherman?

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List the number of jobs that will be created and the wage range of each class of job.

What will the total annual payroll be? Include current and increase factors.

Expectation for jobs filled by transfers from other company locations vs. locally-filled jobs.

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What is the estimated water use?

Community Impact

What effect would the project have on the local housing market?

How compatible is the project with the City's Comprehensive Plan?

What environmental impact, if any, will be created by the project?



City Council Regular Meeting

Agenda Item No. F.2.

Meeting Date: 2/5/2024

Prepared By: Teri Fine, Assistant to the City Manager

Approved By: Robby Hefton, City Manager

Caption:

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6689

Extending the Corporate Limits of Said City so as to Annex an Area of Land Consisting of Approximately 220.18 acres of Land Located West of F.M. 1417 (Heritage Parkway) and North of O.B. Groner Road Adjacent to the Sherman City Limits and in the City of Sherman's Extraterritorial Jurisdiction, on Application of the Landowner; Providing that the Owners and Inhabitants of the Subject Area of Land shall be Entitled to the Rights and Privileges of Other Citizens of the City of Sherman and Shall be Bound by the Acts and Ordinances now in Effect and hereinafter Adopted; Authorizing Execution of the Annexation Service Plan Agreement; Providing for a Penalty for a Violation of this Ordinance and Sherman's General Zoning Ordinance, Ordinance No. 2280; Providing a Savings/Repealing Clause, Severability Clause and an Effective Date; and Providing for the Publication of the Caption hereof

Issue:

To introduce, hold a public hearing, and consider adoption of the annexation ordinance that extends the City of Sherman's corporate limits so as to annex approximately 220.18 acres of Land Located West of F.M. 1417 (Heritage Parkway) and North of O.B. Groner Road Adjacent to the Sherman City Limits and in the City of Sherman's Extraterritorial Jurisdiction, and in the City's extraterritorial jurisdiction (ETJ), in accordance with state law and the City Charter

Background:

It is the City's intention to annex specifically identified individual areas in the City's ETJ, in accordance with state law and the City Charter. At its January 16th meeting, the City Council approved the schedule for annexation of this property, which set the public hearing for this the February 5th Regular Council Meeting and the adoption of the Ordinance for that same meeting.

This annexation was initiated by the property owner, FLATO Sherman Community One, LLC. There is a related agenda item on this agenda for the Council to consider approval for a Planned Development application from the developer on this project.

Origination:

Letter from Flatto Developments Inc.

Financial Consideration:

At full build-out, estimated property taxes will generate about \$1.5 million per year at the current tax rate. Retail development included in the annexation will also generate sales tax.

Staff Recommendation:

It is recommended that the City Council introduce, hold the required public hearing, and consider adoption of the

ordinance for annexation of this approximately 220.18 acres of Land Located West of F.M. 1417 (Heritage Parkway) and North of O.B. Groner Road Adjacent to the Sherman City Limits and in the City of Sherman's Extraterritorial Jurisdiction,

Alternatives:

As directed by the City Council

Attachments:

1. Ordinance No. 6689
2. Annexation Schedule
3. Exhibit A - Legal Description
4. Exhibit A - Drawing
5. Annexation Agreement
6. Request for Annexation
7. Aerial Location Map

ORDINANCE NO. 6689

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, EXTENDING THE CORPORATE LIMITS OF SAID CITY SO AS TO ANNEX AN AREA OF LAND CONSISTING OF APPROXIMATELY 220.18 ACRES OF LAND LOCATED WEST OF F.M. 1417 (HERITAGE PARKWAY) AND NORTH OF O.B. GRONER ROAD ADJACENT TO THE SHERMAN CITY LIMITS AND IN THE CITY OF SHERMAN'S EXTRATERRITORIAL JURISDICTION, ON APPLICATION OF THE LANDOWNER; PROVIDING THAT THE OWNERS AND INHABITANTS OF THE SUBJECT AREA OF LAND SHALL BE ENTITLED TO THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS OF THE CITY OF SHERMAN AND SHALL BE BOUND BY THE ACTS AND ORDINANCES NOW IN EFFECT AND HEREINAFTER ADOPTED; AUTHORIZING EXECUTION OF THE ANNEXATION SERVICE PLAN AGREEMENT; PROVIDING FOR A PENALTY FOR A VIOLATION OF THIS ORDINANCE AND SHERMAN'S GENERAL ZONING ORDINANCE, ORDINANCE NO. 2280; PROVIDING A SAVINGS/REPEALING CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF; 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 of Sherman ("Landowner") is the sole owner of real property within that certain area 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 ("Property"); and

WHEREAS, Landowner submitted an application to the City of Sherman, Texas ("Sherman"), requesting voluntary annexation of the Property into the city limits of Sherman; and

WHEREAS, the City Council of the City of Sherman, Texas ("City Council") has investigated and determined that it would be advantageous and beneficial to Sherman and its citizens to annex the Property under the authority of Chapter 43 of the Texas Local Government Code and the Sherman City Charter; and

WHEREAS, the City Council finds that Sherman has complied with all requirements for the consideration and adoption of this Ordinance pursuant to Chapter 43 of the Texas Local Government Code; and

WHEREAS, prior to conducting the public hearings required under Chapter 43 of the Texas Local Government Code, the City Council also investigated and determined that the Property is within the extraterritorial jurisdiction of Sherman and is adjacent and contiguous to the existing city limits of Sherman; and

WHEREAS, the Landowner and Sherman have negotiated and are prepared to enter into a written annexation service plan agreement, a copy of which is attached hereto as Exhibit B, in accordance with Section 43.0672 of the Texas Local Government Code; and

WHEREAS, the City Council finds that the field notes close the boundaries of the Property; and

WHEREAS, the City Council has conducted at least one public hearing at which persons interested in the annexation were given an opportunity to be heard regarding the proposed annexation; and

WHEREAS, the City Council finds that all legal notices, hearings, procedures and publishing requirements for annexation have been performed and completed in the manner and form required by law;

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

SECTION 1: Findings Incorporated. That the findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Annexation Service Plan Agreement. That the City Manager or his designee is hereby authorized and directed to execute, on behalf of Sherman, the annexation service plan agreement between Sherman and the Landowner, a copy of which is attached hereto as Exhibit B.

SECTION 3: Property Annexed. That the Property described as follows and all public streets, roadways and alleyways located within or contiguous to the same are hereby annexed to Sherman, to-wit:

BEING the following tract of land located in Grayson County, Texas: 220.18± acres, situated in the Elizabeth Jones Survey, Abstract No. 625, and the Jason Stamps Survey, Abstract No. 1115; said Property is more particularly described and depicted in Exhibit A.

SECTION 4: Rights/Privileges/Inhabitants Bound by Ordinances and Regulations. That from and after the passage of this Ordinance, the Property shall be a part of Sherman, and the inhabitants thereof shall be entitled to all the rights and privileges of all the citizens of Sherman and shall be bound by all of the ordinances and regulations enacted pursuant to and in conformity with the City Charter and the laws of the State of Texas.

SECTION 5: Official Map and Boundaries Amended. That the official map and boundaries of Sherman are hereby amended to include the Property as part of Sherman. A certified copy of this Ordinance shall be filed in the County Clerk's Office of Grayson County, Texas.

SECTION 6: Unlawful Use. That it shall be unlawful for any person, firm, entity or corporation to use the Property in a manner other than as authorized by this Ordinance and

Sherman’s General Zoning Ordinance, Ordinance No. 2280 (“Zoning Ordinance”), as they exist or may be amended, 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 and the Zoning Ordinance, as they exist or may be amended.

SECTION 7: Penalty. That 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 00/100 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 Sherman from filing suit to enjoin the violation. Sherman retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 8: Savings/Repealing. That 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 9: Severability. That should 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, sentence, clause and phrase thereof regardless of the fact that any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

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

SECTION 11: Public Meeting. That it is hereby officially found and determined that the meeting at which this ordinance was introduced and passed was open to the public and that public notice of the time, place and purpose of said meeting was given all as required by law.

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

INTRODUCED on this the 5th day of February 2024

ADOPTED on this the 5th day of February 2024

EFFECTIVE DATE on this the 5th day of February 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

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)

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

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;

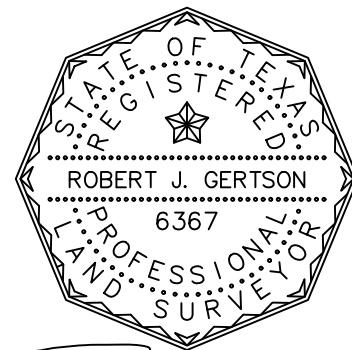
THENCE N74°39'41"E, with the north line of the herein described tract and the south line of said Setting Sun Estates, a distance of 1,554.28 feet to a 1/2 inch rebar with an illegible cap for the northeast corner of the herein described tract;

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

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;

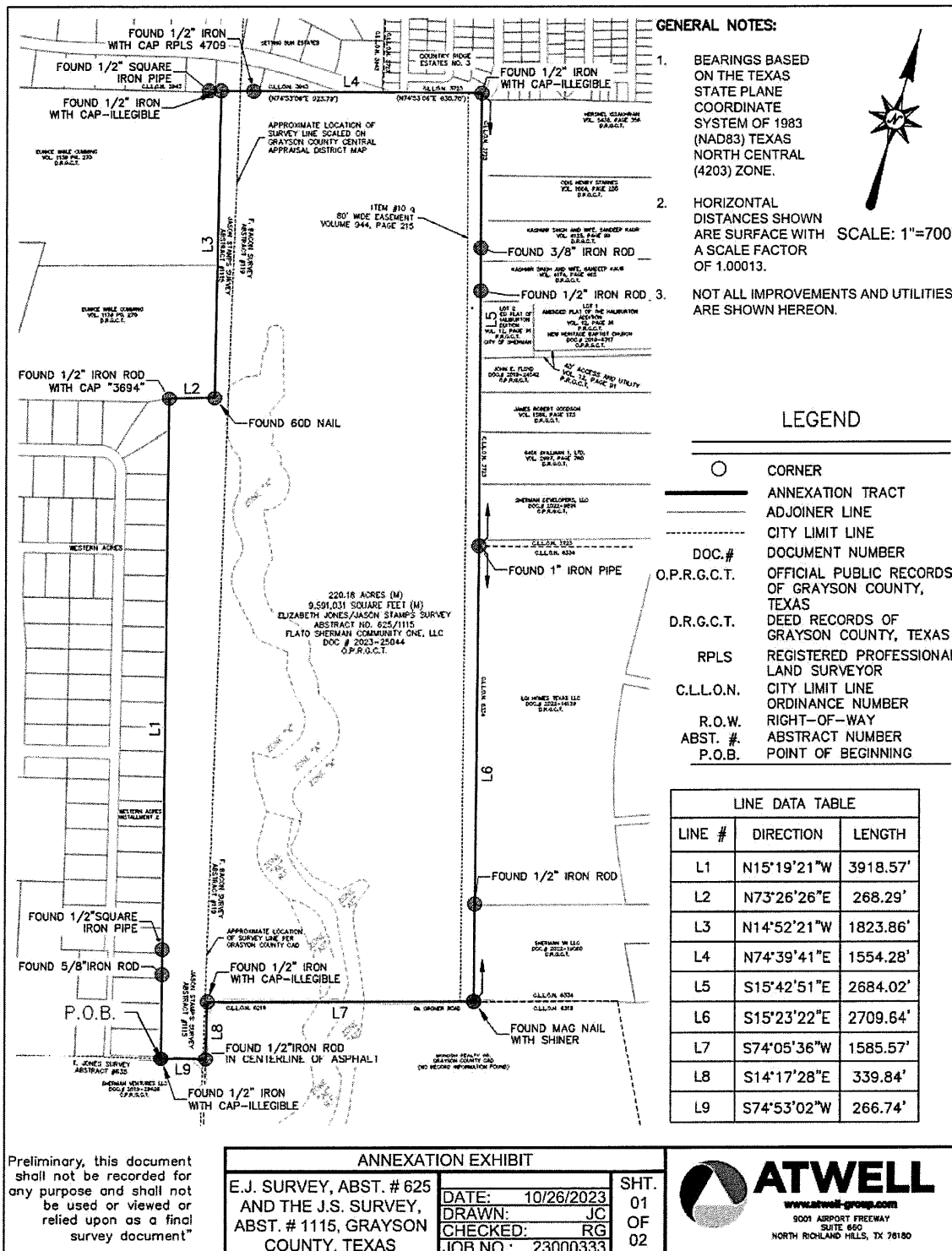
THENCE N74°39'41"E, with the north line of the herein described tract and the south line of said Setting Sun Estates, a distance of 1,554.28 feet to a 1/2 inch rebar with an illegible cap for the northeast corner of the herein described tract;

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.





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.

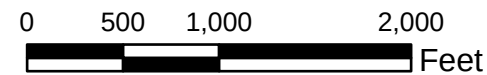
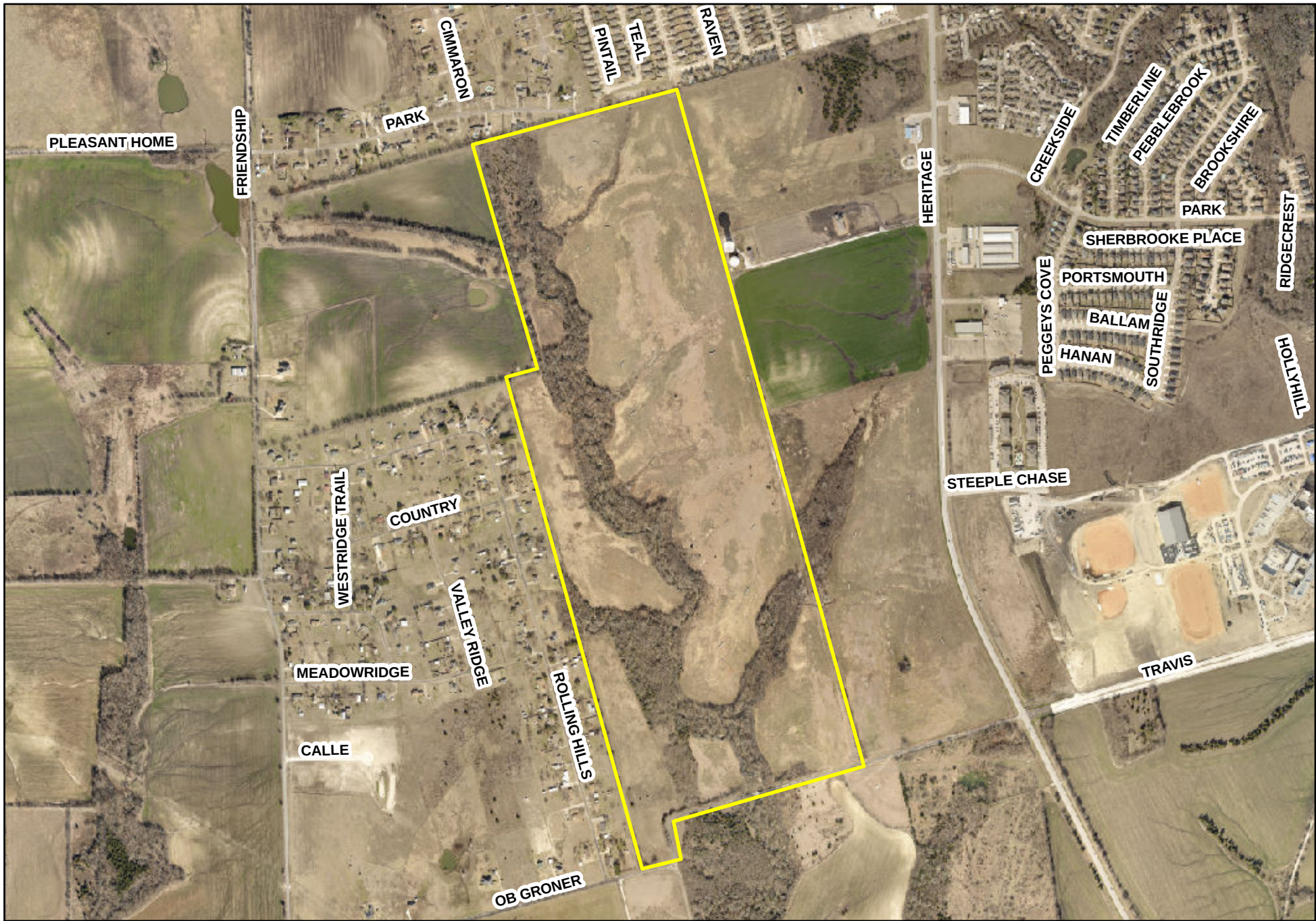
We are looking forward to building a long-term relationship with the City of Sherman. Let me know if there are any questions you may have.

Sincerely,

A handwritten signature in blue ink, consisting of a stylized 'S' and 'R' intertwined.

Shakir Rehmatullah
FLATO Sherman Community One, LLC

CC: Rick Leisner, AICP PLA, Norris Design and Jorge Garay, PE, Atwell





City Council Regular Meeting

Agenda Item No. F.3.

Meeting Date: 2/5/2024

Prepared By: Rob Rae, Developmental Services Director

Approved By: Teri Fine, Assistant to the City Manager

Caption:

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6690 - (UNDER APPEAL FROM P&Z)

Amending Sherman's Zoning Ordinance/Code of Ordinances Chapter 14, to Rezone a Tract of Land Consisting of 220.18 acres being a part of the Elizabeth Jones Survey, Abstract No. 625 and the Jason Stamps Survey, Abstract No. 1115, City of Sherman, Grayson County, Texas, Located in the 3000 Block West OB Groner Road and the 4500 Block West Park Avenue, Heretofore Zoned R-A (Residential Agriculture) District; Rezoning and Placing the Tract in the PD (Planned Development) Zoning Classification, Shakir Rehmatullah, Flato Development, Inc. (Owner), Rick Leisner, Norris Design (Representative) and Atwell-Group (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

Issue:

Consideration of a Zone Change for 220.18 acres of land located in the 3000 Block West OB Groner Road and the 4500 Block West Park Avenue from an R-A (Residential Agriculture) District to a PD (Planned Development) District

Background:

The property is located in the 3000 Block West OB Groner Road and the 4500 Block West Park Avenue between South Rolling Hills Drive and South FM 1417 (Heritage Parkway). The owner is requesting a Zone Change for a PD (Planned Development) District.

This Planned Development would be designed as a pedestrian-oriented, walkable set of neighborhoods. The neighborhoods are centered around the Choctaw Creek tributary that runs north/south near the middle of the property. The creek environment includes mature Texas native trees which will be preserved and will be enhanced with walking trails, benches, and pedestrian amenities. The property will consist of a mix of uses including single-family homes, townhomes, multi-family, and mixed used buildings that have retail on the ground floor and office and residential on the 2-4 floors.

This item was recommended for denial by the Planning and Zoning Commission on December 12, 2023. On December 21, 2023. Staff received a written request by the applicant to appeal the P&Z decision to City Council. The appeal date was scheduled for the February 5, 2024 City Council Meeting.

To overturn the P&Z Commission's recommendation for denial of this item, an affirmative vote of at least three-fourths (3/4ths) of all members of the City Council is required.

In addition, City staff has received a protest written and signed by the owners of at least 20 percent of the area that is within 200 feet of the subject property. The protest triggers the requirement under state law and the City's

Zoning Ordinance to also require an affirmative vote of at least three-fourths (3/4ths) of all members of the City Council.

The applicant presented its proposed development to the Planning and Zoning Commission at the November 14, 2023 Planning and Zoning Commission meeting. At that meeting, the P&Z commission approved the motion to table the request to allow the applicant to make changes to the request.

On December 12, 2023, the applicant presented the revised plan for the Greenway development addressing the comments that P&Z made at the November meeting. At that meeting, P&Z voted 5/2 to deny the request.

The developer hosted a community meeting on January 25th, 2024 and invited the residents of the Western Acres and the Setting Sun subdivisions to listen to their concerns and propose changes to the development application.

In response to the community concerns, the developer has proposed the following modifications to the development regulations considered by the P&Z Commission:

- A 20-foot landscape buffer required along the west and north property lines.
- A 25-foot rear building setback for the lots bounded on the west and north property lines.
- Height limitation of 10-feet for any accessory structures permitted in the rear setback that are adjacent to the west and north property lines of the development.
- A maximum height limitation of 4 stories or 50 feet for Mixed Use (MU) and Multi-Family (MF-30) sub-districts
- Only SF-60 zoning along the western boundary of the development.

Origination:

Shakir Rehmatullah, Flato Development, Inc. (Owner)
Rick Leisner, Norris Design (Representative)
Atwell-Group (Surveyor)

Financial Consideration:

None

Staff Recommendation:

At the December 12, 2023 regular meeting, the Planning and Zoning Commission voted 5/2 to deny this item. The applicant submitted a letter of appeal to the Director of Development Services on December 21, 2023. **The proposed use is compatible with the City of Sherman Comprehensive Plan. Staff recommends that Council approve this zone change.**

Alternatives:

The City Council could deny the request.

Attachments:

1. Ordinance No. 6690
2. Exhibit A - Survey
3. Exhibit B - Development Standards
4. Exhibit C - Zoning Exhibit
5. Location Map
6. Future Land Use Map
7. Applicant Letter of Appeal
8. PETITION

9. Opposition - Brady
10. Opposition - Swindell
11. Opposition - Pearson
12. Opposition - Robertson
13. Public Comments
14. Halff Concurrence Letter
15. Staff Review Letter

ORDINANCE NO. 6690

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 220.18 ACRES BEING A PART OF THE ELIZABETH JONES SURVEY, ABSTRACT NO. 625 AND THE JASON STAMPS SURVEY, ABSTRACT NO. 1115, CITY OF SHERMAN, GRAYSON COUNTY, TEXAS, LOCATED IN THE 3000 BLOCK WEST OB GRONER ROAD AND THE 4500 BLOCK WEST PARK AVENUE, HERETOFORE ZONED R-A (RESIDENTIAL AGRICULTURE) DISTRICT; REZONING AND PLACING THE TRACT IN THE PD (PLANNED DEVELOPMENT) ZONING CLASSIFICATION; SHAKIR REHMATULLAH, FLATO DEVELOPMENT, INC. (OWNER), RICK LEISNER, NORRIS DESIGN (REPRESENTATIVE) AND ATWELL-GROUP (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 in the 3000 Block West OB Groner Road and the 4500 Block West Park Avenue, and all streets, roads and alleyways contiguous and/or adjacent thereto, shall be rezoned and placed in the PD (Planned Development) District zoning classification, and that Sherman's Zoning Ordinance/Code of Ordinances, Chapter 14, is hereby amended so as to hereafter include such property.

The development plans, standards and uses of the Property shall conform to and comply with the standards, rules and regulations for development and use of land within the Planned Development District zoning classification. The Property shall be developed in compliance with the additional requirements as set forth and/or depicted herein and in the following exhibits, each of which are attached hereto and incorporated herein by reference for all purposes:

- Exhibit B – Development Standards, and
- Exhibit C – Zoning Exhibit.

The Property shall be developed in compliance with the standards set forth herein, in Exhibit B and Exhibit C and all other ordinances, rules and regulations of Sherman, as they currently exist, may be amended or in the future arising. To the extent that any of the exhibits attached hereto are in conflict with the provisions of this Ordinance or one another, the provisions of this Ordinance, then the provisions of Exhibit B and Exhibit C shall prevail in that order.

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 5th day of February 2024.

ADOPTED on this the 5th day of February 2024.

EFFECTIVE DATE on this the 5th day of February 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

ALTA / NSPS LAND TITLE SURVEY
220.18 ACRES (9,591,031 SQ.FT.)
SITUATED IN THE JASON STAMPS SURVEY AND THE ELIZABETH JONES
SURVEY, ABSTRACT NO. 625, GRAYSON COUNTY, TEXAS

LEGAL DESCRIPTION PER CHICAGO TITLE INSURANCE COMPANY TITLE COMMITMENT FILE# 8055632300004.
EFFECTIVE DATE DECEMBER 28, 2022, ISSUED JANUARY 05, 2023

SITUATED IN THE COUNTY OF GRAYSON, STATE OF TEXAS, BEING A PART OF THE ELIZABETH JONES SURVEY, ABSTRACT NO. 625 AND THE JASON STAMPS SURVEY, ABSTRACT NO. 1115, BEING A RE-SURVEY OF A 217 ACRE TRACT OF LAND DESCRIBED IN TRACT ONE IN DEED FROM BOBBIE LOU GEE, AS INDEPENDENT EXECUTOR OF THE ESTATE OF LOUIS STARK GEE, DECEASED TO BOBBIE LOU GEE AND ROBERT S. GEE, TRUSTEES OF THE BOBBIE LOU GEE MARITAL TRUST, DATED JUNE 5, 2001, RECORDED IN VOLUME 3084, PAGE 584, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, TO-WIT:

BEGINNING AT A SET 1/2 INCH REBAR FOR THE SOUTHWEST CORNER OF SAID 217 ACRE TRACT, THE SOUTHEAST CORNER OF WESTERN ACRES ADDITION, INSTALLMENT NO. TWO TO GRAYSON COUNTY, TEXAS, AS SHOWN BY PLAT OF RECORD IN VOLUME 6, PAGE 12, PLAT RECORDS, GRAYSON COUNTY, TEXAS, IN THE CENTER OF A PUBLIC ROAD KNOWN AS O. B. GRONER ROAD AND ON THE SOUTH LINE OF SAID STAMPS SURVEY, THE NORTH LINE OF THE THOMAS JONES SURVEY, ABSTRACT NO. 635;

THENCE NORTH 15 DEG. 06 MIN. 26 SEC. WEST, WITH THE EAST LINE OF SAID WESTERN ACRES ADDITION, INSTALLMENT NO. TWO, AT A DISTANCE OF 40.00 FEET PASSING A SET 1/2 INCH REBAR FOR THE SOUTHEAST CORNER OF LOT NO. ONE HUNDRED THIRTY (130) ON THE NORTH SIDE OF SAID O. B. GRONER ROAD AND CONTINUING, PASSING THE NORTHEAST CORNER OF SAID INSTALLMENT NO. TWO, THE SOUTHEAST CORNER OF WESTERN ACRES ADDITION TO GRAYSON COUNTY, TEXAS, AS SHOWN BY PLAT OF RECORD IN VOLUME 5, PAGE 38, PLAT RECORDS, GRAYSON COUNTY, TEXAS AND CONTINUING FOR A TOTAL DISTANCE OF 3918.52 FEET TO A SET 1/2 INCH REBAR FOR THE NORTHEAST CORNER OF SAID WESTERN ACRES ADDITION, ON THE SOUTH LINE OF AN 86.13 ACRE TRACT OF LAND CONVEYED BY CLARK M. WIBLE AND WRAY E. WIBLE TO EUNICE WIBLE CUMMING BY DEED DATED JULY 9, 1969, RECORDED IN VOLUME 1139, PAGE 270, DEED RECORDS, GRAYSON COUNTY, TEXAS;

THENCE NORTH 73 DEG. 42 MIN. 38 SEC. EAST, WITH THE SOUTH LINE OF SAID 86.13 ACRE TRACT, A DISTANCE OF 268.26 FEET TO A BOIS D'ARC CORNER POST MAINTAINING THE SOUTHEAST CORNER OF SAID 86.13 ACRE TRACT ON THE EAST LINE OF SAID STAMPS SURVEY, THE WEST LINE OF SAID ELIZABETH JONES SURVEY;

THENCE NORTH 14 DEG. 39 MIN. 37 SEC. WEST, WITH THE GENERAL LINE OF A FENCE, THE EAST LINE OF BOTH SAID 86.13 ACRE TRACT AND STAMPS SURVEY, THE WEST LINE OF SAID ELIZABETH JONES SURVEY, A DISTANCE OF 1824.25 FEET TO A SET 1/2 INCH REBAR AT THE BASE OF A BOIS D'ARC CORNER POST ON THE SOUTH LINE OF SETTING SUN ESTATES, SECTION ONE TO GRAYSON COUNTY, TEXAS, AS SHOWN BY PLAT OF RECORD IN VOLUME 6, PAGE 37, PLAT RECORDS, GRAYSON COUNTY, TEXAS;

THENCE NORTH 74 DEG. 53 MIN. 06 SEC. EAST, WITH THE SOUTH LINE OF SAID SETTING SUN ESTATES, SECTION ONE, AT A DISTANCE OF 923.79 FEET PASSING A FOUND 1/2 INCH REBAR MAINTAINING ITS SOUTHEAST CORNER, THE MOST SOUTHERLY SOUTHWEST CORNER OF A 243.4231 ACRE TRACT OF LAND DESCRIBED IN TRACT TWO IN DEED FROM TEAM BANK TO ARCYLE PHASE I, LTD., DATED SEPTEMBER 25, 1992, RECORDED IN VOLUME 2234, PAGE 766, REAL PROPERTY RECORDS, GRAYSON COUNTY, TEXAS AND CONTINUING WITH THE MOST SOUTHERLY SOUTH LINE OF SAID 243.4231 ACRE TRACT FOR A TOTAL DISTANCE OF 1554.49 FEET TO A SET 1/2 INCH REBAR FOR THE NORTHWEST CORNER OF A 101.4503 ACRE TRACT OF LAND SET ASIDE TO DOROTHY B. BOMAR AND DESCRIBED IN TRACT ONE IN PARTITION DEED RECORDED IN VOLUME 1449, PAGE 551, DEED RECORDS, GRAYSON COUNTY, TEXAS, THE NORTHWEST CORNER OF AN 18.09 ACRE TRACT OF LAND PREVIOUSLY CONVEYED OUT OF SAID 101.4503 ACRE TRACT BY DEED FROM GEORGE W. MEYERS TO HERSHEL ISSAKHRIAN AND KAMRAN GHATREHEE, DATED DECEMBER 29, 1986, RECORDED IN VOLUME 1885, PAGE 776, REAL PROPERTY RECORDS, GRAYSON COUNTY, TEXAS;

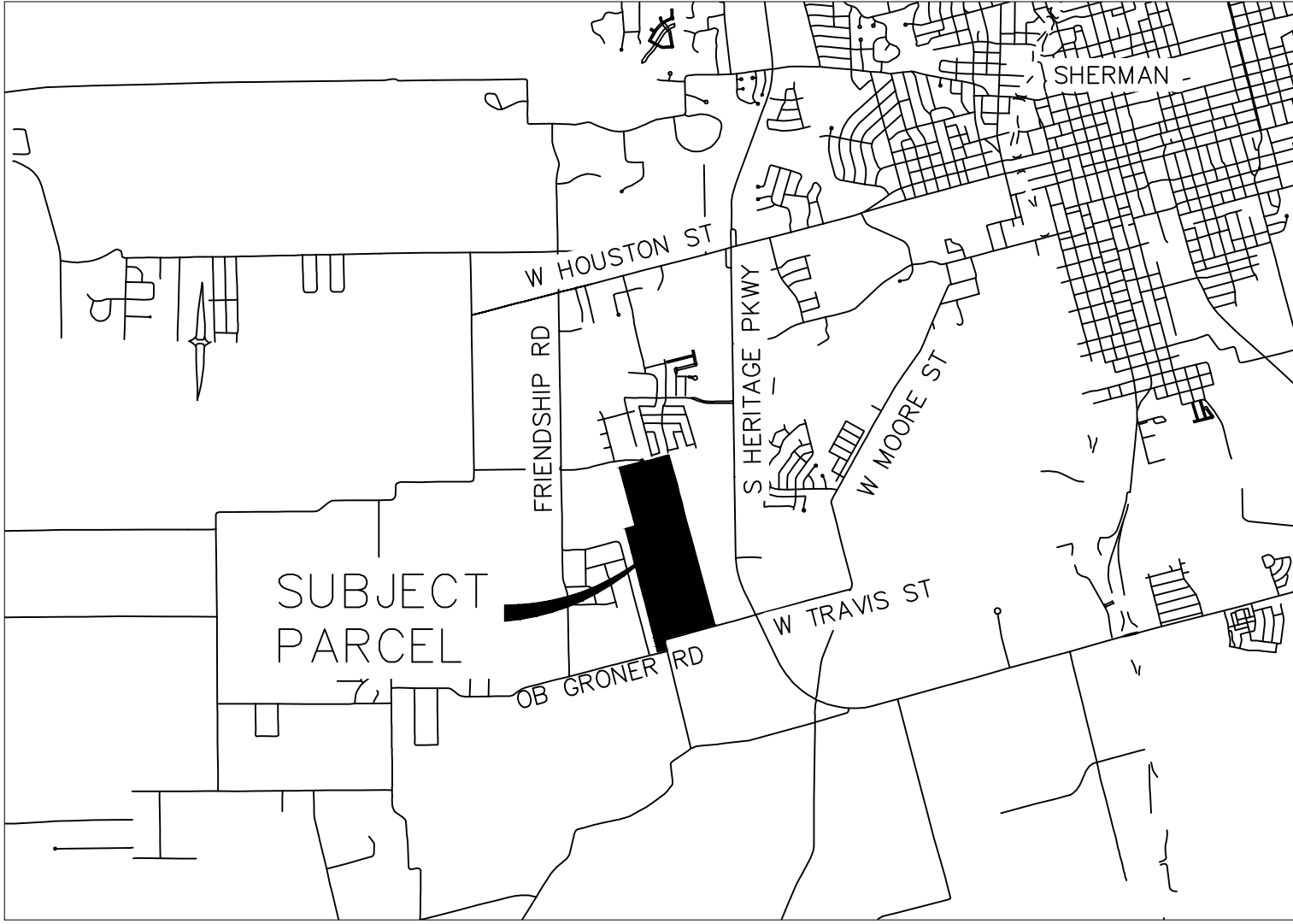
THENCE SOUTH 15 DEG. 29 MIN. 28 SEC. EAST, WITH THE WEST LINE OF SAID 101.4503 ACRE TRACT AND WITH THE WEST LINE OF SAID 18.09 ACRE TRACT AND SEVERAL OTHER TRACTS CONVEYED OUT OF SAID 101.4503 ACRE TRACT, A DISTANCE OF 2683.98 FEET TO A FOUND 1 INCH PIPE MAINTAINING THE SOUTHWEST CORNER OF SAID 101.4503 ACRE TRACT, THE SOUTHWEST CORNER OF A 10.00 ACRE TRACT OF LAND CONVEYED BY GRADY PIPER VENABLE TO JOHNNY GALE AND MICHAEL DOUTHIEY BY DEED DATED JULY 19, 2000, RECORDED IN VOLUME 2955, PAGE 537, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, THE NORTHWEST CORNER OF A 70.0782 ACRE TRACT OF LAND CONVEYED BY JACK HOPPER TO REX GLENDENNING BY DEED DATED AUGUST 3, 1993, RECORDED IN VOLUME 2344, PAGE 435, REAL PROPERTY RECORDS, GRAYSON COUNTY, TEXAS;

THENCE SOUTH 15 DEG. 10 MIN. 21 SEC. EAST, WITH THE WEST LINE OF SAID 70.0782 ACRE TRACT, PASSING A SET 1/2 INCH REBAR ON THE NORTH SIDE OF THE ABOVE MENTIONED O. B. GRONER ROAD AND CONTINUING FOR A TOTAL DISTANCE OF 2708.90 FEET TO A FOUND 1/2 INCH REBAR MAINTAINING THE SOUTHWEST CORNER OF SAID 70.0782 ACRE TRACT IN THE CENTER OF SAID O. B. GRONER ROAD AND ON THE NORTH LINE OF A 200-1/5 ACRE TRACT OF LAND DESCRIBED IN SECOND TRACT IN DEED FROM ROBERT S. DAVIS, ET UX TO THE MUNSON REALTY COMPANY BY DEED DATED DECEMBER 29, 1960, RECORDED IN VOLUME 925, PAGE 261, DEED RECORDS, GRAYSON COUNTY, TEXAS;

THENCE SOUTH 74 DEG. 17 MIN. 02 SEC. WEST, WITH THE CENTER OF SAID O. B. GRONER ROAD, THE NORTH LINE OF SAID 200-1/2 ACRE TRACT, LEAVING SAID ROAD AT A TURN TO THE SOUTH AND CONTINUING FOR A TOTAL DISTANCE OF 1585.34 FEET TO A SET 1/2 INCH REBAR FOR THE NORTHWEST CORNER OF SAID 200-1/2 ACRE TRACT ON THE WEST LINE OF SAID ELIZABETH JONES SURVEY, THE EAST LINE OF SAID STAMPS SURVEY;

THENCE SOUTH 14 DEG. 05 MIN. 02 SEC. EAST, WITH THE WEST LINE OF BOTH SAID 200-1/2 ACRE TRACT AND ELIZABETH JONES SURVEY, THE EAST LINE OF SAID STAMPS SURVEY, AGAIN ENTERING SAID O. B. GRONER ROAD AND CONTINUING WITH THE CENTER OF SAID ROAD, LEAVING SAID ROAD AT A TURN TO THE WEST AND CONTINUING WITH THE CENTER OF BRADLEY ROAD FOR A TOTAL DISTANCE OF 339.86 FEET TO A SET 1/2 INCH REBAR FOR THE SOUTHEAST CORNER OF SAID STAMPS SURVEY, THE NORTHEAST CORNER OF THE ABOVE MENTIONED THOMAS JONES SURVEY AT THE INTERSECTION OF THE CENTER OF SAID O. B. GRONER ROAD WITH THE CENTER OF SAID BRADLEY ROAD;

THENCE SOUTH 75 DEG. 06 MIN. 25 SEC. WEST, WITH THE SOUTH LINE OF SAID STAMPS SURVEY, THE NORTH LINE OF SAID THOMAS JONES SURVEY, AGAIN ENTERING SAID O. B. GRONER ROAD AND CONTINUING FOR A TOTAL DISTANCE OF 266.67 FEET TO THE PLACE OF BEGINNING AND CONTAINING 220.14 ACRES OF LAND, MORE OR LESS.



VICINITY MAP
SCALE: NOT TO SCALE

AS-SURVEYED LEGAL DESCRIPTION

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 220.14 ACRE TRACT OF LAND CONVEYED TO HUYN QUACH AND CHARLES SHAO WU AS RECORDED IN VOLUME 3260, PAGE 62, DEED 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 NORTH RIGHT-OF-WAY OF OB GRONER ROAD (NO RECORD INFORMATION FOUND) FOR THE POINT OF BEGINNING;

THENCE NORTH 15 DEGREES 19 MINUTES 21 SECONDS WEST, 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 WESTERMOST 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 NORTH 73 DEGREES 26 MINUTES 26 SECONDS EAST, 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 NORTH 14 DEGREES 52 MINUTES 21 SECONDS WEST, WITH THE WEST LINE OF THE HEREIN DESCRIBED TRACT AND THE EAST LINE OF SAID CUMMING TRACT, A DISTANCE OF 1823.86 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 NORTH 74 DEGREES 39 MINUTES 41 SECONDS EAST, 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 SOUTH 15 DEGREES 42 MINUTES 51 SECONDS EAST, 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 HALBURTON 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, 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 SOUTH 15 DEGREES 23 MINUTES 22 SECONDS EAST, 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 OB GRONER ROAD, THE FOLLOWING CALLS:

- SOUTH 74 DEGREES 05 MINUTES 40 SECONDS WEST, A DISTANCE OF 1,585.58 FEET TO A 1/2 INCH REBAR WITH AN ILLEGIBLE CAP;
- SOUTH 14 DEGREES 17 MINUTES 28 SECONDS EAST, A DISTANCE OF 339.84 FEET TO A 1/2 INCH REBAR FOUND;
- SOUTH 74 DEGREES 53 MINUTES 02 SECONDS WEST, 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.

ALTA TABLE A NOTES:

(CORRESPONDING NUMBERS COINCIDE WITH TABLE A ITEMS)

- MONUMENTS FOUND OR SET AT ALL CORNERS OF THE PROPERTY
- ADDRESS: OB GRONER SHERMAN, TX PER GRAYSON COUNTY ASSESSOR'S DATA
- SITE LOCATED WITHIN FLOODZONE "A", "AE", AND "X", ACCORDING TO FEMA MAP WITH MAP NUMBER 48181604006, EFFECTIVE DATE 09/01/2022
- SUBJECT PROPERTY CONTAINS A TOTAL AREA OF ±220.18 ACRES (±9,591,031 SQUARE FEET) MORE OR LESS. NO PARCEL INFORMATION HAS BEEN RECEIVED FROM CLIENT
- NO ZONING INFORMATION HAS BEEN RECEIVED FROM CLIENT
- NO ZONING INFORMATION HAS BEEN RECEIVED FROM CLIENT
- NO BUILDINGS ON SUBJECT PROPERTY
- NO BUILDINGS ON SUBJECT PROPERTY
- SUBSTANTIAL FEATURES OBSERVED IN THE PROCESS OF CONDUCTING THE SURVEY ARE SHOWN HEREON
- NO PARKING SPACES ON SUBJECT PROPERTY
- SURFACE EVIDENCE (OBSERVED) OF UTILITIES LYING WITHIN THE SURVEYED PROPERTY WERE LOCATED WHILE CONDUCTING THIS SURVEY AND ARE DEPICTED. FROM INFORMATION RECEIVED FROM A TEXAS ONE CALL DESIGN STAGE TICKET TO REQUEST ATLASES, MAPS, DIGITAL FILES, ETC. FROM THE UTILITY COMPANIES TO DEPICT UNDERGROUND UTILITIES THAT ARE NOT LOCATABLE BASED ON SURFACE EVIDENCE.

SURVEYOR MAKES NO GUARANTEE THAT THE UTILITIES SHOWN COMPRISE ALL UNMARKED AND/OR BURIED UTILITIES IN THE AREA, EITHER IN-SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE THE EXACT LOCATION INDICATED BY SAID VISIBLE EVIDENCE AND DESIGN STAGE ATLAS REQUESTS. NOTE TO THE CLIENT, INSURER, AND LENDER – WITH REGARD TO TABLE A, ITEM 11, SOURCE INFORMATION FROM PLANS AND MARKINGS WILL BE COMBINED WITH OBSERVED EVIDENCE OF UTILITIES PURSUANT TO SECTION 5.E.IV. TO DEVELOP A VIEW OF THE UNDERGROUND UTILITIES. HOWEVER, LACKING EXCAVATION, THE EXACT LOCATION OF UNDERGROUND FEATURES CANNOT BE ACCURATELY, COMPLETELY, AND RELIABLY DEPICTED. IN ADDITION, IN SOME JURISDICTIONS, 811 OR OTHER SIMILAR UTILITY LOCATE REQUESTS FROM SURVEYORS MAY BE IGNORED OR RESULT IN AN INCOMPLETE RESPONSE, IN WHICH CASE THE SURVEYOR SHALL NOTE ON THE PLAT OR MAP HOW THIS AFFECTED THE SURVEYOR'S ASSESSMENT OF THE LOCATION OF THE UTILITIES. WHERE ADDITIONAL OR MORE DETAILED INFORMATION IS REQUIRED, THE CLIENT IS ADVISED THAT EXCAVATION AND/OR A PRIVATE UTILITY LOCATE REQUEST MAY BE NECESSARY.

- NAMES OF ADJOINING OWNERS OR ADJOINING LANDS ARE SHOWN PER COUNTY RECORDS AND GIS.
- NO EVIDENCE OF RECENT EARTH MOVING WORK, BUILDING CONSTRUCTION, OR BUILDING ADDITIONS WAS OBSERVED IN THE PROCESS OF CONDUCTING THE FIELDWORK.
- SURVEYOR IS NOT AWARE OF PROPOSED CHANGES IN STREET RIGHT OF WAY LINES, FROM INFORMATION MADE AVAILABLE BY THE CONTROLLING JURISDICTION. THERE WAS NO EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS OBSERVED IN THE PROCESS OF CONDUCTING THE FIELDWORK.
- ALL OFFSITE EASEMENTS DISCLOSED IN DOCUMENTS PROVIDED TO OR OBTAINED BY THE SURVEYOR ARE SHOWN HEREON

GENERAL NOTES

- COMPARE ALL DISTANCES AND POINTS IN FIELD AND REPORT ANY DISCREPANCIES IN SAME TO SURVEYOR AT ONCE.
- NO DIMENSIONS SHOULD BE ASSUMED BY SCALING.
- BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM OF 1983 (NAD83) TEXAS NORTH CENTRAL (4202) ZONE.
- SUBJECT PROPERTY CONTAINS A TOTAL AREA OF ±220.18 ACRES (±9,591,031 SQUARE FEET) MORE OR LESS.
- ALL DISTANCE VALUES ARE US SURVEY FEET, ALL DISTANCE AND AREA VALUES ARE GRID VALUES, NOT GROUND.
- GRAYSON COUNTY APPRAISAL DISTRICT ACCOUNT PROPERTY NUMBER: 125114 & 125140

SURVEYORS CERTIFICATE:

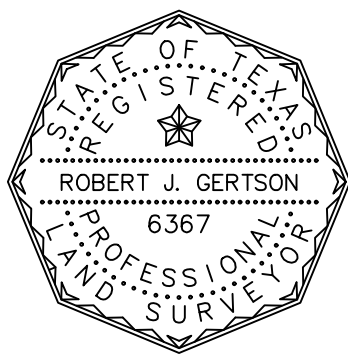
TITLE COMMITMENT FILE# 8055632300004,
EFFECTIVE DATE DECEMBER 28, 2023, ISSUED JANUARY 05, 2023

TO: XXXXXX
CHICAGO 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 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 6(a,b), 7(a,b), 8, 9, 11(a,b), 13, 16, 17, & 18 OF TABLE A THEREOF.

THE FIELDWORK WAS COMPLETED ON JUNE 16TH, 2023
DATE OF PLAT OR MAP: JUNE 19TH, 2023

ROBERT J. GERTSON, RPLS# 6367
Atwell LLC
805 Los Cimas Parkway, Ste. 310
Austin, Texas 78746
(512)904-0505
rgertson@atwell-group.com



Know what's below.
Call before you dig.

THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER OR ITS REPRESENTATIVE. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK, AND AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.

NOTICE:
CONSTRUCTION SITE SAFETY IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR. NEITHER THE OWNER NOR THE ENGINEER SHALL BE EXPECTED TO ASSUME ANY RESPONSIBILITY FOR SAFETY OF THE WORK, OF PERSONS ENGAGED IN THE WORK, OF ANY NEARBY STRUCTURES, OR OF ANY OTHER PERSONS.

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ALTA / NSPS LAND TITLE SURVEY

PROJECT: 220.18 ACRES (9,591,031 SQ.FT.)
SITUATED IN THE JASON STAMPS SURVEY AND THE ELIZABETH JONES SURVEY, ABSTRACT NO. 625, GRAYSON COUNTY, TEXAS

DATE	JUNE 2023

REVISIONS	
SCALE	
DR. DBR	CH. VDS
P.M. RJG	
CAD FILE:	23000333.ALTA JAK ECTS.DWG
JOB	23000333
SHEET NO.	1 OF 3

SURVEYORS RESPONSE TO EXCEPTIONS FROM COVERAGE PER CHICAGO TITLE INSURANCE COMPANY TITLE COMMITMENT
FILE# 8055632300004, EFFECTIVE DATE DECEMBER 28, 2022, ISSUED JANUARY 05, 2023.

1.

THE FOLLOWING RESTRICTIVE COVENANTS OF RECORD ITEMIZED BELOW (WE MUST EITHER INSERT SPECIFIC RECORDING DATA OR DELETE THIS EXCEPTION):

ITEM 1, SCHEDULE B IS HEREBY DELETED.
2.

ANY DISCREPANCIES, CONFLICTS, OR SHORTAGES IN AREA OR BOUNDARY LINES, OR ANY ENCROACHMENTS OR PROTRUSIONS, OR ANY OVERLAPPING OF IMPROVEMENTS.
3.

HOMESTEAD OR COMMUNITY PROPERTY OR SURVIVORSHIP RIGHTS, IF ANY OF ANY SPOUSE OF ANY INSURED.
(APPLIES TO THE OWNER POLICY ONLY.)
4.

ANY TITLE OR RIGHTS ASSERTED BY ANYONE, INCLUDING, BUT NOT LIMITED TO, PERSONS, THE PUBLIC, CORPORATIONS, GOVERNMENTS OR OTHER ENTITIES,

a.

TO TIDELANDS, OR LANDS COMPRISING THE SHORES OR BEDS OF NAVIGABLE OR PERENNIAL RIVERS AND STREAMS, LAKES, BAYS, GULFS OR OCEANS, OR

b.

TO LANDS BEYOND THE LINE OF THE HARBOR OR BULKHEAD LINES AS ESTABLISHED OR CHANGED BY ANY GOVERNMENT, OR

c.

TO FILLED--IN LANDS, OR ARTIFICIAL ISLANDS, OR

d.

TO STATUTORY WATER RIGHTS, INCLUDING RIPARIAN RIGHTS, OR

e.

TO THE AREA EXTENDING FROM THE LINE OF MEAN LOW TIDE TO THE LINE OF VEGETATION, OR THE RIGHTS OF ACCESS TO THAT AREA OR EASEMENT ALONG AND ACROSS THAT AREA.

(APPLIES TO THE OWNER POLICY ONLY.)

5.

STANDBY FEES, TAXES AND ASSESSMENTS BY ANY TAXING AUTHORITY FOR THE YEAR 2023 AND SUBSEQUENT YEARS; AND SUBSEQUENT TAXES AND ASSESSMENTS BY ANY TAXING AUTHORITY FOR PRIOR YEARS DUE TO CHANGE IN LAND USAGE OR OWNERSHIP; BUT NOT THOSE TAXES OR ASSESSMENTS FOR PRIOR YEARS BECAUSE OF AN EXEMPTION GRANTED TO A PREVIOUS OWNER OF THE PROPERTY UNDER SECTION 11.13, TEXAS TAX CODE, OR BECAUSE OF IMPROVEMENTS NOT ASSESSED FOR A PREVIOUS TAX YEARS. (IF TEXAS SHORT FORM RESIDENTIAL MORTGAGEE POLICY OF TITLE INSURANCE (T-2R) IS ISSUED, THAT POLICY WILL SUBSTITUTE "WHICH BECOME DUE AND PAYABLE SUBSEQUENT TO DATE OF POLICY" IN LIEU OF "FOR THE YEAR 2023 AND SUBSEQUENT YEARS.")

6.

THE TERMS AND CONDITIONS OF THE DOCUMENTS CREATING YOUR INTEREST IN THE LAND.

7.

MATERIALS FURNISHED OR LABOR PERFORMED IN CONNECTION WITH PLANNED CONSTRUCTION BEFORE SIGNING AND DELIVERING THE LIEN DOCUMENT DESCRIBED IN SCHEDULE A, IF THE LAND IS PART OF THE HOMESTEAD OF THE OWNER. (APPLIES TO THE MORTGAGEE TITLE POLICY BINDER ON INTERIM CONSTRUCTION LOAN ONLY, AND MAY BE DELETED IF SATISFACTORY EVIDENCE IS FURNISHED TO US BEFORE A BINDER IS ISSUED.)

8.

LIENS AND LEASES THAT AFFECT THE TITLE TO THE LAND, BUT THAT ARE SUBORDINATE TO THE LIEN OF THE INSURED MORTGAGE.

(APPLIES TO MORTGAGEE POLICY (T-2) ONLY.)
ITEMS 1 THROUGH 8 ARE NOT SURVEY RELATED ITEMS, AND WERE NOT ADDRESSED HEREON.

9.

THE EXCEPTIONS FROM COVERAGE AND EXPRESS INSURANCE IN SCHEDULE B OF THE TEXAS SHORT FORM RESIDENTIAL MORTGAGEE POLICY OF TITLE INSURANCE (T-2R). (APPLIES TO TEXAS SHORT FORM RESIDENTIAL MORTGAGEE POLICY OF TITLE INSURANCE (T-2R) ONLY. SEPARATE EXCEPTIONS 1 THROUGH 8 OF THIS SCHEDULE B DO NOT APPLY TO THE TEXAS SHORT FORM RESIDENTIAL MORTGAGEE POLICY OF TITLE INSURANCE (T-2R).

10.

THE FOLLOWING MATTERS AND ALL TERMS OF THE DOCUMENTS CREATING OR OFFERING EVIDENCE OF THE MATTERS (WE MUST INSERT MATTERS OR DELETE THIS EXCEPTION):

a.

RIGHTS OF PARTIES IN POSSESSION.

b.

INTENTIONALLY DELETED.

c.

IF ANY PORTION OF THE PROPOSED LOAN AND/OR THE OWNER'S TITLE POLICY COVERAGE AMOUNT INCLUDES FUNDS FOR IMMEDIATELY CONTEMPLATED IMPROVEMENTS, THE FOLLOWING EXCEPTIONS WILL APPEAR IN SCHEDULE B OF ANY POLICY ISSUED AS INDICATED:

OWNER AND LOAN POLICY(IES):

ANY AND ALL LIENS ARISING BY REASON OF UNPAID BILLS OR CLAIMS FOR WORK PERFORMED OR MATERIALS FURNISHED IN CONNECTION WITH IMPROVEMENTS PLACED, OR TO BE PLACED, UPON THE SUBJECT LAND. HOWEVER, THE COMPANY DOES INSURE THE INSURED AGAINST LOSS, IF ANY, SUSTAINED BY THE INSURED UNDER THIS POLICY IF SUCH LIENS HAVE BEEN FILED WITH THE COUNTY CLERK OF COUNTY, TEXAS, PRIOR TO THE DATE HEREOF.

OWNER POLICY(IES) ONLY:

LIABILITY HEREUNDER AT THE DATE HEREOF IS LIMITED TO \$ 0.00. LIABILITY SHALL INCREASE AS CONTEMPLATED IMPROVEMENTS ARE MADE, SO THAT ANY LOSS PAYABLE HEREUNDER SHALL BE LIMITED TO SAID SUM PLUS THE AMOUNT ACTUALLY EXPENDED BY THE INSURED IN IMPROVEMENTS AT THE TIME THE LOSS OCCURS. ANY EXPENDITURES MADE FOR IMPROVEMENTS, SUBSEQUENT TO THE DATE OF THIS POLICY, WILL BE DEEMED MADE AS OF THE DATE OF THIS POLICY. IN NO EVENT SHALL THE LIABILITY OF THE COMPANY HEREUNDER EXCEED THE FACE AMOUNT OF THIS POLICY. NOTHING CONTAINED IN THIS PARAGRAPH SHALL BE CONSTRUED AS LIMITING ANY EXCEPTION OR ANY PRINTED PROVISION OF THIS POLICY.

LOAN POLICY(IES) ONLY:

PENDING DISBURSEMENT OF THE FULL PROCEEDS OF THE LOAN SECURED BY THE LIEN INSTRUMENT SET FORTH UNDER SCHEDULE A HEREOF, THIS POLICY INSURES ONLY TO THE EXTENT OF THE AMOUNT ACTUALLY DISBURSED, BUT INCREASE AS EACH DISBURSEMENT IS MADE IN GOOD FAITH AND WITHOUT KNOWLEDGE OF ANY DEFECT IN, OR OBJECTIONS TO, THE TITLE UP TO THE FACE AMOUNT OF THE POLICY. NOTHING CONTAINED IN THIS PARAGRAPH SHALL BE CONSTRUED AS LIMITING ANY EXCEPTION UNDER SCHEDULE B, OR ANY PRINTED PROVISION OF THIS POLICY.

d.

ALL LEASES, GRANTS, EXCEPTIONS OR RESERVATIONS OF COAL, LIGNITE, OIL, GAS AND OTHER MINERALS, TOGETHER WITH ALL RIGHTS, PRIVILEGES, AND IMMUNITIES RELATING THERETO, APPEARING IN THE PUBLIC RECORDS WHETHER LISTED IN SCHEDULE B OR NOT. THERE MAY BE LEASES, GRANTS, EXCEPTIONS OR RESERVATIONS OF MINERAL INTEREST THAT ARE NOT LISTED.

e.

RIGHTS OF TENANTS IN POSSESSION, AS TENANTS ONLY, UNDER UNRECORDED LEASE AGREEMENTS.

f.

LEASE FOR COAL, LIGNITE, OIL, GAS OR OTHER MINERALS, TOGETHER WITH RIGHTS INCIDENT THERETO, DATED DECEMBER 5, 1949, BY AND BETWEEN L.C. GEE, AS LESSOR, AND GEO. S. BERRY JR., AS LESSEE, RECORDED APRIL 21, 1950 AT VOLUME 611, PAGE 215 OF THE OFFICIAL RECORDS OF GRAYSON COUNTY, TEXAS. REFERENCE TO WHICH INSTRUMENT IS HERE MADE FOR PARTICULARS. NO FURTHER SEARCH OF TITLE HAS BEEN MADE AS TO THE INTEREST(S) EVIDENCED BY THIS INSTRUMENT, AND THE COMPANY MAKES NO REPRESENTATION AS TO THE OWNERSHIP OR HOLDER OF SUCH INTEREST(S).
THE AFOREMENTIONED DOCUMENT AFFECTS THE SUBJECT PROPERTY. NO PLOTTABLE RIGHTS ARE DESCRIBED THEREIN.

g.

INTEREST IN AND TO ALL COAL, LIGNITE, OIL, GAS AND OTHER MINERALS, AND ALL RIGHTS INCIDENT THERETO, CONTAINED IN INSTRUMENT DATED NOVEMBER 1, 1961, RECORDED NOVEMBER 14, 1961 AT VOLUME 944, PAGE 409 OF THE OFFICIAL RECORDS OF GRAYSON COUNTY, TEXAS, WHICH DOCUMENT CONTAINS THE FOLLOWING LANGUAGE AS STATED THEREIN. REFERENCE TO WHICH INSTRUMENT IS HERE MADE FOR PARTICULARS. NO FURTHER SEARCH OF TITLE HAS BEEN MADE AS TO THE INTEREST(S) EVIDENCED BY THIS INSTRUMENT, AND THE COMPANY MAKES NO REPRESENTATION AS TO THE OWNERSHIP OR HOLDER OF SUCH INTEREST(S).
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h.

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i.

LEASE FOR COAL, LIGNITE, OIL, GAS OR OTHER MINERALS, TOGETHER WITH RIGHTS INCIDENT THERETO, DATED JUNE 22, 1976, BY AND BETWEEN RUTH GEE, ALSO KNOWN AS RUTH P. GEE, AS LESSOR, AND ROBERT A. SHAW, AS LESSEE, RECORDED JULY 23, 1976 AT VOLUME 1351, PAGE 701 OF THE OFFICIAL RECORDS OF GRAYSON COUNTY, TEXAS. REFERENCE TO WHICH INSTRUMENT IS HERE MADE FOR PARTICULARS. NO FURTHER SEARCH OF TITLE HAS BEEN MADE AS TO THE INTEREST(S) EVIDENCED BY THIS INSTRUMENT, AND THE COMPANY MAKES NO REPRESENTATION AS TO THE OWNERSHIP OR HOLDER OF SUCH INTEREST(S).
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j.

LEASE FOR COAL, LIGNITE, OIL, GAS OR OTHER MINERALS, TOGETHER WITH RIGHTS INCIDENT THERETO, DATED JUNE 22, 1976, BY AND BETWEEN DORENE GEE REED, AS LESSOR, AND ROBERT A. SHAW, AS LESSEE, RECORDED JULY 23, 1976 AT VOLUME 1351, PAGE 707 OF THE OFFICIAL RECORDS OF GRAYSON COUNTY, TEXAS. REFERENCE TO WHICH INSTRUMENT IS HERE MADE FOR PARTICULARS. NO FURTHER SEARCH OF TITLE HAS BEEN MADE AS TO THE INTEREST(S) EVIDENCED BY THIS INSTRUMENT, AND THE COMPANY MAKES NO REPRESENTATION AS TO THE OWNERSHIP OR HOLDER OF SUCH INTEREST(S).
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k.

LEASE FOR COAL, LIGNITE, OIL, GAS OR OTHER MINERALS, TOGETHER WITH RIGHTS INCIDENT THERETO, DATED JUNE 22, 1976, BY AND BETWEEN MEA CLYDE SMITH, AS LESSOR, AND ROBERT A. SHAW, AS LESSEE, RECORDED JULY 29, 1976 AT VOLUME 1352, PAGE 328 OF THE OFFICIAL RECORDS OF GRAYSON COUNTY, TEXAS. REFERENCE TO WHICH INSTRUMENT IS HERE MADE FOR PARTICULARS. NO FURTHER SEARCH OF TITLE HAS BEEN MADE AS TO THE INTEREST(S) EVIDENCED BY THIS INSTRUMENT, AND THE COMPANY MAKES NO REPRESENTATION AS TO THE OWNERSHIP OR HOLDER OF SUCH INTEREST(S).
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l.

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m.

LEASE FOR COAL, LIGNITE, OIL, GAS OR OTHER MINERALS, TOGETHER WITH RIGHTS INCIDENT THERETO, DATED AUGUST 28, 1981, BY AND BETWEEN LOULA NELL GEE FRANZ, TRUSTEE, AS LESSOR, AND C.H. ALEXANDER, AS LESSEE, RECORDED OCTOBER 20, 1981 AT VOLUME 1578, PAGE 175 OF THE OFFICIAL RECORDS OF GRAYSON COUNTY, TEXAS. REFERENCE TO WHICH INSTRUMENT IS HERE MADE FOR PARTICULARS. NO FURTHER SEARCH OF TITLE HAS BEEN MADE AS TO THE INTEREST(S) EVIDENCED BY THIS INSTRUMENT, AND THE COMPANY MAKES NO REPRESENTATION AS TO THE OWNERSHIP OR HOLDER OF SUCH INTEREST(S).
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n.

LEASE FOR COAL, LIGNITE, OIL, GAS OR OTHER MINERALS, TOGETHER WITH RIGHTS INCIDENT THERETO, DATED AUGUST 28, 1981, BY AND BETWEEN LOUIS STARK GEE, TRUSTEE, AS LESSOR, AND C.H. ALEXANDER, AS LESSEE, RECORDED OCTOBER 20, 1981 AT VOLUME 1578, PAGE 178 OF THE OFFICIAL RECORDS OF GRAYSON COUNTY, TEXAS. REFERENCE TO WHICH INSTRUMENT IS HERE MADE FOR PARTICULARS. NO FURTHER SEARCH OF TITLE HAS BEEN MADE AS TO THE INTEREST(S) EVIDENCED BY THIS INSTRUMENT, AND THE COMPANY MAKES NO REPRESENTATION AS TO THE OWNERSHIP OR HOLDER OF SUCH INTEREST(S).
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p.

LEASE FOR COAL, LIGNITE, OIL, GAS OR OTHER MINERALS, TOGETHER WITH RIGHTS INCIDENT THERETO, DATED AUGUST 28, 1981, BY AND BETWEEN MEA CLYDE SMITH, AS LESSOR, AND C.H. ALEXANDER, AS LESSEE, RECORDED NOVEMBER 10, 1981 AT VOLUME 1580, PAGE 395 OF THE OFFICIAL RECORDS OF GRAYSON COUNTY, TEXAS. REFERENCE TO WHICH INSTRUMENT IS HERE MADE FOR PARTICULARS. NO FURTHER SEARCH OF TITLE HAS BEEN MADE AS TO THE INTEREST(S) EVIDENCED BY THIS INSTRUMENT, AND THE COMPANY MAKES NO REPRESENTATION AS TO THE OWNERSHIP OR HOLDER OF SUCH INTEREST(S).
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q.

EASEMENT(S) AND RIGHTS INCIDENTAL THERETO, AS GRANTED IN A DOCUMENT:

GRANTED TO:

NORTH TEXAS MUNICIPAL WATER DISTRICT

PURPOSE:

AS PROVIDED IN SAID DOCUMENT

RECORDING DATE:

OCTOBER 21, 1988

RECORDING NO:

VOLUME 2004, PAGE 616, REAL PROPERTY RECORDS, GRAYSON COUNTY, TEXAS

SHOWN ON SURVEY DATED APRIL 23, 2002 BY MARSHALL SARTIN, RPLS NO. 3694.
THE AFOREMENTIONED DOCUMENT AFFECTS THE SUBJECT PROPERTY, AND THE EASEMENTS DESCRIBED THEREIN ARE SHOWN HEREON.

r.

INTEREST IN AND TO ALL COAL, LIGNITE, OIL, GAS AND OTHER MINERALS, AND ALL RIGHTS INCIDENT THERETO, CONTAINED IN INSTRUMENT DATED MARCH 7, 1998, RECORDED MARCH 10, 1998 AT VOLUME 2625, PAGE 371 OF THE OFFICIAL RECORDS OF GRAYSON COUNTY, TEXAS, WHICH DOCUMENT CONTAINS THE FOLLOWING LANGUAGE AS STATED THEREIN. REFERENCE TO WHICH INSTRUMENT IS HERE MADE FOR PARTICULARS. NO FURTHER SEARCH OF TITLE HAS BEEN MADE AS TO THE INTEREST(S) EVIDENCED BY THIS INSTRUMENT, AND THE COMPANY MAKES NO REPRESENTATION AS TO THE OWNERSHIP OR HOLDER OF SUCH INTEREST(S).
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s.

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t.

INTEREST IN AND TO ALL COAL, LIGNITE, OIL, GAS AND OTHER MINERALS, AND ALL RIGHTS INCIDENT THERETO, CONTAINED IN INSTRUMENT DATED JUNE 3, 2002, RECORDED JUNE 4, 2002 AT VOLUME 3260, PAGE 62 OF THE OFFICIAL RECORDS OF GRAYSON COUNTY, TEXAS, WHICH DOCUMENT CONTAINS THE FOLLOWING LANGUAGE "...ONE-HALF (1/2) OF ALL OIL, GAS, AND OTHER MINERALS...". REFERENCE TO WHICH INSTRUMENT IS HERE MADE FOR PARTICULARS. NO FURTHER SEARCH OF TITLE HAS BEEN MADE AS TO THE INTEREST(S) EVIDENCED BY THIS INSTRUMENT, AND THE COMPANY MAKES NO REPRESENTATION AS TO THE OWNERSHIP OR HOLDER OF SUCH INTEREST(S).
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u.

LEASE FOR COAL, LIGNITE, OIL, GAS OR OTHER MINERALS, TOGETHER WITH RIGHTS INCIDENT THERETO, DATED SEPTEMBER 30, 2009, BY AND BETWEEN BETSY SMITH SLAY, AS LESSOR, AND WHITESANDS ENERGY HOLDINGS, AS LESSEE, RECORDED JULY 14, 2010 AT VOLUME 4830, PAGE 919 OF THE OFFICIAL RECORDS OF GRAYSON COUNTY, TEXAS. REFERENCE TO WHICH INSTRUMENT IS HERE MADE FOR PARTICULARS. NO FURTHER SEARCH OF TITLE HAS BEEN MADE AS TO THE INTEREST(S) EVIDENCED BY THIS INSTRUMENT, AND THE COMPANY MAKES NO REPRESENTATION AS TO THE OWNERSHIP OR HOLDER OF SUCH INTEREST(S).
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v.

LEASE FOR COAL, LIGNITE, OIL, GAS OR OTHER MINERALS, TOGETHER WITH RIGHTS INCIDENT THERETO, DATED SEPTEMBER 18, 2009, BY AND BETWEEN BARBARA J. MOORE REVOCABLE TRUST, AS LESSOR, AND WHITESANDS ENERGY HOLDINGS, AS LESSEE, RECORDED JULY 13, 2010 AT VOLUME 4829, PAGE 722 OF THE OFFICIAL RECORDS OF GRAYSON COUNTY, TEXAS. REFERENCE TO WHICH INSTRUMENT IS HERE MADE FOR PARTICULARS. NO FURTHER SEARCH OF TITLE HAS BEEN MADE AS TO THE INTEREST(S) EVIDENCED BY THIS INSTRUMENT, AND THE COMPANY MAKES NO REPRESENTATION AS TO THE OWNERSHIP OR HOLDER OF SUCH INTEREST(S).
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w.

INTEREST IN AND TO ALL COAL, LIGNITE, OIL, GAS AND OTHER MINERALS, AND ALL RIGHTS INCIDENT THERETO, CONTAINED IN INSTRUMENT DATED APRIL 22, 2014, RECORDED APRIL 25, 2014 AT VOLUME 5452, PAGE 685 OF THE OFFICIAL RECORDS OF GRAYSON COUNTY, TEXAS, WHICH DOCUMENT CONTAINS THE FOLLOWING LANGUAGE "...ONE-HALF (50% TO EACH GRANTEE) OF MY RIGHT, TITLE AND INTEREST IN ALL OIL, GAS, AND OTHER MINERALS...". REFERENCE TO WHICH INSTRUMENT IS HERE MADE FOR PARTICULARS. NO FURTHER SEARCH OF TITLE HAS BEEN MADE AS TO THE INTEREST(S) EVIDENCED BY THIS INSTRUMENT, AND THE COMPANY MAKES NO REPRESENTATION AS TO THE OWNERSHIP OR HOLDER OF SUCH INTEREST(S).
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x.

ANY RIGHTS, INTERESTS, OR CLAIMS WHICH MAY EXIST OR ARISE BY REASON OF THE FOLLOWING MATTERS DISCLOSED BY SURVEY. DATED: APRIL 23, 2002
PREPARED BY: MARSHALL SARTIN, RPLS NO. 3694
MATTERS SHOWN: APPROXIMATE FLOOD HAZARD AREA.

811

Know what's below.
Call before you dig.

THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER OR ITS REPRESENTATIVE. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK, AND AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.

NOTICE:
CONSTRUCTION SITE SAFETY IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR. NEITHER THE OWNER NOR THE ENGINEER SHALL BE EXPECTED TO ASSUME ANY RESPONSIBILITY FOR SAFETY OF THE WORK, OF PERSONS ENGAGED IN THE WORK, OF ANY NEARBY STRUCTURES, OR OF ANY OTHER PERSONS.

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805 LAS CHIMAS PARKWAY, SUITE 310
AUSTIN, TX 78746
TEL: 512.10133726

ALTA / NSPS LAND TITLE SURVEY

PROJECT: 220.18 ACRES (9,591,031 SQ.FT.)
SITUATED IN THE JASON STAMPS SURVEY AND THE ELIZABETH JONES SURVEY. ABSTRACT NO. 625, GRAYSON COUNTY, TEXAS

DATE

JUNE 2023

REVISIONS

STATE OF TEXAS
COUNTY OF GRAYSON
ROBERT J. GERTSON
6367
PROFESSIONAL LAND SURVEYOR

SCALE

DR. DBR | CH. VDS

P.M. RJG

CAD FILE:
23000333.ALTA.JAK.EDITS.DWG

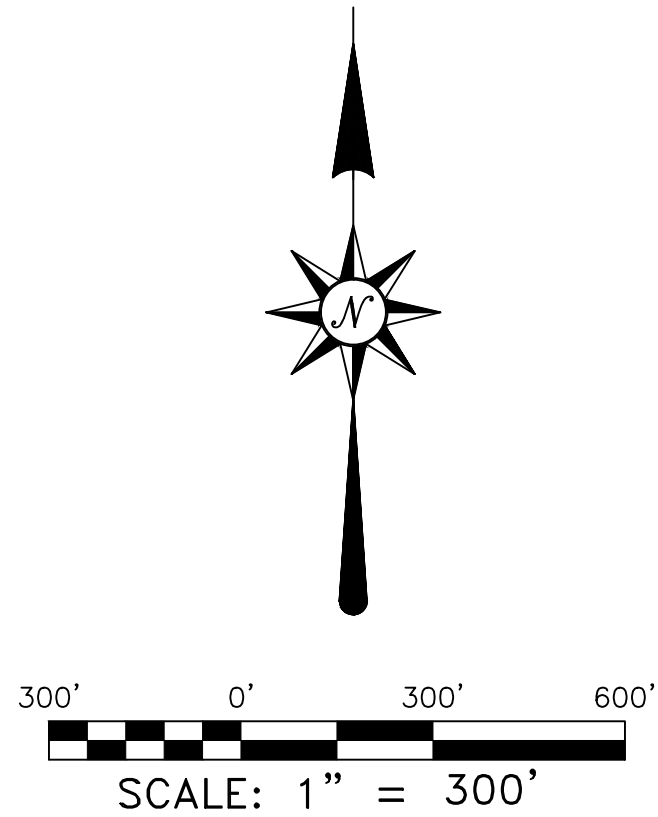
JOB 23000333

SHEET NO.
2 OF 3

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Page 103 of 778

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LEGEND	
	SUBJECT PARCEL BOUNDARY LINE
	ADJACENT PROPERTY LINE
	EASEMENT LINE, AS NOTED
	EDGE OF PAVEMENT
	BURIED COMMUNICATION LINE
	OVERHEAD UTILITY
	FENCE LINE
	WATER MARKER
	WATER VALVE
	TELEPHONE MARKER
	IRON ROD SET WITH CAP "ATWELL LLC"
	MAG NAIL SET
	PROPERTY CORNER FOUND AS NOTED
	RISER PIPE AS NOTED
D.R.G.C.T.	DEED RECORDS, GRAYSON COUNTY, TEXAS
O.P.R.G.C.T.	OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS
P.R.G.C.T.	PLAT RECORDS, GRAYSON COUNTY, TEXAS
R.O.W.	RIGHT-OF-WAY
IR	IRON ROD
P.O.C.	POINT OF COMMENCEMENT
P.O.B.	POINT OF BEGINNING
R.F.	REGULATORY FLOODWAY
(XX.XX')	RECORD DATA PER WARRANTY DEED, VOLUME 3260, PAGE 62, D.R.G.C.T.

Know what's below.
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ALTA / NSPS LAND TITLE SURVEY

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DATE: JUNE 2023

REVISIONS:

1	
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ROBERT J. GERTSON
STATE OF TEXAS
PROFESSIONAL SURVEYOR
LICENSE NO. 6367

SCALE: 0 150' 300'

1" = 300' FEET

DR. DBR | CH. VDS

P.M. RJG

CAD FILE: 23000333_ALTA_JAK_EDIT.DWG

JOB: 23000333

SHEET NO. 3 OF 3

Development Standards
Planned Development District

Greenway



19 September 2023

28 Nov 2023 - V03

1 February 2024 – V04

City of Sherman, Texas

Prepared For:
City of Sherman
220 West Mulberry Street
Sherman, TX 75090



Submitted By:
FLATO Development Inc.
3621 Highway 7 East
Suite 503
Markham, ON L3R 0G6



Engineering Consultant:
Atwell
9001 Airport Freeway
Suite 660
North Richland Hills, TX 76180



Planning Consultant:
Norris Design
208 North Market Street
Suite 250
Dallas, TX 75202



Introduction

Purpose and Guiding Principles

Greenway is conceived as a master planned community designed as a pedestrian oriented walkable set of neighborhoods. The neighborhoods are centered around the Choctaw Creek tributary that runs north/south near the middle of the property. This creek environment includes mature Texas native trees which will be preserved and will be enhanced with walking trails, benches, and pedestrian amenities.

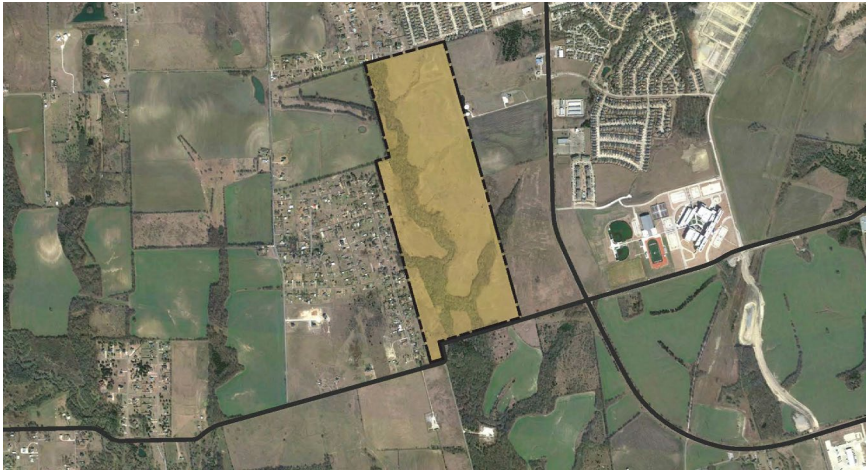
The three guiding principles for Greenway are:

1. *Pedestrian walkability,*
2. *Preservation and connection to nature,*
3. *With residential villages and commercial.*

Location

The Greenway community is located in the southwestern quadrant of metro Sherman currently just outside the city boundary. We are in the process of annexation into the City that will be concurrent with City Council action. The community is located west of the intersection of South Heritage Parkway and OB Groner Road. The development is proposed north of the existing two-lane OB Groner Road. A tributary

of Choctaw Creek flows north to south generally near the center of the site. Note the vicinity map below showing its location.



Project Size

The Greenway community and Planned Development totals 220.18 acres in size. The proposed PD will use the complete property.

Mix of Land Uses

The proposed Greenway community includes a broad mix of land uses. The majority of uses are residential ranging in a variety of lifestyles and densities. There are two non-residential land uses and they are listed below and support the master planned purpose.

General land uses in Greenway include:

- Residential, Mixed Use, Multi-Family, Commercial and Open Space (existing trees and natural environment as an amenity for community)

Open Space and Walkability Standards

Linear Open Space Network

We have master planned this community to take full advantage of the large number of mature trees that align along the creek near the center of this development. The creek runs north south along Greenway. We estimate over 350-large mature trees are located in this open space corridor. The Greenway PD proposes to preserve a vast percentage of this tree canopy as shown in the Development Plan concept.

The Draft Development Plan shows that all proposed residential villages will have access to the park amenities, pedestrian walking trails, and other open space amenities. This plan includes extensive preservation of existing mature trees. Open space % for the community are defined in the table below:

<u>Use</u>	<u>Size</u>	<u>Percentage</u>
Open Space / Trees	37.3 ac.	17.0 % <i>(not including multiple pocket parks)</i>
Major Roadways	31.28 ac.	14.2 %
Development Villages	142.1 ac.	64.5 %
Water Easement (open area)	9.5 ac.	4.3 %
<i>Total Acreage:</i>	<i>220.18 ac.</i>	<i>100 % (all acreage is gross calculation)</i>

Pocket Parks

Multiple pocket parks (1/2 acre minimum to 3/4 acre maximum) will be provided within several single family, detached development areas. The parks will contain playground and other amenities such as park benches, landscape, signage, and plan to be owned and maintained by an HOA.

Amenity Centers

Are planned for the use of the residents. We plan to build between 3 to 5 for the Greenway community. They will include items such as swimming pools, sport courts, community buildings, etc.

Pedestrian Walkways

Open space and pedestrian walkways will connect the pocket parks to the larger open space network.

Pedestrian Trails

Pedestrian trails in the open space network shall be minimum 8' wide and are permitted to be concrete, decomposed granite, or other material suitable for trails as approved through the site plan process.

Landscape Buffer

We will buffer views from the adjacent existing Rolling Hills and Setting Sun residential neighborhoods (north and west perimeters) with a 20' wide landscaped buffer along this property line planted with a combination of native deciduous and evergreen trees planted at approximately one tree every 60' with 2-3" caliper trees. The trees will grow to over 60' in height to screen views. *(graphic section attached)*

Site and Building Standards**Specific to Greenway Planned Development**

The Site and Building Standards section establishes basic parameters for permitted and prohibited uses, building placement, lot widths, height, stories, overall densities, and other specifics. Building typologies for uses permitted with conditions that are not specified in the following sections shall be proposed to the City in a manner that satisfies the intent of this Planned Development.

General notes:

- A) Abbreviation of land uses identified on the Draft Development Plan graphic.
- B) Density defines gross land use calculations.

1A. RESIDENTIAL STANDARDS

<i>Land Use</i>	<i>Abbreviation</i>	<i>Corresponding City Zoning</i>
Single Family 60	(SF 60)	(R-6)
Minimum Lot Size:		6,000 SF
Min. Lot Dimension:		60'x100'
Max. Lot Coverage:		60%
Maximum Stories:		2
Max. Building Height:		35'
Parking:		2 or 3 car garage and 2 driveway parking per unit
Landscape Buffer:		20' required along the west and north property lines. <i>(graphic section attached)</i>

EXHIBIT B - DEVELOPMENT STANDARDS

Greenway – Planned Development

Rear Building Setback: For lots bounded on the west & north property lines.
(identified on Development Plan graphic attached)

Height Limitation: 10' for any accessory structures permitted in the rear setback that are adjacent to the west and north property lines of the development.

Single Family 50 (SF 50) (R-5)

Minimum Lot Size: 5,000 SF
Min. Lot Dimension: 50'x100'
Max. Lot Coverage: 60%
Maximum Stories: 2
Max. Building Height: 35'
Parking: 2 car garage and 2 driveway parking per unit

Single Family 40 (SF 40) (R-4)

Minimum Lot Size: 4,000 SF
Min. Lot Dimension: 40'x90'
Max. Lot Coverage: 55%
Maximum Stories: 2
Max. Building Height: 35'
Parking: 2 car garage and 2 driveway parking per unit

Landscape Buffer: 20' required along the west and north property lines.
(graphic section attached)

Rear Building Setback: For lots bounded on the west & north property lines.
(identified on Development Plan graphic attached)

Height Limitation: 10' for any accessory structures permitted in the rear setback that are adjacent to the west and north property lines of the development.

Townhome 25 (TH 25) (R-TH)

Minimum Lot Size: 2,500 SF
Min. Lot Dimension: 25'x100'
Max. Lot Coverage: 65%
Maximum Stories: 2
Units per Building: 4-7
Max. Building Height: 40'

Townhome Mews (TH-M) (R-TH)

Minimum Lot Area: 3.5 ac.
Front Yard Setback: 20'
Side Yard Setback: 20'
Rear Yard Setback: 20'
Min. Building Separation: 10'
Max. Lot Coverage: 60%

EXHIBIT B - DEVELOPMENT STANDARDS

Greenway – Planned Development

Maximum Stories:	3 and 4
Max. Building Height:	55'
Max. Density:	40 du/ac.
Unit Size	800 – 1,500 SF
Parking Type:	Tuck Under and/or Surface
Parking Density:	1 brm – 1 / 2 brm – 2 / 3 brm – 2 stalls

Mixed Use (MU) (M-U)

Vertical mixed-use building with ground floor retail and/or professional office and multi-family units above.

Minimum Lot Area:	1.5 ac.
Front Yard Setback:	20'
Side Yard Setback:	20'
Rear Yard Setback:	20'
Min. Building Separation:	10'
Max. Lot Coverage:	60%
Maximum Stories:	4

- Ground floor retail and/or professional office.
- Residential 2 or 3 floors above.

Max. Building Height:	50'
Residential Max. Density:	40 du/ac.
Residential Unit Size	800 – 1,500 SF
Parking Type:	Tuck Under and/or Surface
Residential Parking Density:	1 brm – 1 / 2 brm – 2 / 3 brm – 2 stalls
Retail & Office Parking Density:	1 per 250 SF of Gross Floor Area

Multi-Family (MF-30) (MF-40 and 50)

Variety of unit sizes designed in a single building providing housing. Designed with access to pedestrian trails, open spaces, and close commercial services.

Minimum Lot Area:	3.0 ac.
Front Yard Setback:	20'
Side Yard Setback:	20'
Rear Yard Setback:	20'
Min. Building Separation:	15'
Max. Lot Coverage:	60%
Maximum Stories:	4
Max. Building Height:	50'
Max. Density:	50 and 40 du/ac. (noted per location)
Unit Size	800 – 1,500 SF
Parking Type:	Tuck Under and/or Surface
Parking Density:	1 brm – 1 / 2 brm – 2 / 3 brm – 2 stalls

2A. COMMERCIAL STANDARDS

Neighborhood Commercial (C-N) (C-N)

Neighborhood oriented commercial providing service retail and professional office uses.

Minimum Lot Area: 10,000 SF

Max. Lot Coverage: 50%

Max. Building Height: 35'

Parking Type: Surface

Permitted Uses

Land and buildings in each of the land use districts may be used for any of the indicated uses below which related to City of Sherman use chart.

Single Family 60 (SF 60) (R-6)

All listed in R-6

Single Family 50 (SF 50) (R-5)

All listed in R-5

Single Family 40 (SF 40) (R-4)

All listed in R-4

Townhome 25 (TH 25) (R-TH)

All listed in R-TH

Townhome Mews (TH-M) (R-TH)

All listed in R-TH

Mixed Use (MU) (M-U)

All listed in MF-30 and C-N

Multi-Family (MF-30) (MF-40 and 50)

All listed in MF-30

Neighborhood Commercial (C-N) (C-N)

All listed in C-N and C-O

Open Space (OS) (OS) Area shown in green with existing trees on Dev. Plan

Private and semi-public open space, walking trails, and pedestrian amenities.

Note: Amenities centers for several residential villages are our desire and will include swimming pool(s), dressing rooms, community meeting rooms, fitness, and a leasing office.

General Standards

Mailboxes

Mailboxes for non-single-family uses will be cluster box units will be provided for mail delivery as required by the United States Postal Service. Cluster box units will be located within the centralized parks/open space areas or at a location otherwise designated by the applicant.

Attached Graphic Documents

1. Development Plan (zoning graphic)

Attached in 11x17 format and separately as part of PD Submission in 24x36 format.

2. Transportation Plan (graphic)

Attached in 11x17 format.

3. Open Space Plan (graphic)

Attached in 11x17 format.

4. Landscape Buffer Section (graphic)

Attached in 11x17 format.

EXHIBIT B - DEVELOPMENT STANDARDS

Legend

Land Use Types

- Neighborhood Commercial
- Multifamily
- Mixed Use (MF & Retail)
- Townhome Mews
- Townhome (25)
- Single Family Detached (40)
- Single Family Detached (50)
- Single Family Detached (60)
- Open Space/Trails/Woodlands
- Floodplain Limits
- 20' Landscape Buffer
- Amenity Center (AC)

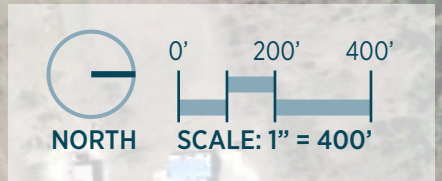
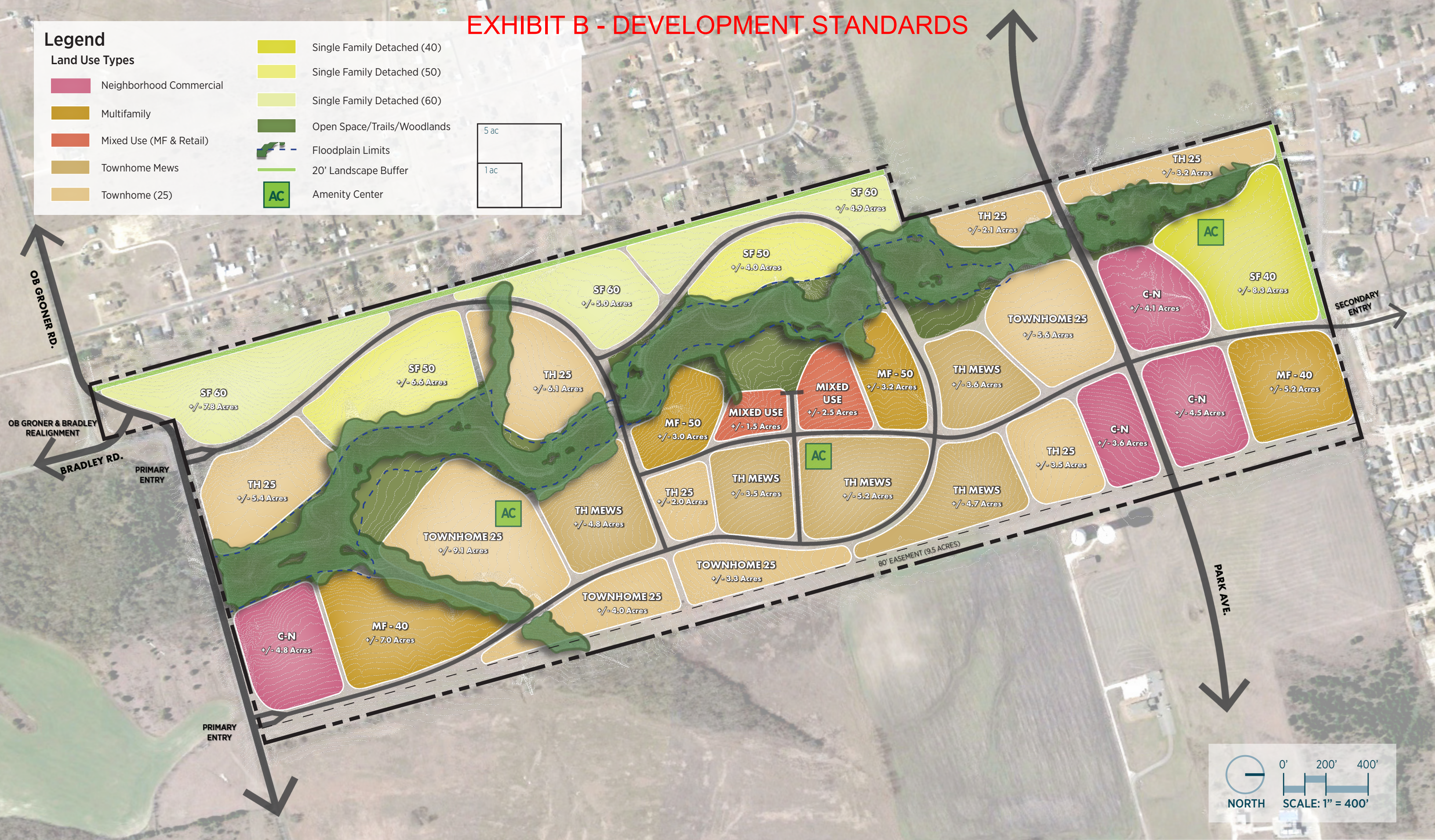
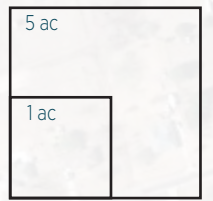
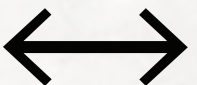
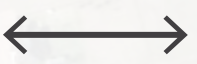


EXHIBIT B - DEVELOPMENT STANDARDS

Legend

Road Classifications

	Major Arterial
	Minor Arterial
	Local Road

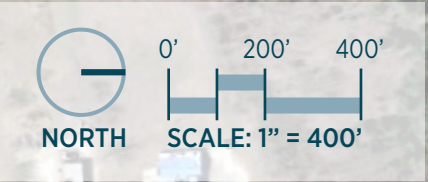
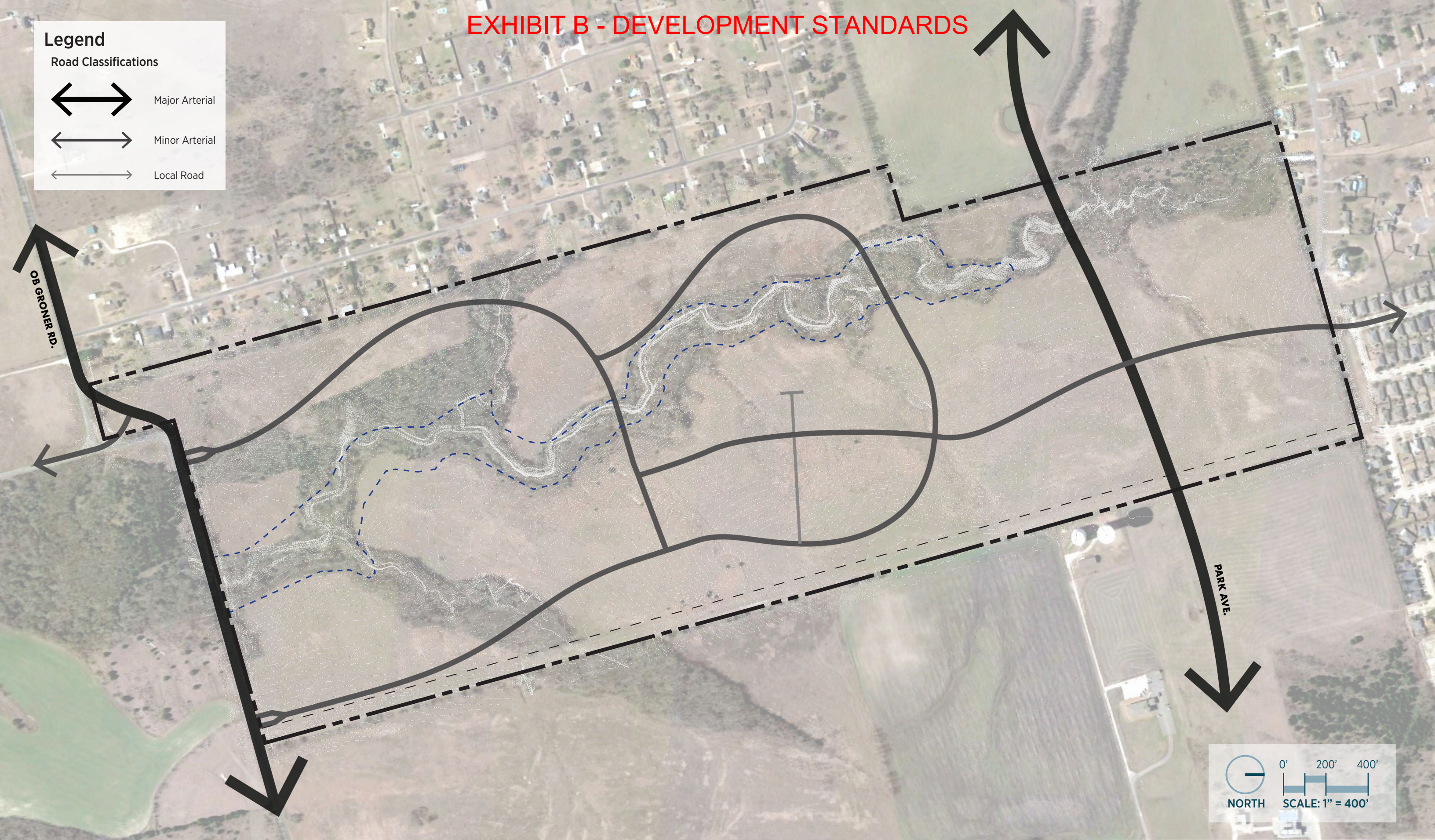


EXHIBIT B - DEVELOPMENT STANDARDS

Legend

Natural Elements

- Open Space
- Existing Tree Canopy
- Existing Floodplain
- AC Amenity Center

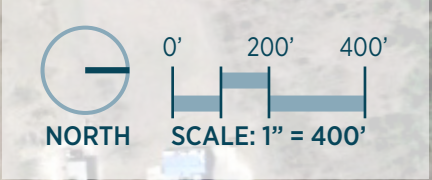


EXHIBIT B - DEVELOPMENT STANDARDS

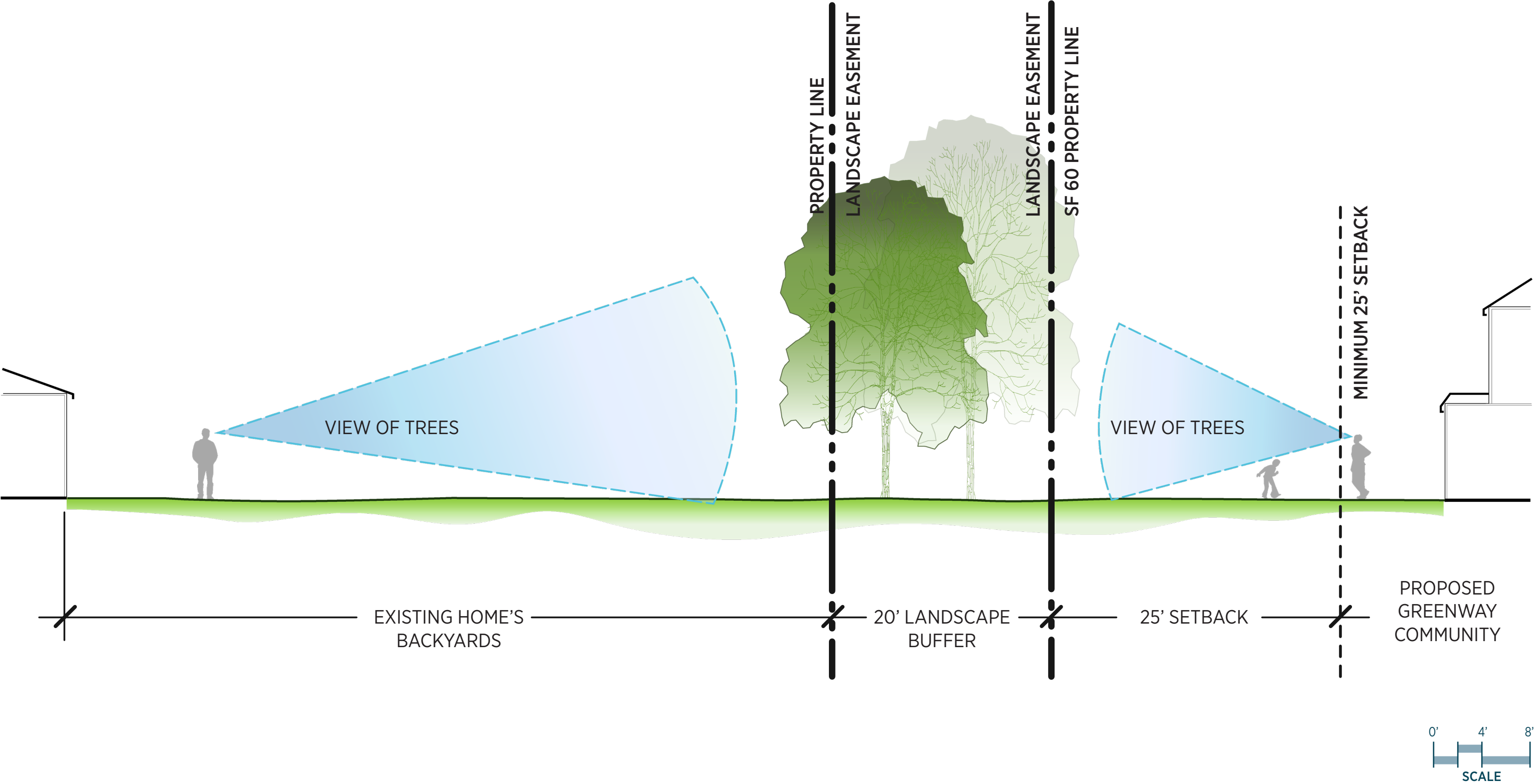
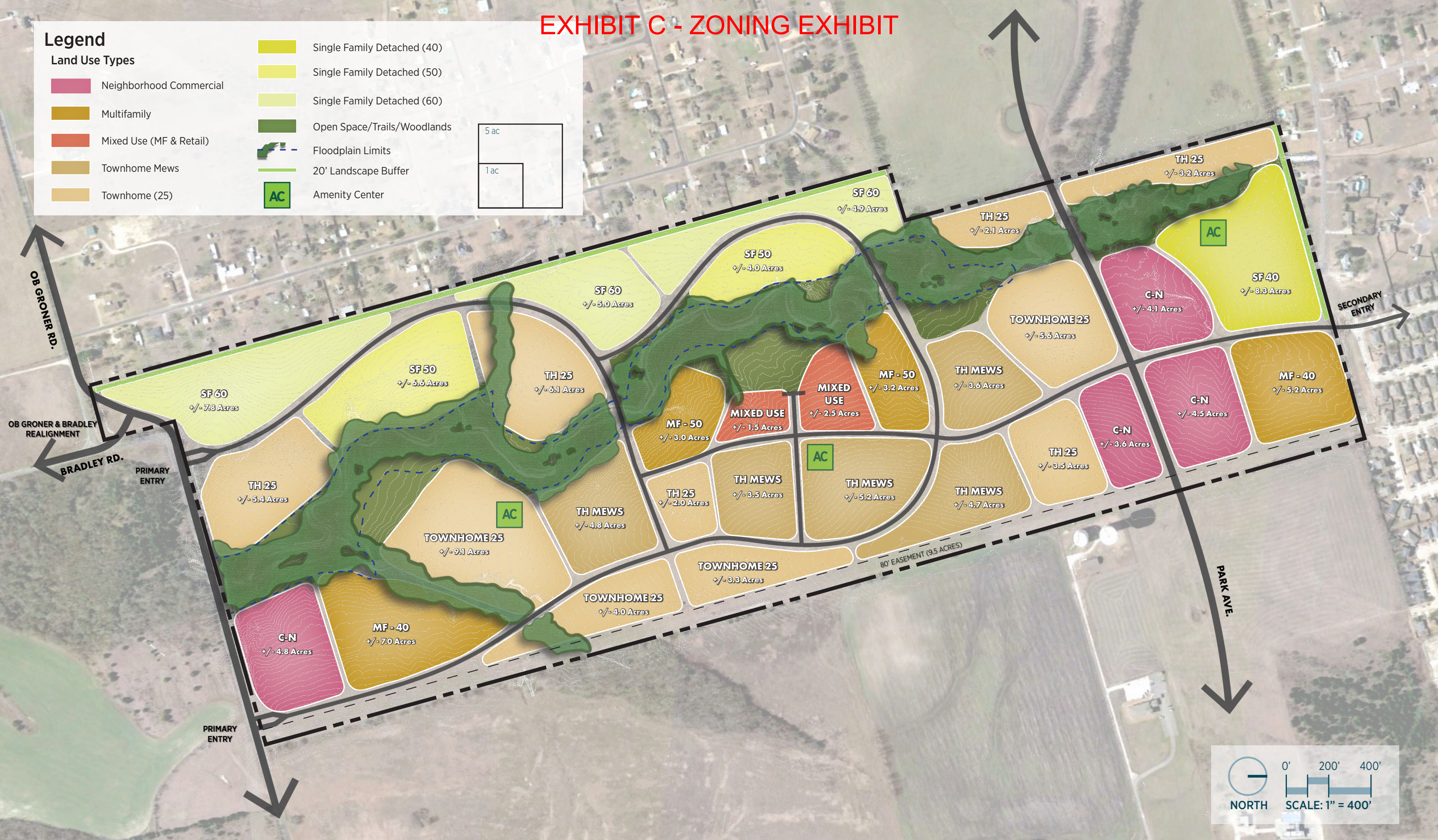
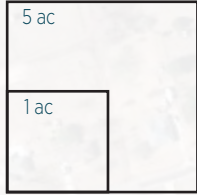


EXHIBIT C - ZONING EXHIBIT

Legend

Land Use Types

- | | | | |
|---|-------------------------|---|-----------------------------|
|  | Neighborhood Commercial |  | Single Family Detached (60) |
|  | Multifamily |  | Open Space/Trails/Woodlands |
|  | Mixed Use (MF & Retail) |  | Floodplain Limits |
|  | Townhome Mews |  | 20' Landscape Buffer |
|  | Townhome (25) |  | Amenity Center |



GREENWAY | SHERMAN, TX

01/31/2024

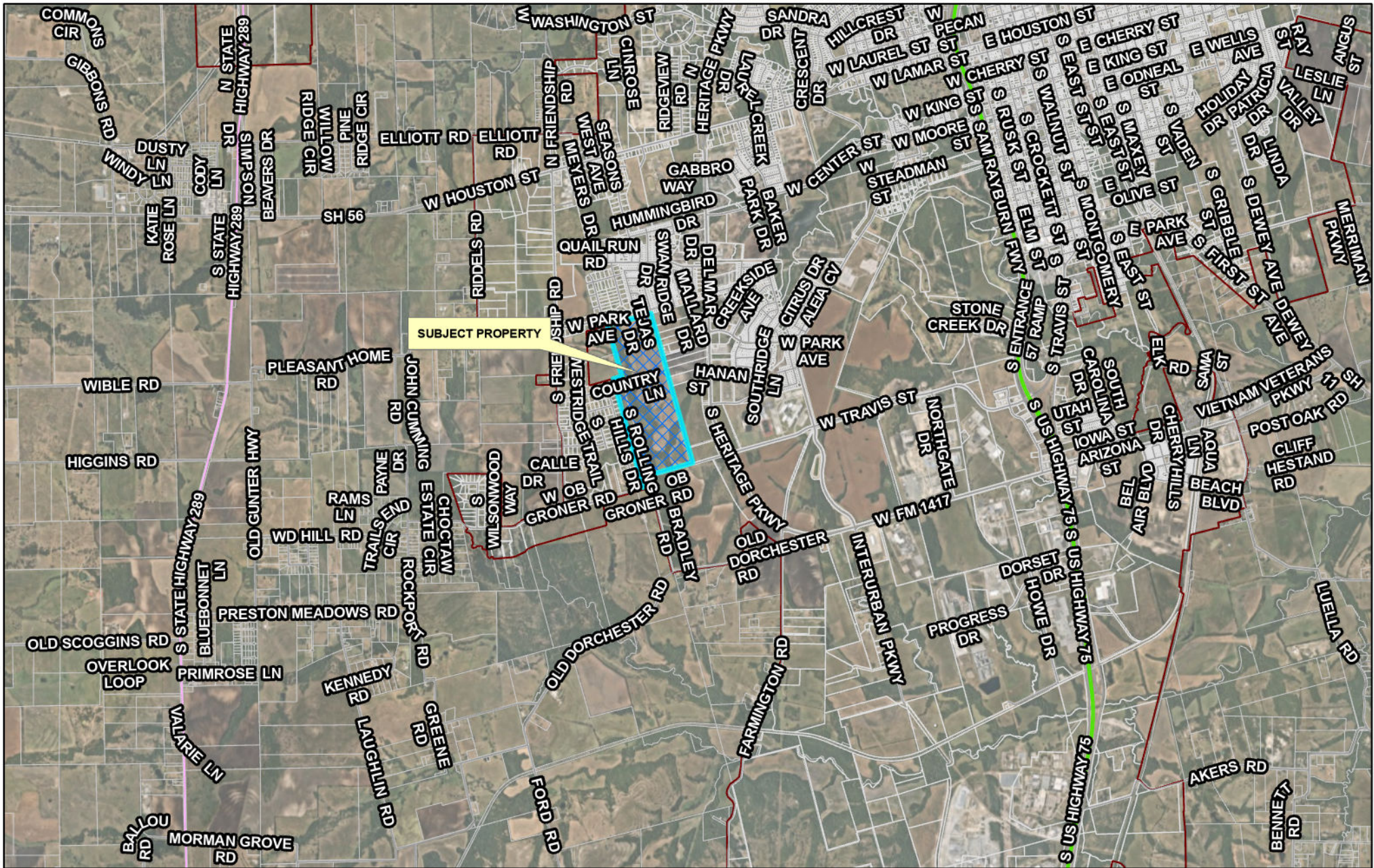
DEVELOPMENT PLAN

FLATO®
DEVELOPMENTS INC.



**NORRIS
DESIGN**
PEOPLE + PLACEMAKING

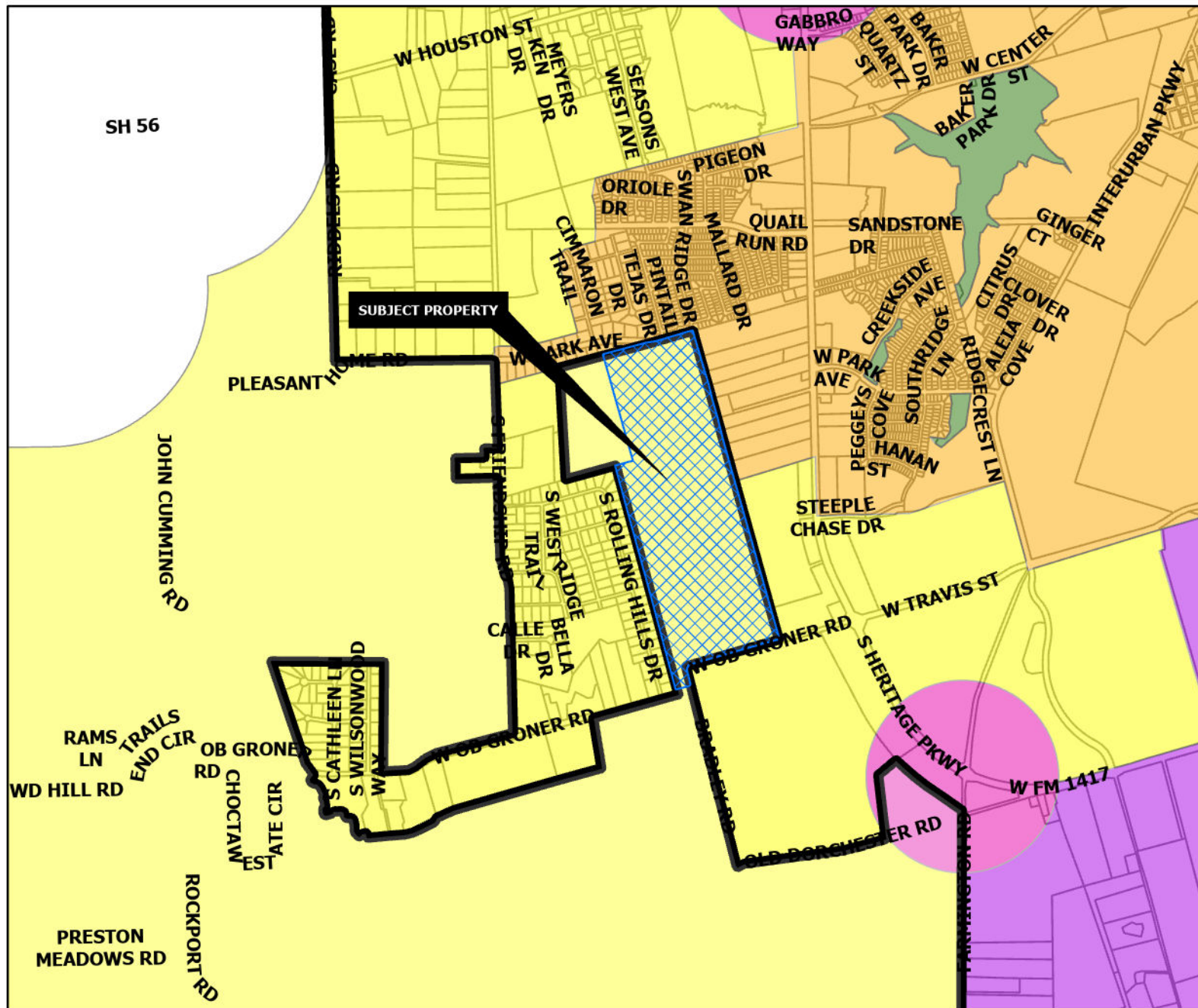
Page 117 of 778



City of Sherman, Texas
Development Services Department

CITY OF SHERMAN
LOCATION MAP
3000 BLK W OB GRONER RD
& 4500 BLK W PARK AVE.





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

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
3000 BLK W OB GRONER RD
& 4500 BLK W PARK AVE.





21 December 2023

Mr. Rob Rae, AICP; Director of Development Services

City of Sherman

220 W Mulberry Street
Sherman, TX 75090

RE: Greenway PD - Request for Public Hearing by City Council

Rob,

We are writing to the city requesting an appeal to city council on the Greenway PD with its latest modifications per input from the Planning and Zoning Commission. Flato Development along with Norris Design request that a public hearing be scheduled and held before the city council regarding the application. We understand and agree to cover the cost of re-notification as defined.

Our team was in disbelief by the negative vote by P&Z back on Tuesday December 12th. We felt we were making progress on the development plan and gaining support. As requested, let us state why this appeal is being requested and why we feel it should move forward within the following bulleted items:

1. This development is a master plan community that includes a broad range (7 types) of residential products that would appeal to a growing employment base and community.
2. The plan preserves the entire 37-acres of existing mature trees located along the creek in the center of the development while proposing pedestrian trails & overlooks for the enjoyment of all in Sherman.
3. The plan proposes single family detached homes along the complete perimeter of the community that has adjacent large lot residential.
4. Supporting a good transition between the above mentioned adjacent large lot neighbors we are proposing a landscape buffer of 15' wide planted with native evergreen and deciduous trees.
5. We have heard that the neighborhood to the west has existing flooding problems, our civil engineer says our drainage plans for Greenway will improve channels which is causing some of the flooding.
6. The plan is designed to be pedestrian friendly and walkable, therefore neighborhood retail is proposed to serve the community which will not significantly add vehicle trips to the road network.
7. This PD development plan as presented to P&Z Dec. 12 was supported by city Development Services staff and Sherman's independent planning consultant (Halff Associates).

If there are any questions or we can supply additional information, please let me know. We look forward to the opportunity to have a discussion about this PD and what the city would like to adjust to make it a positive asset for the city moving forward. Thank you and Happy Holidays.

Sincerely,

Rick Leisner, AICP, PLA

cc: Shakir Rehmatullah, President; Flato Development

NAME: JASON CLARK

ADDRESS: 2707 Rolling Hills

NAME: Janet Clark

ADDRESS: 2707 Rolling Hills Dr

NAME: Preston Backley

ADDRESS: 2612 Rolling Hills Dr.

NAME: Annabella Rios-Backley

ADDRESS: 2612 Rolling Hills Dr.

NAME: Bryan Gibson

ADDRESS: 1201 Texas Dr

NAME: JERRY RENDRO

ADDRESS: 2900 ROLLING HILLS DR

NAME: Bobby Sellers

ADDRESS: 2618 Rolling Hills Dr

NAME: Don Roberts

ADDRESS: 2817 Rolling Hills Dr.

NAME: Adolfo Orellana

2911 Rolling Hills Dr.

Michael Davidson	5005 w/03 Granger RD	12/2/2023
Eric Bruce	5201 08 Granger RD	12/2/2023
Hunter Bounds	5207 013 Granger RD	12/2/2023
Nicolas Diaz		12-02-2023
Phillip Davis	2405 Friendship	12-02-2023
Rusty Sutherland	2315 S. Friendship	12/2/23
Narla Soto	5301 Rolling Hills Dr.	12.02.2023
Tim Dooley	2406 Westridge Tr	12-2-2023
Hoang Nguyen	2400 Westridge Tr	12-2-2023
Christa Savage	5001 Country Lane	12-2-2023
Phil Velt	5000 Country Lane	12-2-2023
Scott Harney	5106 Country Lane	12-2-2023
Shawn Harney	5104 Country Lane	12-2-2023
Rebecca Morris	5110 Country Ln	12/2/2023
Jimmie Gibson	5100 Conty Ln	12/2/2023
Deanna Gibson	5100 Country Lane	12/2/2023
Tyler Harvey	5106 Country Lane	12-2-23
Jack L. Morris	5110 Country Lane	12-2-23
Gregory L. Plubell	5013 COUNTRY LN	12-2-23
Barbara Plubell	5013 Country Ln	12/2/23
Gavin Shaw	2601 Rolling Hills Dr	12/2/23
Talia Shaw	2601 Rolling Hills Dr	12-2-23
Debra Rushing	2814 Rolling Hills Dr	12-3-23
Jessie Swindell	274 Rolling Hills	12-3-23
Lanny Price	2606 Rolling Hills	12-3-23
Cody Payne	5110 Country Lane	12-3-23



Todd Kuhn	2509 Rolling Hills	12/3/23
Julianne Kuhn	2509 Rolling Hills Drive	12/3/23
Sara Feeny	5005 Country Ln	12/3/23
Leilani Feeny	5005 Country Ln	12/3/23
Anthony Makaiwi	5005 Country Ln	12.3.23
Bill Feeny	5005 Country Ln	12.3.23
Charles Wilson	5004 Country Ln	11-3-23
Carol & Betsy Jr.	1108 Cinnamon	12-4-23
Cheryl Anderson	5109 Rolling Hills	12-4-23
Leonard Johnson	5009 Rolling Hills	12-4-23
Janet M Wood	5001 Rolling Hills	12-4-23
Jack C. Wood	5001 Rolling Hills	12-4-23
Martha Rogers	2401 Rolling Hills	12.4.23
Dwight Rogers	2401 Rolling Hills	12-4-23
John B. Smith	2901 Rolling Hills	12-4-23
Jack	2808 Rolling Hills Dr.	12-4-23
Chris Lutz	2808 Rolling Hills Dr.	12-4-23
Julian K. Smith	2801 Rolling Hills Dr.	12/4/23
Brenda Christensen	2412 S. Rolling Hills Dr.	12.4.23
Carol Axelberg	2503 S Rolling Hills Dr.	12.4.23
Doug Wood	2900 Rolling Hills Dr.	12-5-23

Every one of us has had a reasonable expectation that, if/when the time came to develop the beautiful land in this proposal, it would, at least be in the same design as the rest of the neighborhood.

After all, one of the reasons for zoning restrictions is to maintain the integrity of the neighborhood.

Thank you for your consideration.

NAME: Judy Brady

ADDRESS: 2517 Rolling Hills Dr

NAME: Donna J. Schumaker

ADDRESS: 2516 Rolling Hills Dr

NAME: John K. Schumaker

ADDRESS: 2516 Rolling Hills Dr

NAME: Larry Don Hallmark

ADDRESS: 2619 ROLLING HILLS SHERMAN, TX. 75092

NAME: Linda Hallmark

ADDRESS: 2619 ROLLING HILLS SHERMAN, TX. 75092

ADDRESS: Jimmy McBride

NAME: 2600 Rolling Hills Dr.

ADDRESS: 2600 Rolling Hills Dr.

NAME: Vickie McBride

ADDRESS: [Signature]

NAME: John A Zuniga

ADDRESS: 2517 Rolling Hills

NAME: Todd Kuan

ADDRESS: 2509 Rolling Hills

NAME: Mary Jane Lieber

ADDRESS: 2503 Rolling Hills Dr.

NAME: Jerry Perry

ADDRESS: 2513 Rolling Hills Dr

NAME: Kevin Menoco

ADDRESS: 4707 PARK Ave

NAME: Reina Chapin

ADDRESS: 4703 PARK AVE.

NAME: Gary Trammel

ADDRESS: 2407 Rolling Hills Dr.

NAME: Rachel Trammel

ADDRESS: 2407 Rolling Hills Dr

NAME: M & E L

ADDRESS: 5204 Park Ave

NAME: Terry Clingan

ADDRESS: 5201 Park Ave

NAME: Stacy Auten

ADDRESS: 5101 Park Ave Sherman, TX. 75092

NAME: BRENT Auten

ADDRESS: 5101 Park Ave - Sherman, TX 75092

NAME: Severo Rodriguez Jr

ADDRESS: 5105 Park Ave

NAME: Tammy Perry

ADDRESS: 2513 Rolling Hills Dr.

NAME:

NAME: Doug & Melody Garrett

ADDRESS: 4700 W. Park Ave

NAME: Melvin Dunlap

ADDRESS: 2508 Valley Ridge Ln Sherman

NAME: Gabriela Tolber

ADDRESS: 2514 Valley Ridge Ln

NAME: Elmer Etgen

ADDRESS: 2600 Valley Ridge

NAME:

ADDRESS:

NAME:

ADDRESS:

NAME:

ADDRESS:

NAME:

ADDRESS:

8
NAME: Stephen L. Harris

ADDRESS: 2401 Friendship rd.

NAME: Carolyn Spencer Harris

ADDRESS: 2401 Friendship 75092

NAME: Roger D. Robertson

ADDRESS: 5214 Trailridge rd 75092 RDR

NAME: Janet Robertson

ADDRESS: 5214 Trailridge rd 75092

NAME: Edward Lindv

ADDRESS: 2701 Valley Ridge Ln.

NAME: SHERY HUSTER

ADDRESS: 2701 VALLEY RIDGE LN SHERMAN TX

NAME: Robert Vanne 172

ADDRESS: 2704 S. Rolling Hills Sherman TX

NAME: Thomas W. Gysert

ADDRESS: 5208 W. Meadow Ridge Rd. Sherman

NAME: B. Harry Wilson

ADDRESS: 5105 Rolling Hills Dr. Sherman, TX 75092

NAME: Kris Morris

ADDRESS: 5011 Rolling Hills Dr. Sherman TX 75092

NAME: Thomas Gladden

ADDRESS: 5108 W. Rolling Hills Dr. Sherman TX 75092

NAME: Carolyn Gladden

ADDRESS: 5108 W. Rolling Hills Dr. Sherman TX 75092

NAME: NIELS MICHAELSEN

ADDRESS: 5100 ROLLING HILLS SHERMAN TX 75092

NAME: Kenneth Rousseau Sherman, TX 75092

ADDRESS: 5201 Trailridge Rd.

NAME: BRETT WALSER SHERMAN TX 75092

ADDRESS: 2611 S. WESTRIDGE TRL.

NAME: Brennan Waiser Sherman TX 75092

ADDRESS: 2611 S. Westridge Trl.

NAME: Juan Medina

ADDRESS: 2617 S Westridge Trail Sherman Tx 75092

NAME: Princess Brown

ADDRESS: 2511 Valley Ridge Lane, Sherman, TX 75092

NAME: Brenda Roberts

ADDRESS: 2817 Rolling Hills Sherman Tx 75092

NAME: _____

ADDRESS: _____

NAME: _____

ADDRESS: _____

NAME: _____

ADDRESS: _____

NAME: _____

ADDRESS: _____

NAME: _____

ADDRESS: _____

Judy A. Brady
2517 Rolling Hills Drive
Sherman, TX 75092
214-597-3277
December 4, 2023

TO: Planning and Zoning Commission

RE: Proposed Zoning change for the property located in the 3000 Block West OB Groner Road and the 4500 Block West Park Ave

In advance of the meeting scheduled for December 12, 2023, I would like to submit my comments below:

- * I am extremely opposed to this change in our zoning.
- * I moved to my home just over 7 years ago from Richardson. A very large part of our decision on this location was a neighborhood of homes on about one acre of land with an incredible view of a field and trees along a creek located on the property in question.
- * While I have enjoyed looking out over that field and trees, I'm realistic enough to know that it would probably not escape the development taking place all over Sherman. However, I wholeheartedly believe that all of us who live there have a reasonable expectation that when the development did come, it would be the same as the rest of our neighborhood.
- * That field and trees is also home to a significant amount of magnificent wildlife that our entire neighborhood has enjoyed having the privilege to see over the years; including birds of prey such as red tailed hawks, owls and Mississippi Kites.
- * There is so much devastation throughout Sherman, we just want to try to keep our current room to breathe, sense of security and overall peace and tranquility.
- * We don't want another over-crowded, traffic clogged, cement covered city like many to our South.
- * Before you decide on this change, please go out there and take a look at the property being considered for crammed in townhouses, homes and, the biggest offender of all, some retail.
- * Sherman needs more areas like this one just to preserve a little of it's former beauty.

Thank you for your consideration.

Judy Brady

Marlow, Lauren

From: Planning
To: David Swindell
Subject: RE: Planning @ Zoning OB Groner

From: David Swindell
Sent: Tuesday, December 5, 2023 4:21 PM
To: Planning
Subject: Planning @ Zoning OB Groner

My name is David Swindell I am against the zoning change, it would ruin our neighborhood.
Little apartments, tiny town houses, commercial too.
I cannot believe this is even up for a vote.
It is bad of our neighborhood it is bad for Sherman.
I hope everyone of the board members come out here and look at this land and see what a terrible plan this is, have you?
Thank you for reading my email even though it is crazy that I even have to write, please put Sherman first, put the people in this neighborhood first, not someone just wanting to make a fast buck off Sherman.
Thank you,
David Swindell
2701 Rolling Hills

Marlow, Lauren

From: Planning
To: sylvia pearson; Planning
Cc: Jeff Pearson
Subject: RE: Comments in Opposition to Zone Change @3000 Block West OB Groner and 4500 Block West Park Ave

From: sylvia pearson
Sent: Monday, December 11, 2023 7:54 AM
To: Planning
Cc: Jeff Pearson
Subject: Comments in Opposition to Zone Change @3000 Block West OB Groner and 4500 Block West Park Ave

Sylvia and Jeff Pearson
 5009 W Country Lane
 Sherman, TX 75092

December 11th, 2023

Dear Planning and Zoning Commission and Board of Adjustment of the City of Sherman,

We are writing to express strong opposition to the proposed land zoning change from R-A (Residential Agricultural) to PD (Planned Development) in our community. While we understand the need for growth and development, we firmly believe that this particular zoning change would have detrimental effects on our neighborhood and the quality of life for its residents.

1. **Impact on Property Values:** Changing the zoning from Residential-Agricultural to Planned Development could potentially lead to a decline in property values. The character of our neighborhood is primarily residential, and introducing a planned development may result in increased noise, traffic, and other nuisances that can negatively impact property values.
2. **Overcrowding and Strain on Infrastructure:** Planned developments often bring an influx of residents and businesses, leading to increased strain on local infrastructure such as roads, schools, and utilities. Our community is not equipped to handle the additional demands that a planned development would impose on these essential services.
3. **Loss of Community Character:** The proposed zoning change threatens the unique character and charm of our residential-agricultural area. It is crucial to preserve the identity of our neighborhood and resist changes that may compromise the qualities that attracted residents in the first place.
4. **Environmental Concerns:** A shift to Planned Development may involve clearing large areas of land, disrupting local ecosystems and wildlife habitats. We should prioritize environmental sustainability and conservation efforts, especially in areas with agricultural significance.
5. **Traffic Congestion:** Planned developments often bring increased traffic, creating congestion on our local roads. This not only poses a safety risk but also diminishes the peaceful and serene environment that makes our neighborhood desirable.

6.

It is essential that the community's voice is heard in matters that directly impact our lives, we urge the Planning and Zoning Commission to reconsider the proposed land zoning change. It is crucial to prioritize the long-term well-being and happiness of the existing residents and to ensure that any development aligns with the values and character of our community.

Thank you for your time and consideration.

Sincerely,

Sylvia and Jeff Pearson

Marlow, Lauren

From: Planning
To: Rae, Rob
Subject: RE: 3000 Block West OB Groner Road & 4500 Block West Park Ave (220.18 acres)

From: Linda Robertson
Date: December 10, 2023 at 4:39:33 PM CST
To: "Plyler, David"
Subject: 3000 Block West OB Groner Road & 4500 Block West Park Ave (220.18 acres)

I am sending this email to you because a person in my neighborhood came to my door Sunday morning, explaining to me the City of Sherman is planning to let "a person" (from Canada no less) change the zoning in my area from residential to commercial. Really??

I have lived in this neighborhood for 31 years. We moved to this location because it was in the country. Quiet and peaceful. But apparently a total of 7 people on the City Council are going to decide whether or not our quiet and peaceful neighborhood will remain such.

If you let this development take place, it will not be the neighborhood we moved in to. From our prospective, it appears the City of Sherman is only interested in one thing: Revenue the city will get in taxes.

Have you not given any thought as to what will become of the neighborhoods in this area?

The crime will increase. The traffic will increase. Some of us will not feel comfortable in our own homes.

I do worry about the water supply. When the new High School and all the surrounding apartments were built (and being continuously built), we notice a change in the water pressure. Not the pressure we had when we first moved here. I don't know if this area can support the number of apartments that may be built.

Depending on the council's decision, I will consider to move out of Sherman to a smaller town.

Unfortunately, I will not be able to attend the public hearing on December 12, 2023. This is the reason for my email. Perhaps it will be registered a "NO", please do not let this happen to our neighborhood.

Thank you for your time,

Linda Robertson
 2507 S. Westridge Trail
 Sherman, TX 75092

Planned Development O B Groner

Items That Need Changed

- > No Commercial of any kind, there is plenty on 1417 (300 yards away)
- > No five story apartments, only two story buildings in new development.
- > 30' easement from houses that back up to new development
- > Leave creek and trees alone no development, trails, or pocket parks in or through creek.
- > Have a study done on water drainage and how any building will affect existing homes and communicate findings.
- > None transferable city incentives. Tie incentives this builder
- > If city sewer is going to be ran this close, it only makes sense to tie in existing homes in also. What are the plans for that?

Memo to: City of Sherman

December 7, 2023

C/O: Rob Rae, AICP, Director of Development Services

Re: Greenway Planned Development (PD) Review

Rob,

Per the requested review of the submitted Greenway PD, Halff has completed two reviews of the proposal and provided a summary of concurrence in this memo with a few remaining comments to address in the PD document. Halff's review included discussions with the Sherman staff team during the process of review and resubmittal.

Halff's task during this process was to review the proposed PD amendment to ensure that the final document is consistent with the City's PD ordinance. The ordinance intent is clear in its purpose statement - *"A PD district may be used to permit innovative and superior land utilization concepts not permitted by other zoning districts in this ordinance."* The applicant team at Greenway is aware of the PD ordinance and the new zoning ordinance updates from December 2022 and has crafted this PD accordingly. Adjustments were made to the document following comments from Halff and City staff.

The Greenway PD includes multiple land uses and residential densities in a thoughtful layout around central open space. A strong connected street pattern distributes traffic within the site around the various land uses and densities. The variety of residential options includes several lot variations of single-family, high-density townhomes and multi-family sites. Most of these residential land use areas are very small and integrate with each other, allowing for diversity throughout the area. This PD proposes that the development standards are mostly Sherman base zoning districts while permitting greater density and height of some of the residential product types. The PD identifies land uses allowed, elements of design, site characteristics and some compatibility standards necessary for this type of development plan. What it does not directly address is an overall allowed lot and unit count, meaning the overall density is a little unclear. As the proposed density is higher than some of the base zoning districts listed, there should be some density maximums per acre provided in each district to provide clarity to the community as to how this will develop.

Open space is proposed both for the public and private including pocket parks, preserved open spaces, drainage areas, and space for trails. The central location of the open space in linear park format is desirable but more detail is needed on minimum amounts, maintenance and trail components. Strong open space clarity can balance out the additional density but clarity for both are still needed in this PD to ensure a 'superior land utilization concept.'

A well-connected street network is planned that will create new connectivity and important street extensions that will benefit nearby residents and business owners and positively support the proposed land uses in this PD. A development agreement for the site will address infrastructure provisions to ensure adequacy for this development.

The components of the PD have been achieved as provided in the document and exhibits. The project team has responded to review comments and worked with Halff and the City of Sherman staff to improve the technical aspects of the document to present to P&Z. There are outstanding comments that are listed on the following page that should be addressed by the applicant moving forward to final approval.

Overall, Halff finds that the proposed PD is consistent and supportive of the City of Sherman PD ordinance elements and recommends approval, conditional on the remaining comments.

Reviewed by: Jordan Maddox, AICP, Director of Planning, Halff Associates, Inc.



Remaining Comments

Page 3 – Open Space. The namesake of this PD is Greenway and page 3 lists 37.4 acres of overall open space, much of which will be in a linear park along a central unnamed creek. Page 4 of the PD provides some good detail on pocket parks and amenity centers that are clearly intended for HOA responsibility. It is not clear how the remaining open space will be owned and maintained and ensured as open space, referenced only as “private and semi-public open space.” How this open space of 37 acres will be assured, designed, and maintained may be something to be worked out at Site Plan, but we think some language speaking to how this will be determined and ensured is important in the PD. There is considerable density in this PD and it is recommended that more certainty regarding the preservation and activation of this open space be addressed at the outset.

- A general comment was provided on initial review that requested language stating the open space shall be not less than XX acres. This comment does not appear to have been addressed in the PD, only that the open space now has an acreage associated to it. Refinement to clearly state this is a minimum is recommended.

Page 4 – A general comment was provided on initial review that requested a breakdown of districts by percentage to provide a good snapshot of how much acreage/percentage of each residential area would be included in the plan, along with a max. deviation of 10% for each district. That comment was not addressed directly, although the PD revision includes a ‘Development Villages’ aggregate number of 142.1 and 64.5%. It would still be helpful to provide a maximum acreage/percentage of each district so that any adjustments needed from the land plan can be assured in the PD along with the stated maximum percentage allowed.

Page 4 – This PD allows for all trails to be decomposed granite or “other material suitable for trails” to be worked out during the site plan process but also describes them as “permitted.” As these trails are not provided on illustrative exhibits or provided any other language in the PD, it is unclear where these trails will be located and whether the materials listed would even be appropriate. A comment on first review requesting more information on a previously combined bullet was addressed in regard to more description of the pocket parks, amenity centers, etc. but no additional information was provided on trails. A direct request made to provide clarity shown below, was not addressed by the applicant team.

8 ft minimum concrete trails along streets. Decomposed granite may be used within designated park areas.

Reply or use @ to invite others

A comment was provided to show trails on an exhibit, as most Sherman PDs include some manner of trails depicted in an exhibit, along with language describing trails. If an exhibit is not going to be provided, it is advised that some refinement of the trail language as to where it would be appropriate to have a concrete trail and where a mulch or DG material trail would be appropriate. The City of Sherman Trails Master Plan provides guidance as to trail design and could be referenced. A mix of several surface materials may be perfectly appropriate in context, but there is very little understanding of that context in this PD.

- As a secondary comments to the trails, if any of the trails in this development are intended to be dedicated to the City of Sherman for future maintenance and responsibility, 8' paths of decomposed granite or natural pervious surface could be considerable upkeep cost in the future to maintain at a reasonable standard. Halff recommends adding some language in this regards that could be addressed and finalized at the site plan stage so there is more clarity and guidance for the City of Sherman to consider at the Site Plan stage.

Page 4 – Landscape buffer. The proposed landscape buffer adjacent to the Setting Sun neighborhood is not an adequate screening buffer between MF-40 and single-family. In a PD intended to have superior design criteria and address compatibility, it is recommended that the PD include more screening only in the area between these two uses (not a large area). The 15' buffer depth is fine but Halff recommends planting trees every 30 feet instead of the proposed 100 feet (which would have only been about 4 trees). Would also recommend planting evergreen trees instead of the deciduous trees, along with language that the trees be Shade Trees and not ornamental trees. This would provide more year-end transition between such disparate densities and building heights. (also open to a mix of shade and ornamental evergreen and deciduous varieties meeting the spirit and intent of this comment if reviewed and approved by staff at the time of site plan)

Page 4 – The applicant made adjustments to the Site and Building Standards section to address Halff and staff comments to remove redundant regulations with the Sherman zoning ordinance. However, it is not clear now that all other standards not listed in this PD, starting on this page 4, shall comply with the standards of the “Corresponding City Zoning” district that is listed in the tables in page 4-6. A simple lead-in sentence describing this relationship to the Sherman zoning districts should be included.

Page 5 – Comments were provided in regard to how dense the Townhome Mews were in relation to the Sherman Townhouse District. The density proposed in revisions is now more dense and taller building allowances. This may be acceptable for this PD, this comment is just to point out the differences here within the context of the proposed density in this PD.

Page 6 - A comment/question was posed on initial review as to whether the Mixed Use area had a required mix of residential and non-residential. The intro to the M-U district states “*Vertical mixed-use building with ground floor retail and/or professional office and multi-family units above.*” As written into page 7, the permitted land uses in the PD allow for all uses in CN and MF-30, meaning the Mixed Use area could be entirely commercial or entirely multi-family with no mix required. The comment/question was left unchanged and this may be acceptable for this PD, just a point of clarification.

- A second comment/question in regard to whether the allowed tuck-under parking in this mixed-use district could take the place of intended retail/office was also left unchanged in revisions so it is unclear whether the ground-floor of the mixed use buildings will be a non-residential use or a parking use.

Page 7 – The attached document lists references a “Draft Development Plan” which has been reviewed but is recommended to be included in the PD document with the other exhibits. It is also recommended that ‘draft’ be dropped from the title, which will ensure formality once the PD is adopted (everything is ‘draft’ until final approval so removal of that term is warranted).

Exhibit Transportation Plan – There is some concern regarding the northern most Minor Arterial connecting into the existing single-family neighborhood, which is presumably a local street. Consider a street section for the northern leg of this roadway either as a local, collector, or modified street section that will slow down traffic and provide a traffic calming condition near the entrance to this subdivision. Street connectivity is important for many reasons but a poor transition between two street types and land uses can cause future problems. Careful thought into the design of this street transition is recommended.

STAFF REVIEW LETTER

December 5, 2023

Sent via Email

Shakir Rehmatullah,
503-3621 Highway 7 East
Markham, ON L3R0G6

Norris Design
Rick Leisner
208 North Market Street #250
Dallas, TX 75202

Dear Applicants,

The request of Public Hearing and Zone Change from an R-A (Residential Agriculture) District to a PD (Planned Development) of Greenway located in the 3000 Block West OB Groner Road and the 4500 Block West Park Avenue 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. Comments from Halff Associates, City Staff and the City Attorney shall be addressed.
3. Fire access, lanes and codes shall be coordinated with the Fire Marshal (903.892.7267). (*Code of Ordinances Chapter 3.02(c)*)
4. Impact fees will be required at the time of building permit application. (*Chapter 13, Article. 13.11*)
5. A detailed site plan shall be submitted for approval within two (2) years from the approval of the zoning exhibit for a minimum of 20 percent of the project area. (*Section 14.02.021(j)*)

Engineering

6. Property does not lie within City of Sherman city limits. Annexation into City of Sherman City Limits required prior to City Council review.

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 Heston, City Manager
Clint Philpott, Asst. City Manager
Wayne Lee, P.E., Director of Engineering
Tom Pruitt, Utility Engineer
The Law Firm of Abemathy, 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.4.

Meeting Date: 2/5/2024

Prepared By: Rob Rae, Developmental Services Director

Approved By: Teri Fine, Assistant to the City Manager

Caption:

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6691

Amending the Code of Ordinances of the City of Sherman, Texas, Chapter 3 (Building Regulations) and Appendix C (Comprehensive Fee Schedule); Modifying Certain Existing Regulations and Establishing Certain New Regulations Relating to Buildings, Contractor Registration, Building Permits and Inspections, Substandard Structures, Backflow Devices, Manufactured Housing, Mobile Homes and Travel Trailers, Streets and Sidewalks, Residential Rental Property License and Standards, Flood Damage Prevention, Stormwater Discharges Resulting from Construction Activities and Administrative Provisions; Adopting Technical Building Codes and the International Property Maintenance Code, 2021 Edition, and Amendments Thereto; Providing for Rights of Appeal; Modifying Certain Existing Fees and Charges and Establishing Certain Fees and Charges; Providing a Penalty Clause with a Maximum Fine of \$2,000, Savings/Repealing Clause, Severability Clause and an Effective Date; Providing for the Publication of the Caption Hereof

Issue:

Consideration of an Ordinance, amending The Code of Ordinances of the City of Sherman, Texas, Chapter 3 (Building Regulations) and Appendix C (Comprehensive Fee Schedule)

Background:

Chapter 3 of the Code of Ordinances pertains to regulation of the buildings and other construction-related matters within the City of Sherman. This section was last updated on December 7, 2020 to add the International Code Council (ICC) standards of 2018 and the National Electrical Code of 2020.

On January 16, 2024, the City of Sherman's Building Official (Larry Bollier), Fire Marshal (Dillon Stewart), and Director of Development Services (Rob Rae) presented to City Council potential changes to Chapter 3 of the Code of Ordinances pertaining to Building Regulations. The following significant changes are being proposed for this Ordinance Amendment:

- Reorganizing Building Regulations Chapter
- Adopting 2021 building codes
- Adopting 2023 electrical code
- Adopting 2021 International Property Maintenance Code
- New proposed Residential Rental Property License and Standards
- Update of Building Permit Fees

The International Code Council has published regulations for the year 2021, and many of Sherman's peer cities have begun adopted this new code cycle.

This update is, in part, intended to give staff the ability to enforce property maintenance issues within the City of

Sherman. As part of the Property Maintenance Code and the Residential Rental Property Program, the City would require all residential rental properties to register annually with the City and would allow for building inspectors to conduct annual inspections to ensure that certain minimum requirements are held for all rental properties. In 2022 and 2023, staff has conducted many inspections on problem properties as part of the Community Improvement Initiative (CII) and has found deplorable conditions in many of the rental properties in the City of Sherman. Instead of chasing these problem projects from behind as we are currently doing, this program would allow us to get in front of potential problems.

Origination:

Rob Rae, Director of Development Services
Larry Bollier, Building Official
Dillon Stewart, Fire Marshal

Financial Consideration:

None

Staff Recommendation:

Staff recommends City Council approve this Ordinance.

Alternatives:

The City Council could deny the request.

Attachments:

1. Ordinance No. - Amending Chapter 3 Building Regulations
2. 1-16-2024 - Council Presentation

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF SHERMAN, TEXAS, CHAPTER 3 (BUILDING REGULATIONS) AND APPENDIX C (COMPREHENSIVE FEE SCHEDULE); MODIFYING CERTAIN EXISTING REGULATIONS AND ESTABLISHING CERTAIN NEW REGULATIONS RELATING TO BUILDINGS, CONTRACTOR REGISTRATION, BUILDING PERMITS AND INSPECTIONS, SUBSTANDARD STRUCTURES, BACKFLOW DEVICES, MANUFACTURED HOUSING, MOBILE HOMES AND TRAVEL TRAILERS, STREETS AND SIDEWALKS, RESIDENTIAL RENTAL PROPERTY LICENSE AND STANDARDS, FLOOD DAMAGE PREVENTION, STORMWATER DISCHARGES RESULTING FROM CONSTRUCTION ACTIVITIES AND ADMINISTRATIVE PROVISIONS; ADOPTING TECHNICAL BUILDING CODES AND THE INTERNATIONAL PROPERTY MAINTENANCE CODE, 2021 EDITION, AND AMENDMENTS THERETO; PROVIDING FOR RIGHTS OF APPEAL; MODIFYING CERTAIN EXISTING FEES AND CHARGES AND ESTABLISHING CERTAIN NEW FEES AND CHARGES; PROVIDING A PENALTY CLAUSE WITH A MAXIMUM FINE OF \$2,000, SAVINGS/REPEALING CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF; 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 Council of the City of Sherman, Texas (“City Council”) finds that it is necessary to amend Chapter 3 (Building Regulations) and Appendix C (Comprehensive Fee Schedule) of the Code of Ordinances, City of Sherman, Texas (“Code of Ordinances”) to prescribe certain new regulations relating to buildings, contractor registration, building permits and inspections, substandard structures, backflow devices, manufactured housing, mobile homes and travel trailers, streets and sidewalks, residential rental property license and standards, flood damage prevention and stormwater discharges resulting from construction activities and related administrative provisions for the City of Sherman, Texas (“City” or “Sherman”); and

WHEREAS, in particular, the City Council finds that it is necessary to protect the health, safety and general welfare of the citizens of Sherman by establishing minimum standards for the construction, use, occupancy, management, operation and maintenance of residential structures; and

WHEREAS, the City Council finds that a significant number of unsafe and unsanitary residential rental units, duplexes and multi-family dwelling complexes exist within Sherman; and

WHEREAS, the City Council finds that it would promote healthy and safe living environments, preserve and enhance the quality of life for residential tenants, and be advantageous to the welfare of all citizens to provide requirements for the annual registration

and inspection of residential rental units, duplexes or multi-family dwelling complexes; and

WHEREAS, the City Council finds that it would be advantageous and beneficial to encourage sustainability and maintain property values by establishing requirements for the annual registration and inspection of residential rental units, duplexes and multi-family dwelling complexes, as set forth herein; and

WHEREAS, Sherman has complied with all legal notices and public hearings as required by law; and

WHEREAS, the City Council finds that adopting this Ordinance promotes the health, safety, welfare and morals of Sherman and is in the best interest of the citizens of Sherman.

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

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Amendment to Chapter 3 (Building Regulations) of the Code of Ordinances. Chapter 3 (Building Regulations) of the Code of Ordinances is hereby amended as follows¹:

“ARTICLE 3.01 GENERAL PROVISIONS

Sec. 3.01.001 Purpose.

The purpose of this chapter is to ensure that buildings and structure are constructed or remodeled in a manner that meets building code standards located herein. The intent is to assist residents and contractors by providing a safe working environment and to ensure compliance with the building codes, ordinances, regulations and standards set forth by the City and other regulatory agencies by issuing permits when required, reviewing plans and performing necessary inspections on buildings and structures during the construction process.

Sec. 3.01.002 Permits Required.

(a) General

- (1) Any owner or owner’s authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or who intends to erect, install, enlarge, alter, repair, remove, convert or replace any walls, electrical, gas, mechanical or plumbing system, the installation of which is regulated by code, or to cause any such work to be performed, shall first make application for the required permit.***
- (2) Failure to retain the required permit will result in an administration fee in the amount set forth in Appendix C of this Code. This fee is in addition to the required permit fees and other remedies available to the City for such violation.***
- (3) Permits are valid for six (6) months and will expire if no inspections have occurred within the previous six (6) months. If inspections have occurred within the last six (6) months the Building Official may extend the building permit another six (6) months until the project is complete, not to exceed two (2) years***

¹ Deletions are evidenced by ~~striketrough~~; additions are *italicized*.

in total duration.

- (4) There will be no refunds on building permit fees if the building permit expires and not renewed by the Building Official.*
- (5) No permit shall be granted for the construction, occupancy, repair or maintenance of any property within any area when the same is under study for a change in the zoning classification of the area, or while ordinances making such change are in the process of being finally passed.*
- (6) The permit, when issued, shall be for such work as described in the application, and no deviation shall be made from the work so described.*
- (7) No permit shall be required for the installation of communication wiring, devices and equipment, for companies engaged in the business of supplying communication service and operating under a franchise from the City.*
- (8) This article shall not be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling or installing any plumbing, electrical or mechanical equipment or other work or improvement for damages to persons or property caused by a defect in such workmanship, equipment or improvement nor shall the City be held as assuming any such liability, by reason of the inspection or reinspection authorized herein, or the issuance of a certificate of approval or disapproval as authorized herein.*

(b) Residential Remodel Construction.

- (1) A permit is required for all demolition work being performed on a residential property.*
- (2) A permit is required for all residential remodels that include mechanical, electrical, plumbing, framing or subfloors.*
- (3) A permit is not required for interior painting, floor coverings or cabinetry that does not include plumbing, electrical or mechanical, or other aesthetic changes to the interior of a residential property.*
- (3) Replacement of windows and doors that are of the same size as those being replaced do not require a permit. Replacement of windows and doors that are a different size, necessitating changes in framing, require a building permit.*

(c) Non-Residential and Multi-family Remodel Construction.

- (1) An asbestos survey from a state licensed asbestos inspector is required for all non-residential and multi-family remodel construction before a permit can be issued.*
- (2) A permit is required for all demolition work being performed on non-residential and multi-family properties.*
- (3) A permit is required for all non-residential and multi-family remodel construction, including tenant finish out that does not include any changes to the mechanical, electrical, plumbing or framing.*

Sec. 3.01.003 Contractor Registration and Licensing Requirements.

- (a) Contractor Registration Generally. All contractors are required to be registered with the City to perform work within the city limits. Contractors may register through the Development Services online permit portal.*
- (b) Contractor Registration Required. It shall be unlawful for any person, firm, corporation or business entity in the business of contracting services which require, by state law or local ordinance, a registration, certification or license to perform such services, to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or appurtenance, plumbing, electrical, mechanical, irrigation, or private sewage disposal system in the City, unless such person, firm, corporation or*

business entity is the holder of a valid registration with the city. Such person, firm, corporation or business entity shall be herein designated as an “applicant” or “registrant,” as applicable.

- (1) General Contractors. General contractors that are engaging in the business of construction management or subcontractor services or are responsible for the construction of buildings such as foundations, framing, flooring, windows and other similar work are required to be registered with the City.*
- (2) Electrical Contractors. Electrical contractors are required to be registered with the City and must hold an active State of Texas Electrician License issued by the Texas Department of Licensing and Regulation (“TDLR”).*
- (3) Mechanical Contractors. Mechanical contractors are required to be registered with the City and must hold an active State of Texas Air Conditioning and Refrigeration Contractor or Technician License, Class A or Class B issued by TDLR.*
- (4) Plumbing Contractors. Plumbing contractors are required to be registered with the City and must hold an active Plumbing License issued by the Texas State Board of Plumbing Examiners.*
- (5) Backflow Preventor. Backflow testers are required to be registered with the City and must hold an active Backflow Prevention Assembly Tester License issued by the Texas Commission on Environmental Quality (“TCEQ”).*
- (6) Irrigation Contractor. Irrigation contractors are required to be registered with the City and must hold an active Landscape Irrigator or Irrigation Technician License issued by TCEQ.*
- (7) Roofing Contractor. Roofing contractors are required to be registered with the City.*
- (c) Contractor Registration Application Requirements. An applicant for registration under this article shall provide to the office of the building official the following information:*
 - (1) The complete name, mailing address, email address and telephone number of the person, firm, corporation or entity making application; if the applicant is a firm, corporation or business entity, there must be provided the name and private mailing address of a principal of the firm, corporation or business entity who is authorized to bind the firm, corporation or business entity in legal agreements.*
 - (2) A copy of the applicant's valid state professional license, issued by the appropriate state board or agency with the authority to issue licenses for that particular trade.*
 - (3) Proof of liability insurance listing the City as a certificate holder for the minimum amount of \$300,000.00 per occurrence.*
 - (4) Make, model, and registration number on all vehicles used in the removal and disposal of construction debris.*
 - (5) Any other information deemed necessary by the building official. If a change occurs in the information previously provided by registrant under the provisions of section 3.01.003(c), then the registrant shall provide written notice of the updated information to the building official within thirty (30) days of the change.*
- (d) Contractor Registration Expiration. Contractor registration with the City expires on December 31st of each calendar year. Contractors are required to renew their registration each year. No permits or inspections will be issued or completed for a contractor whose registration has expired.*
- (e) No Permits. No permit to perform work on any building or appurtenance, plumbing,*

mechanical, electrical, irrigation or private sewage wastewater disposal system shall be issued to any person, firm, corporation or business entity without prior registration; provided, however, property owners performing work on their homestead property or when work is performed by a person exempt from registration or obtaining permits under applicable law shall be exempt from the registration requirements set forth in this article.

- (f) Revocation of Registration. A registrant's privileges under this article may be temporarily or permanently revoked for providing false or misleading information; failing to provide updated information within thirty (30) days of such change; failing to maintain trade licensure from the appropriate agency having licensing authority; suspension of licensure; transferring or allowing another person, firm, or corporation to use registration; failing to maintain general liability insurance; being convicted of at least two violations of this article or any other ordinance of the city within a twelve (12) month period, including but not limited to, convictions arising from failing to obtain required permits, failing to request required inspections and failing to correct code violations. A registrant's privileges may be suspended during an active investigation into violations of this article or any other ordinance of the City. The Construction Board of Appeals shall hear and decide appeals of registration revocations made by the Building Official.*
- (g) Fees Required. Contractors may be required to pay an annual registration fee as set forth in the City's fee schedule (Appendix C of this Code), as approved by City Council and as may be amended from time to time. The prescribed fee is not refundable.*
- (h) No Endorsement. In extending the rights and privileges of such registration, the City makes no statement of the technical competency of those so registered, and no manner of license is proffered.*
- (i) Transfer of Registration Prohibited. No registrant under this article shall for any purpose allow its registration, by name or any other identification, to be transferred to, assigned to, or in any manner directly or indirectly used by, any person, firm, corporation or business entity other than the one to whom the registration was issued.*

Sec. 3.01.004 Building Permit Submittal Requirements.

- (a) Submittal Contents Generally. All building permit submittals shall meet the requirements as defined by the Building Permit Application Checklist, as it exists or may be amended, which shall be established and maintained by the Building Official. Incomplete submittals shall not be accepted.*
- (b) Submittal Procedure.*
 - (1) All permits required by this Chapter shall be filed with the Development Services Department.*
 - (2) The Building Permit Application Checklist, as it exists or may be amended, shall prescribe the procedures for submittal.*
 - (3) All requests shall be submitted through the City's online permit portal.*
 - (4) All buildings over 5,000 square feet, including commercial and residential buildings, must be designed, signed and sealed by a licensed architect or professional engineer.*
- (c) Permit Approval. A building permit shall not be issued until the following items have been completed:*
 - (1) Building plans have been reviewed and signed by the Building Official or his/her designee;*
 - (2) For new building construction or building additions, the property is correctly platted where required by the City's Subdivision Regulations.*

- (3) *The property is zoned for the proposed building use;*
- (4) *The proposed site has received site plan approval from the Planning and Zoning Commission where required under the City's Zoning Ordinance; and*
- (5) *Civil plans have been approved by the Engineering Department.*
- (d) *Permit Issuance.* *Once the items in subsections (b) and (c) above are complete, the Building Official may issue the building permit for construction.*
- (e) *Fees Required.* *Every submittal shall be accompanied by the prescribed fees set forth in the City's fee schedule (Appendix C), as approved by City Council and as may be amended from time to time. The prescribed fee is not refundable.*

Sec. 3.01.005 Inspections Required.

- (a) *Inspection Scheduling.* *It is the responsibility of all contractors to use the online permit portal to schedule inspections.*
- (b) *Inspection Record.* *Any City building inspector shall, in writing (digitally), record all findings of the inspection into the City's system of records at the time of inspection of any construction or installation requiring an inspection under this Code.*
- (c) *Inspection Notification.* *Notification of the results of a building inspection will be provided through the online permit portal. All contractors must use their account to check the status of their inspection.*
- (d) *Failed Inspections.* *If the inspection has failed, the work must be corrected and then re-scheduled for inspection. Reinspection fees are established as set forth in the City's fee schedule (Appendix C of this Code), as approved by City Council and as may be amended from time to time. The prescribed fee is not refundable.*
- (e) *Proceeding without Passed Inspection.* *It shall be unlawful for any person to proceed with any work requiring an inspection or conceal any work unless the work has been inspected and passed. It shall be unlawful to proceed with or conceal any work that has failed inspection.*
- (f) *Public Utility Installation.* *No public utility, including gas, lights, water, and electricity, shall permanently install any utility meter for utility consumption unless and until construction has been approved. All construction shall be in compliance with the adopted codes and ordinances of the City affecting the work under progress.*

Sec. 3.01.006 Construction Site Requirements.

- (a) *Trash and Debris.*
 - (1) *All construction sites shall be kept in a clean manner. All trash and debris must be contained.*
 - (2) *All sidewalks, streets and roadways in construction areas must be kept free of dirt, trash and debris.*
 - (3) *City trash dumpsters must be used for disposal of construction materials. No 3rd party trash services are allowed.*
- (b) *Portable Water Closet.* *One or more portable water closets are required at all construction sites. The number and placement of such facilities will be determined by the size of the project. Locations of the portable water closets shall be approved by the Building Official. It is further provided by this section that no portable water closet will be placed within any City right-of-way.*
- (c) *Construction Fencing.* *Temporary construction fencing is required along the perimeter of a development project to prevent trash and debris from leaving the site. The construction fence may be chain link or orange construction safety fencing that is a minimum of 4 feet in height but shall not exceed the fence height requirement of Section 14.04.004 of this Code.*

(d) Construction Hours. See Section 8.07.003(b)(6) for construction hours.

Sec. 3.01.007 Building Numbers.

As per Section R319 of the International Residential Code, Section 502 of the International Building Code, and Section 505 of the International Fire Code: "The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than 4 inches (102 mm) in height with a stroke width of not less than 0.5 inch (12.7 mm)."

Sec. 3.01.008 Violations.

Violations of any of the provisions of this article are punishable as provided in section 1.01.009 of this Code.

Secs. 3.01.009–3.01.999 Reserved

ARTICLE 3.02 CODES ADOPTED

Sec. 3.02.001 Adopted.

(a) *The following codes and the standards contained therein are hereby adopted and incorporated herein for all purposes as the Minimum Building Standard Codes of the City:*

- (1) *International Residential Code, 2021 edition, including appendices AA, AB, AC, AH, AJ and AP;*
- (2) *International Building Code, 2021 edition, including appendices A, B, C, D, F, and I;*
- (3) *National Electrical Code (NEC), 2023 edition;*
- (4) *International Fuel Gas Code, 2021 edition, including appendices A, B, C and D;*
- (5) *International Mechanical Code, 2021 edition, including appendix A;*
- (6) *International Plumbing Code, 2021 edition, including appendices C, D and E;*
- (7) *International Energy Conservation Code, 2021 edition;*
- (8) *International Fire Code, 2021 edition, including appendices A through J and N;*
- (9) *International Existing Building Code, 2021 edition;*
- (10) *International Swimming Pool and Spa Code, 2021 edition; and*
- (11) *International Property Maintenance Code, 2021 edition, including appendix A.*

(b) *Where a provision of this chapter conflicts with other provisions of this Code or other provisions within this chapter, the more restrictive provision shall control. A copy of the codes shall be retained on file in the office of the Building Official.*

Sec. 3.02.002 Violations.

Violations of any of the provisions of this article are punishable as provided in section 1.01.009 of this Code.

Secs. 3.02.003–3.02.999 Reserved

ARTICLE 3.03 AMENDMENTS TO CODES

Sec. 3.03.001 Residential Code Amendments.

- (a) *The following additions, amendments and/or deletions to the International Residential Code, 2021 edition, are hereby adopted:*
- (1) *PVC cell core and foam core piping are not allowed inground unless installed to manufactured specifications.*
 - (2) *Part VIII-Electrical, chapters 34-43, shall be deleted.*
 - (3) *Section R313.2 (One- and two-family dwellings automatic fire systems) shall be deleted.*
 - (4) *Foundation Repair.*
 - (A) *When tunneling under foundations, an engineer must design the backfill process and inspect the process. A letter bearing the engineer's stamp must be submitted to the building official, certifying that the process is to engineered specifications.*
 - (B) *Where beams and footers in foundations have been compromised or cut, an engineer must design the repair. A letter bearing the engineer's stamp must be submitted to the building official, certifying that the repair is to engineered specifications.*
 - (5) *Section R310 (Emergency escape and rescue openings) is amended to state that all bedrooms and sleeping rooms must have at least one external doorway or one window for egress fire escape.*
 - (6) *It shall be unlawful for the owner, occupant, manager or person in control of real property to occupy or cause or permit the human occupancy of a building, structure or portion thereof without having running water and sanitary sewer services.*
 - (7) *Portable storage containers shall not be used for the construction of residential buildings.*
 - (8) *An engineered sheer wall plan is required for all new residential buildings and residential additions.*
 - (9) *A form board survey is required for new residential buildings and residential additions.*

Sec. 3.03.002 Building Code Amendments.

- (a) *The following additions, amendments and/or deletions to the International Building Code, 2021 edition, are hereby adopted:*
- (1) *Section 101.1. Insert: City of Sherman, Texas.*
 - (2) *Section 1612.3. Insert: City of Sherman, Texas; July 17, 1995.*

- (3) Obstruction bond on or over public rights-of-way required. A five thousand dollar (\$5,000.00) obstruction bond shall be required for persons doing work on and over public rights-of-way. Persons doing repair work or demolition work on or over public rights-of-way shall be required to furnish a five thousand dollar (\$5,000.00) obstruction bond and proof of, as a condition to said obstruction bond, public liability insurance in the amount of one hundred thousand dollars (\$100,000.00) per occurrence and three hundred thousand dollars (\$300,000.00) aggregate.
- (4) Chapter 1, Section 111, is hereby amended to add the following section:
“111.1 Change of occupancy. A certificate of occupancy for any existing building may be obtained by applying to the building official and supplying the information and data necessary to determine compliance with this Code and the City’s Zoning Ordinance.”
- (5) Chapter 1, Section 113, shall be deleted and replaced with regulations found in Section 3.05.003.
- (6) Retaining Walls. Any structure that is constructed to hold dirt or earth is considered a retaining wall. Such retaining walls must be engineered if the height of the structure is four (4) feet or greater measured from the base of the designed structure. The engineer of record must inspect the retaining wall, ensuring it is to their design and send a letter bearing his or her stamp to the building official and the engineering department. The engineered design must be submitted to the City’s Engineering Department before construction of said wall begins.
- (7) Foundation Repair.
- (A) When tunneling under foundations, an engineer must design the backfill process and inspect the process. A letter bearing the engineer’s stamp must be submitted to the building official, certifying that the process is to engineered specifications.
- (B) Where beams and footers, in foundations, have been compromised or cut, an engineer must design the repair. A letter bearing the engineer’s stamp must be submitted to the building official, certifying that the process is to engineered specifications.
- (8) Parking. All parking areas where the ground or surface directly below and adjacent is greater than one (1) foot shall require a vehicle barrier of no less than two (2) feet, nine (9) inches in height. It shall be designed to resist a concentrated load of 6,000 pounds.
- (9) All bedrooms and sleeping rooms must have at least one external doorway or one window for egress fire escape.
- (10) It shall be unlawful for the owner, occupant, manager or person in control of real property to occupy or cause or permit the human occupancy of a building, structure or portion thereof without having running water and sanitary sewer services.
- (11) Portable storage containers shall not be used for the construction of occupied buildings unless approved by the building official.
- (12) An engineered sheer wall plan is required for all new buildings.

- (13) *A form board survey is required for a new buildings and building additions.*

Sec. 3.03.003 Electrical Code Amendments.

- (a) *The following additions, amendments and/or deletions to the National Electrical Code (NEC), 2023 edition, are hereby adopted:*
- (1) *On all installations of electrical conductors or equipment and all existing installations which are altered, all work shall be done in a manner that will conform with the requirements for a sufficient and safe electrical system. Repair and maintenance work shall be such that if any electrical conductors or equipment are removed and later replaced, they shall be replaced in a manner which conforms with this article.*
 - (2) *Duty of power company. The local power company, its agents or employees, shall make all connections from the power lines to the electric service installations. It shall be unlawful for any person to do so other than the foregoing.*
 - (3) *Approval of materials. It shall be unlawful for any person to sell, expose for sale, offer to sell, dispose as a premium or offer for rent, and repair any electrical material, conductors, equipment, apparatus or appliance within the City which is not approved and bears an approved seal.*
 - (4) *Temporary permits.*
 - (A) *Upon application thereof, the building official may issue a temporary permit authorizing the connection of service to any building or electrical installation for a period not to exceed ninety (90) days in cases where the immediate connection of such service is by him considered necessary, desirable and reasonably safe, provided that it appears that applicant for such temporary permit can and will qualify for a regular permit under the provisions of this chapter within a reasonable length of time.*
 - (B) *All temporary construction services shall be inspected and approved by a building inspector after installation, and no such temporary construction services shall be connected to the distribution systems without this approval.*
 - (5) *Solar Photovoltaic (PV) Systems or Solar Panels. Solar Photovoltaic (PV) Systems or Solar Panels installations must be engineered by a design professional bearing his or her stamp.*

Sec. 3.03.004 Fuel Gas Code Amendments.

- (a) *The following additions, amendments and/or deletions to the International Fuel Gas Code, 2021 edition, are hereby adopted:*
- (1) *Section 403 (Piping materials). All plastic pipe approved for use with natural gas shall bear the manufacturer's name or trademark, pipe size, plastic pipe material designation code, standard dimension ratio number, the ASTM specifications to which the pipe conforms. Polyvinyl Chloride (PVC) Commercial Standards (CS256-63) shall not be used for consumer's gas piping.*

Sec. 3.03.005 Mechanical Code Amendments.

(a) *The following additions, amendments and/or deletions to the International Mechanical Code, 2021 edition, are hereby adopted:*

(1) *Contractor Insurance Requirements.*

(A) *Each class A license holder shall have in force commercial general liability insurance in an amount as required by Title 16, Section 75.40(a) of the Texas Administrative Code (Contractor Insurance Requirements), as it exists or may be amended.*

(B) *Each class B license holder shall have in force commercial general liability insurance in an amount as required by Title 16, Section 75.40(b) of the Texas Administrative Code (Contractor Insurance Requirements), as it exists or may be amended.*

Sec. 3.03.006 Plumbing Code Amendments.

(a) *The following additions, amendments and/or deletions to the International Plumbing Code, 2021 edition, are hereby adopted:*

(1) *PVC cell core and foam core piping are not allowed in ground unless installed to manufacturer's specifications.*

(2) *Section 608.17.1.1 is amended to read, "Reduced pressure principal backflow prevention assemblies are required on all carbonated beverage dispensers. Each dispenser is required to have its own device."*

(3) *Ice dispensers or ice machines require a reduced pressure principal backflow prevention assembly for backflow protection.*

(4) *Private Sewage Systems.* *Private sewage systems including septic systems shall be regulated by Grayson County in accordance with all applicable regulations and laws.*

(5) *Water and Sewer Taps.*

(A) *New sewer and water taps are required on all new commercial and residential construction.*

(B) *All sewer replacements require a new sewer tap.*

(C) *All sewer repairs 5' or less from the City main require a new sewer tap unless approved by the building official.*

(D) *All new commercial and residential construction require new water and sewer service.*

Sec. 3.03.007 Energy Conservation Code Amendments.

(a) *The following additions, amendments and/or deletions to the International Energy Conservation Code, 2021 edition, are hereby adopted:*

(1) *Table R406.5 (Maximum Energy Rating Index) must comply with the Texas Building Energy Performance Standards, as set forth in Texas Health and Safety Code Section 388.003, as it exists or may be amended.*

(2) *Section C402 & R402.* *All residential and non-residential buildings shall meet*

all of the requirements for the thermal envelope and shall be inspected and tested by a third-party inspector.

Sec. 3.03.008 Fire Code Amendments.

The additions, amendments and/or deletions to the International Fire Code, 2021 edition, shall be found in Article 3.04.

Sec. 3.03.009 Existing Building Code Amendments.

There are no additions, amendments and/or deletions to the International Existing Building Code, 2021 edition.

Sec. 3.03.010 Swimming Pool and Spa Code Amendments.

(a) *The following additions, amendments and/or deletions to the International Swimming Pool and Spa Code, 2021 edition, are hereby adopted:*

- (1) *All drainage for swimming pools shall discharge into the sewer system by means of an air gap. A code-approved P-trap is required on the sewer side of the discharge.*
- (2) *A reduced pressure principal backflow prevention assembly shall be installed on all water fill lines to a swimming pool or spa.*
- (3) *Barriers on public swimming pools shall be six feet in height.*

Sec. 3.03.011 Property Maintenance Code Amendments.

(a) *The following additions, amendments and/or deletions to the International Property Maintenance Code, 2021 edition, are hereby adopted:*

- (1) *The title "Code Official" shall be amended to refer to the Building Official.*
- (2) *Section 603 (Mechanical Equipment) also shall require that all mechanical equipment and appliances provided by the landlord/property owner must be maintained in working order by the landlord/property owner for renters/tenants of said property.*

Sec. 3.03.012 Violations.

Violations of any of the provisions of this article are punishable as provided in section 1.01.009 of this Code.

Secs. 3.03.013–3.03.999 Reserved

ARTICLE 3.04 FIRE PREVENTION CODE

Sec. 3.04.001 Fire Code Amendments.

(a) *The 2021 edition of the International Fire Code, published by the International Code Council, being chapters 1 through 67 and 80 together with appendices A through J and N, is hereby adopted in its entirety, as if fully set forth herein, as the fire prevention code of the City. The latest edition of NFPA standards shall be adopted and will be*

referred to when referenced in the 2021 International Fire Code. The following additions, amendments and/or deletions to the International Fire Code, 2021 edition, are hereby adopted:

- (1) Section 102 is hereby amended to add section 102.1.1 to read as follows:
Section 102.1.1. The latest edition of NFPA standards shall be adopted and will be referred to when referenced in the 2021 International Fire Code.
- (2) Section 103.2 is hereby amended to read as follows:
Section 103.2 Appointment. The fire code official (fire marshal) shall be appointed by the fire chief.
- (3) Section 112.4 is hereby amended to read as follows:
112.4 Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of an offense, punishable by a fine of not more than \$2,000. Each day that a violation continues after due notice has been served shall be deemed a separate offense.
- (4) Section 202 is hereby amended to add the following definitions:
City. The City of Sherman, Texas.
Emergency access easement. An access road or fire lane located on private property dedicated by the owner(s) of the property to provide fire apparatus access.
Fire code official. The fire chief, fire marshal, or member of the fire department charged with the duties of administration and enforcement of this code, or a duly authorized representative.
Self-service storage facility. Real property designated and used for the purpose of renting or leasing individual spaces to customers for the purpose of storing and removing personal property on a self-service basis.
Standby personnel. Qualified fire service personnel, approved by the fire chief. When utilized, the number required shall be as directed by the fire chief. Charges for utilization shall be as normally calculated by the jurisdiction.
- (5) Section 307.2 is hereby amended to read as follows:
307.2 Permit required. A permit shall be obtained from the fire code official in accordance with section 105.5 prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, or a bonfire. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled.
Exceptions:
 - (A) Fires which meet all the following requirements:
 - (i) The pile size is 5 feet (3048 mm) or less in diameter and 5 feet (1524 mm) or less in height.
 - (ii) Atmospheric humidity is 40 percent or greater and maximum

wind speed is 15 miles per hour or less.

- (iii) No more than one pile burning at any one time.
- (iv) Prior notification given to the Sherman Fire Marshal's Office.
- (v) Conducted in accordance with all Texas Commission on Environmental Quality conditions.

- (6) Section 307.4 is hereby amended to read as follows:

307.4 Location. The location for open burning shall not be less than 100 feet (30 480 mm) from any structure or the property boundary, and provisions shall be made to prevent the fire from spreading to within 100 feet (30 480 mm) of any structure or the property boundary. The location for open burning shall not be less than 300 feet (91 440 mm) from any sensitive receptor as defined by Texas Commission on Environmental Quality 30 TAC 111.203(8), unless written permission is obtained from the owner of the sensitive receptor, including any occupied buildings.

Exceptions:

- (A) Fires in approved containers that are not less than 15 feet (4572 mm) from a structure, fencing or property boundary.
- (B) The minimum required distance from a structure, fencing or property boundary shall be 25 feet (7620 mm) where the pile size is 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height.

- (7) Section 307.4.1 is hereby amended to read as follows:

307.4.1 Bonfires. Bonfires are prohibited.

- (8) Section 307.4.2 is hereby amended to read as follows:

307.4.2 Recreational fires. Recreational fires shall not be conducted within 100 feet (30 480 mm) of a structure or combustible material. Conditions which could cause a fire to spread to within 100 feet (30 480 mm) of a structure shall be eliminated prior to ignition.

- (9) Section 503.1.1 is hereby amended to read as follows:

503.1.1 Buildings and facilities. Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet (45 720 mm) 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. Except for one- or two-family dwellings, the path of measurements shall be along a minimum ten foot (10') wide level (not exceeding 3 percent grade) and unobstructed pathway around the external walls of the structure.

Exceptions:

1. The fire code official is authorized to increase the dimension of 150 feet (45 720 mm) where any of the following conditions occur:

1.1. The building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.

Where applicable, hose lay may be extended to 200 feet for occupancies other than those containing a Group H, High Hazard occupancy classification or those containing high-piled combustible storage as defined in Section 202.

1.2 Fire apparatus access roads cannot be installed because of location on property, topography, waterways, nonnegotiable grades or other similar conditions, and an approved alternative means of fire protection is provided.

1.3. There are not more than two Group R-3 or Group U occupancies.

2. Where approved by the fire code official, fire apparatus access roads shall be permitted to be exempted or modified for solar photovoltaic power generation facilities.

(10) Section 503.2.1 is hereby amended to read as follows:

503.2.1 Dimensions. Fire apparatus access roads and security gate openings shall have an unobstructed width of not less than the approved fire apparatus access road, except for approved security gates in accordance with section 503.6, and an unobstructed vertical clearance of not less than 14 feet (4267 mm).

(11) Section 503.2.2 is hereby amended to read as follows:

503.2.2 Authority. The fire code official shall have the authority to require an increase in the minimum access widths and vertical clearances where they are inadequate for fire or rescue operations.

(12) Section 503.3 is hereby amended to add section 503.3.1 to read as follows:

503.3.1 Fire lane marking.

(A) Striping. Fire apparatus access roads shall be marked by painted lines of red traffic paint six inches (6") in width to show the boundaries of the lane. The words "NO PARKING FIRE LANE" or "FIRE LANE NO PARKING" shall appear in four-inch (4") white letters at 15-foot intervals on the red border markings along both sides of the fire lanes. Where a curb is available, the striping shall be on the vertical face of the curb.

(B) When required by the fire code official, fire lane striping shall include an enlarged box that is eighteen inches (18") in length and twelve inches (12") in width to show the boundaries of the box. The words "BUILDING [APPROPRIATE BUILDING DESIGNATION]" shall appear in ten-inch (10") white letters on the red box and will appear directly in front of the appropriate structure.

(C) Signs. Signs shall read "NO PARKING FIRE LANE" or "FIRE LANE NO PARKING" and shall be twelve inches (12") wide and eighteen inches (18") high. Signs shall be painted on a white background with letters and borders in red, using not less than two-inch (2") lettering. Signs shall be permanently affixed to a stationary post and the bottom of the sign shall be six feet, six inches (6'6") above finished grade. Signs shall be spaced not more than fifty feet (50') apart. Signs may be installed on permanent buildings or walls or as approved by the fire code official.

(13) Section 503.4 is hereby amended to read as follows:

503.4 Obstruction of fire apparatus access roads. Fire apparatus access roads shall not be, obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in section 503.2.1 and any area marked as a fire lane as described in section 503.3 shall be maintained at all times. The operator of a premises shall maintain, free of obstruction, all fire lanes on their premises. The operator of the premises may include but not limited to the owner, manager, and/or general contractor. No person may mark, post or otherwise identify a non-fire lane private vehicular passageway as a fire lane or in such a manner as tends to create confusion as to whether the passageway is a fire lane. The Fire Chief and Police Chief, and their designated representatives, are authorized to remove or cause to be removed any material, vehicle, or object obstructing a fire apparatus access road at the expense of the owner of such material, vehicle, or object.

- (14) *Section 503.7 is hereby added to read as follows:*

503.7 Measuring of Hose Lay. Hose lay shall be measure from the centerline of the fire lane along an unobstructed and level path measuring 10 feet in width.

- (15) *Section 505.1 is hereby amended to read as follows:*

505.1 Address Identification. New and existing buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than 4 inches (102 mm) high with a minimum stroke width of 1/2 inch (12.7 mm). Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response. Strip malls in addition to the front identification shall provide the name of the business and numeric address or suite identifier on the rear access door. Town homes with rear alley garage access in addition to the front identification shall provide the numeric address near the garage door. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address identification shall be maintained.

- (17) *Section 506.1 is hereby amended to read as follows:*

506.1 Where required. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official is authorized to require a key box to be installed in an approved location. The key box shall be of an approved type listed in accordance with UL 1037 and shall contain keys to gain necessary access as required by the fire code official. Any new and existing buildings that have a fire sprinkler riser, standpipe system and/or a fire alarm control panel shall have a Knox key box that contains keys or a keycard to gain access to every door leading from the exterior of the building to the fire sprinkler riser, standpipe system and/or the fire alarm control panel.

- (18) *Section 507.5.4 is hereby amended to read as follows:*

507.5.4 Obstruction. Unobstructed access to fire hydrants shall be maintained at all times. Posts, fences, vehicles, growth, trash, storage and other materials

or objects shall not be placed or kept near fire hydrants, fire department inlet connections or fire protection system control valves in a manner that would prevent such equipment or fire hydrants from being immediately discernible and/or accessible. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.

- (19) Section 901.4 is hereby amended to read as follows:

901.4 Fire protection and life safety systems. Fire protection and life safety systems shall be installed, repaired, operated, and maintained in accordance with this code and the International Building Code. Any alteration to the fire protection system must be approved and a permit issued by the fire code official. Hydrostatic testing and inspection of the system may be required prior to the final acceptance of any system alteration.

- (20) Section 901.7 is hereby amended to read as follows:

901.7 Systems out of service. Where a required fire protection system is out of service or in the event of an excessive number of activations, the fire department and the fire code official shall be notified immediately and, where required by the fire code official, the building shall either be evacuated or an approved fire watch shall be provided for all occupants left unprotected by the shut down until the fire protection system has been returned to service.

Where utilized, fire watches shall be provided with not less than one approved means for notification of the fire department and their only duty shall be to perform constant patrols of the protected premises and keep watch for fires.

- (21) Section 903.2.9 #5 is hereby added to read as follows:

(#5) Self-service storage facility. An automatic sprinkler system shall be installed throughout all self-service storage facilities.

Exception: One-story self-service storage facilities that have no interior corridors, with a one-hour fire barrier separation wall installed between every storage compartment.

- (22) Section 903.3.1.1.2 is hereby amended to read as follows:

903.3.1.1.2 Bathrooms. In Group R occupancies, Sprinklers shall be required in all bathrooms regardless of size.

- (23) Section 903.3.1.2 is hereby amended to read as follows:

903.3.1.2 NFPA 13R sprinkler system. Where allowed in buildings of group R, up to and including four stories in height, automatic sprinkler systems shall be installed in accordance with NFPA 13R.

Exception:

(A) Mixed use buildings. In buildings that include or may include multiple types of occupancies, the code official may designate the type of system and number of standpipes required.

- (24) Section 903.3.1.2.3 is hereby amended to read as follows:

Section 903.3.1.2.3 Attics and attached garages. Sprinkler protection is required in attached garages and in the following attic spaces.

(A) Attics that are used or intended for living purposes or storage shall be

protected by an automatic sprinkler system.

- (B) Where fuel fired equipment is installed in an attic.*
- (C) Where located in a building of Type III, Type IV or Type V construction designed in accordance with Section 510.2 or 510.4 of the International Building Code, attics not required by item 1 to have sprinklers shall comply with one of the following if the roof assembly is located more than 1 Story above grade.*
 - (i) Provide automatic sprinkler system protection*
 - (ii) Construct the attic using noncombustible materials.*
 - (iii) Construct the attic using fire-retardant-treated wood complying with Section 2302.2 of the International Building Code.*
 - (iv) Fill the attic with noncombustible insulation.*
- (D) Group R-4, Condition 2 occupancy attics not required by item 1 or 3 to have sprinklers shall comply with one of the following:*
 - (i) Provide automatic sprinkler system protection.*
 - (ii) Provide a heat detection system throughout the attic that is arranged to activate the building fire alarm system.*
 - (iii) Construct the attic using noncombustible materials.*
 - (iv) Construct the attic using fire-retardant-treated wood complying with section 2303.2 of the International Building Code.*
 - (v) Fill the attic with noncombustible insulation.*

- (25) Section 903.3.1.3 is hereby amended to read as follows:*

903.3.1.3 NFPA 13D sprinkler systems.

Automatic sprinkler systems installed in one- and two-family dwellings; Group R-3; Group R-4, Condition 1; and townhouses shall be permitted to be installed throughout in accordance with NFPA 13D.

Throughout shall include bathrooms and garage areas.

- (26) Section 903.3.7 is hereby amended to read as follows:*

903.3.7 Fire department connections. Fire department connections for automatic sprinkler systems shall be installed in accordance with Section 912. Fire department connections shall be located not more than 100 ft (30.5 m) from the nearest fire hydrant connected to an approved water supply. Fire department connections shall be a 2.5-inch threaded fitting design. Fire department connections shall be equipped with locking Knox caps that operate with the Authority Having Jurisdiction's Knox key.

- (27) Section 904.13.2 is hereby amended to read as follows:*

904.13.2 System interconnection. The actuation of the fire extinguishing system shall automatically shut down the fuel or electrical power supply to the cooking equipment. The fuel and electrical supply reset shall be manual. When the building is not open for twenty-four hours a day for seven days a week and the building is not equipped with a fire alarm system, a single horn strobe shall be provided on the exterior of the building that activates upon actuation of the

system.

- (28) Section 903.4 is hereby amended to read as follows:

903.4 Sprinkler system monitoring and alarms. All valves controlling the water supply for automatic sprinkler systems, pumps, tanks, water levels and temperatures, critical air pressures, and water-flow switches on all sprinkler systems shall be electrically supervised. Sprinkler and standpipe system water-flow detectors shall be provided for each floor tap to the sprinkler system and shall cause an alarm upon detection of water flow for more than 45 seconds and less than 90 seconds. All control valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a supervisory signal at the central station upon tampering.

Exceptions:

- (A) *Automatic sprinkler systems protecting one- and two-family dwellings installed with NFPA 13D systems.*
- (B) *Automatic sprinkler systems installed in accordance with NFPA 13R where a common supply main is used to supply both domestic water and the automatic sprinkler system, and a separate shutoff valve for the automatic sprinkler system is not provided.*
- (C) *Jockey pumps control valves that are sealed or locked in the open position.*
- (D) *Control valves to commercial kitchen hoods, paint spray booths or dip tanks that are sealed or locked in the open position.*
- (E) *Valves controlling the fuel supply to the fire pump engines that are sealed or locked in the open position.*
- (F) *Trim valves to pressure switches in dry, pre-action and deluge sprinkler systems that are sealed or locked in the open position.*
- (G) *Underground key or hub gate valves in roadway boxes.*

- (29) Section 905.2 is hereby amended to read as follows:

905.2 Installation standards. Standpipe systems shall be installed in accordance with this section and NFPA 14. Fire department connections for standpipe systems shall be in accordance with section 912. Manual dry standpipe systems shall be supervised with a minimum of 10 psig and a maximum of 40 psig air pressure with a high/low alarm. In addition to this section, the fire code official may require the installation of standpipe systems in buildings where because of type of occupancy, access or use requires additional fire protection. The fire code official may designate the type and location of standpipes within this system.

- (30) Section 905.3.9 is hereby added to read as follows:

905.3.9 Buildings Exceeding 10,000 sq. ft. In buildings exceeding 10,000 square feet in area per story and where any portion of the building's interior is more than 200 feet (60960mm) of travel, vertically and horizontally, from the nearest point of fire department vehicle access, Class 1 automatic wet or manual wet standpipes shall be provided.

Exceptions:

- (A) *Automatic dry, semi-automatic dry, and manual dry standpipes are allowed as provided for in NFPA 14, where approved by the fire code official.*
 - (B) *R-2 occupancies of four stories or less in height having no interior corridors.*
- (31) *Section 907.1.4 is hereby added to read as follows:*
- 907.1.4 Design standards. All alarm systems new or replacement shall be analog intelligent addressable fire detection systems.*
- Exception: Existing systems need not comply unless the total building remodel or expansion initiated after the effective date of this code, as adopted, exceeds 30% of the building square footage. When cumulative building remodels or expansions exceed 50% of the building square footage the system must comply.*
- (32) *Section 907.2.3 is hereby amended to read as follows:*
- 907.2.3 Group E. A manual fire alarm system that activates the occupant notification system in accordance with section 907.6 shall be installed in group E occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system. An approved smoke detection system shall be installed in group E day care occupancies. Unless separated by a minimum of 100' open space, all buildings, whether portable buildings or the main building, will be considered one building for alarm occupant load consideration and interconnection of alarm systems.*
- Exceptions:*
- (A) *Group E occupancies with an occupant load of less than 50 when provided with an approved automatic sprinkler system.*
 - (B) *Residential in-home day care with not more than 12 children may use interconnected single station detectors in all habitable rooms. (For care of more than five children 2-1/2 or less years of age, see section 907.2.6.)*
 - (C) *Manual fire alarm boxes are not required in group E occupancies where all the following apply:*
 - (i) *Interior corridors are protected by smoke detectors with alarm verification.*
 - (ii) *Auditoriums, cafeterias, gymnasiums and the like are protected by heat detectors or other approved detection devices.*
 - (iii) *Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.*
 - (iv) *Off-premises monitoring is provided.*
 - (v) *The capability to activate the evacuation signal from a central point is provided.*
 - (vi) *In buildings where normally occupied spaces are provided with a two-way communication system between such spaces and a constantly attended receiving station from where a general evacuation alarm can be sounded, except in locations*

specifically designated by the fire code official.

- (33) *Section 907.2.8.4 is hereby added to read as follows:*

907.2.8.4 Carbon monoxide detectors. An approved carbon monoxide detection system shall be installed and maintained in all buildings that include an underground garage or vehicle storage area and in buildings that provide parking as part of the structure. The detection system shall be monitored and shall signal an alarm as part of the fire alarm panel.

Exception:

(A) Group R-3.

- (34) *Section 907.4.2 is hereby amended to read as follows:*

907.4.2 Manual fire alarm boxes. Where a manual fire alarm system is required by another section of this code, it shall be activated by fire alarm boxes installed in accordance with sections 907.4.2.1 through 907.4.2.6 Manual alarm actuating devices shall be an approved double action type.

- (35) *Section 907.4.2.7 is hereby added to read as follows:*

Section 907.4.2.7. Where any fire alarm system is installed without a supervised sprinkler system installed, manual fire alarm boxes shall be installed at all exits. Audio-visual notification devices shall be installed to provide complete coverage as required by the fire code official.

- (36) *Section 907.6.1.1 is hereby added to read as follows:*

907.6.1.1 Installation. All fire alarm systems shall be installed in such a manner that the failure of any single alarm-actuating or alarm-indicating device will not interfere with the normal operation of any other such devices. All systems shall be Class "A" wired with a minimum of six feet separation between supply and return loops. IDC-Class "A" style-D- SLC Class "A" Style 6-notification Class "B" Style Y.

- (37) *Section 907.6.3.2 is hereby added to read as follows:*

907.6.3.2 Point addressable systems. When a fire alarm system is required by this section or by the fire code official, the system shall be "point addressable"; providing the type and location of the alarm. The alarm type and location must display on the alarm panel and provide type and location information to the Sherman Fire-Rescue dispatch.

- (38) *Section 913.2 is hereby amended to read as follows:*

913.2 Protection against interruption of service. The fire pump, driver, and controller shall be protected in accordance with NFPA 20 against possible interruption of service through damage caused by explosion, fire, flood, earthquake, rodents, insects, windstorm, freezing, vandalism and other adverse conditions. The fire code official may require a stand-alone power source, or secondary source of power where a fire pump is installed to maintain the required fire flow in assembly occupancies, high-rise structures or any structure with greater than one hundred thousand (100,000) square feet.

- (39) *Section 913.2.2 #5 is hereby added to read as follows:*

5. Fire pump system shall be supervised for "loss of power," "phase reversal" and "pump running" conditions by supervisory signal on distinct

circuits.

- (40) Section 914.3.1.1.1.1 is hereby added to read as follows:

Section 914.3.1.1.1.1 Exterior access to sprinkler control rooms. Exterior access door directly into the sprinkler control room is required.

- (41) Section 3202.1 Definition “high-piled combustible storage” is hereby amended to read as follows:

High-piled combustible storage. Any building exceeding 6,000 sq. ft. that has a clear height in excess of 12 feet, making it possible to be used for storage in excess of 12 feet, shall be considered to be high piled storage and shall comply with the provisions of this section. When a specific product cannot be identified, a fire protection system shall be installed as for class IV commodities, to the maximum pile height.

- (42) Section 5601.1.3 is hereby amended to read as follows:

5601.1.3 Fireworks. The possession, manufacture, storage, sale, handling and use of fireworks are prohibited.

Exceptions:

(A) Only when approved for fireworks displays, storage and handling of fireworks as provided in section 5604 and 5608.

(B) The use of fireworks for approved display as permitted in section 5608.

- (43) Section 5703.6.12 is hereby added to read as follows:

5703.6.12 Dry sumps. Approved sampling tubes of a minimum 6 inches in diameter shall be installed in the backfill material of each underground flammable or combustible liquid storage tank the tubes shall extend from a point 12 inches below the average grade of the excavation to ground level and shall be provided with suitable surface access caps. Each tank site shall provide a sampling sump at the corners of the excavation with a minimum of 4 sumps. Sampling tubes shall be placed in the product line excavation within 10 feet of the tank excavation and one every 50 feet routed along product lines towards the dispensers, a minimum of two are required.

- (44) Section 5706.2.4.3 is hereby amended to read as follows:

5706.2.4.3 Location. Tanks containing Class I or II liquids shall be kept outside and not less than 100 feet from buildings and combustible storage. Additional distance shall be provided where necessary to ensure that vehicles, equipment, and containers being filled directly from such tanks will not be less than 100 feet from structures, haystacks, or other combustible storage.

- (45) Section 5706.3.1.3 is hereby amended to read as follows:

5706.3.1.3 Buildings. Wells shall not be drilled within 200 feet of buildings not necessary to the operation of the well.

- (46) Section 6104.2 is hereby amended to read as follows:

6104.2 Maximum capacity within established limits. Within the limits established by law restricting the storage of liquefied petroleum gas for the protection of heavily populated or congested areas, the aggregate capacity of any one installation shall not exceed a water capacity of 2,000 gallons (7570

L).

Exceptions:

- (A) *In particular installations, this capacity limit shall be determined by the fire code official, after consideration of special features such as topographical conditions, nature of occupancy, and proximity to buildings, capacity of proposed containers, degree of fire protection to be provided and capabilities of the local fire department.*
- (B) *Except as permitted in City Ordinance 6024, section 5.04.005 LP-gas containers are not permitted in residential areas.*
- (47) *Appendix D, section D103 figure D103.1 is hereby amended to read as follows:
Figure D.103.1 Dead-end fire apparatus access road turnaround. Where a turnaround is required for fire department access, the minimum road width shall be the same as the approved fire lane throughout.*
- (48) *Appendix D, section D103.3 is hereby amended to read as follows:
D103.3 Turning radius. The minimum turning radius shall be at least 25 feet radius unless roadway or fire lane exceeds minimum requirement of 24 feet or approved by fire code official.*
- (49) *Appendix D, section D103.4 table D103.4 is hereby amended as follows:*

REQUIREMENTS FOR DEAD-END FIRE APPARATUS ACCESS ROADS

<i>Length (feet)</i>	<i>Width (feet)</i>	<i>Turnarounds Required</i>
<i>0–150</i>	<i>24</i>	<i>None required</i>
<i>151–700</i>	<i>24</i>	<i>100' diameter cul-de-sac or 120' hammerhead</i>
<i>Over 700</i>		<i>Special approval required</i>

- (50) *Appendix D, section D103.5 is hereby amended to read as follows:
D103.5 Fire apparatus access road gates. Gates securing the fire apparatus access roads shall comply with all the following criteria:*
 - (A) *Where a single gate is provided, the gate width shall be not less than the approved fire apparatus access road.*
 - (B) *Gates shall be of the horizontal swing, horizontal slide, vertical lift or vertical pivot type.*
 - (C) *Construction of gates shall be of materials that allow manual operation by one person.*
 - (D) *Gate components shall be maintained in an operative condition at all times and replaced or repaired when defective.*
 - (E) *Electric gates shall be equipped with a Knox key switch that operates with the Authority Having Jurisdiction's Knox key. Emergency opening*

devices shall be approved by the fire code official.

- (F) Methods of locking shall be submitted for approval by the fire code official.*
- (G) Electric gate operators, where provided, shall be listing in accordance with UL 325.*
- (H) Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F2200.*

- (b) Penalty. Violations of any of the provisions of this article are punishable as provided in Section 1.01.009 of this Code.*

Secs. 3.04.002–3.04.999 Reserved

ARTICLE 3.05 ADMINISTRATIVE AUTHORITY

Sec. 3.05.001 Building Official.

- (a) The Building Official shall administer and enforce this chapter.*
- (b) If the Building Official finds that any of the provisions of this chapter are being violated, he may notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He may order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done. He may take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.*
- (c) All questions of interpretation and enforcement of this chapter shall be presented to the Building Official, who is responsible for such interpretation and enforcement, and his decisions thereon shall be final unless appealed to the Construction Board of Adjustments and Appeals pursuant to the procedures described in section 3.05.003 (Construction Board of Adjustments and Appeals).*
- (d) Condemnation.*
 - (1) If in the judgment of the building official, after inspection, any installation is unsafe or dangerous to person or property, the building official shall have the power to cause such installation to be disconnected from the source of electrical energy or gas supplying the same. Thereafter, it shall be unlawful for any person to cause or permit electric current or gas to be supplied to such installation until the same shall have been made safe and the building official shall have issued a certificate of approval to that effect.*
 - (2) When the building official condemns all or any part of any installation, and the building official concurs the system should be condemned, the owner or contractor may, with five (5) days after receiving written notice thereof, file a petition in writing for review of such action of the building official to the board of appeals, such petition to be filed with director of the department, and upon receipt of such petition, the director of the department shall arrange for a meeting of such board and such board shall make a decision in accordance with its findings with ten (10) days after the filing of such petition, which decision shall be final. There shall be a fee in the amount established by resolution paid by the person desiring the review at the time the review request is submitted.*

Sec. 3.05.002 Building Inspectors.

The Building Official shall appoint such personnel as are needed to be building inspectors. Inspectors appointed by the Building Official shall be certified or licensed in the fields in which they are inspecting as required by this chapter or applicable law.

Sec. 3.05.003 Construction Board Appeals

(a) Chapter 1, Section 113 of the International Building Code (2021)

CONSTRUCTION BOARD OF APPEALS

Section 113 and Appendix B of the International Building Code (2021)

- (1) 113.1 General. *In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this chapter and adopted codes, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the governing body of the City and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decision and findings in writing to the appellant with a duplicate copy to the building official.*
- (2) 113.2 Limitations on authority. *An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equivalent or better form of construction is proposed. The board shall not have authority to waive requirements of this code or interpret the administration of this code.*
- (3) B101.2 Application for appeal. *Any person shall have the right to appeal a decision of the building official to the board. An application for appeal shall be based on a claim that the intent of this chapter or adopted codes or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The application shall be filed on a form obtained from the building official within 20 days after the notice was served.*
- (4) B101.5 Notice of meeting. *The board shall meet upon notice from the chairperson, within 30 days of the filing of an appeal or at stated periodic intervals.*
- (5) B101.5.1 Open hearing. *All hearings before the board shall be open to the public. The appellant, the appellant's representative, the building official and any person whose interests are affected shall be given an opportunity to be heard.*
- (6) B101.3 Membership of board. *The board shall consist of five voting members appointed by the governing body of the City. Each member shall serve for three (3) years or until a successor has been appointed. Each member may serve four (4) terms. The board members' terms shall be staggered at intervals, so as to provide continuity. The building official shall be an ex officio member of said board but shall not vote on any matter before the board.*
- (7) B101.3.1 Qualifications. *The board shall consist of five individuals, who are qualified by experience and training to pass on matters pertaining to building*

construction and are not employees of the City.

- (8) B101.3.2 Alternate members. *The governing body of the City is authorized to appoint two alternate members who shall be called by the board chairperson to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership, and shall be appointed for the same term or until a successor has been appointed.*
- (9) B101.5.2 Quorum. *Three members of the board shall constitute a quorum.*
- (10) B101.7 Board Decision. *The board shall only modify or reverse the decision of the building official by a concurring vote of three or more members.*
- (11) Procedures of the Board.
 - (A) Rules and regulations. *The board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this code. The board shall meet on call of the chairman. The board shall meet within 30 days after notice of appeal has been received.*
 - (B) Decisions. *The Construction Board of Appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the board shall also include the reasons for the decision. If a decision of the board reverses or modifies a refusal, order or disallowance of the building official or varies the application or of any provision of this code, the building official shall promptly take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the building official and shall be open to public inspection. A certified copy of the decision shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the building official for two weeks after filing. Every decision of the board shall be final, subject however to such remedy as any aggrieved party might have at law or in equity.*

Secs. 3.05.004–3.05.999 Reserved

ARTICLE 3.06 SUBSTANDARD STRUCTURES

Sec. 3.06.001 Definitions

The words and phrases contained herein shall have the following meaning ascribed to them unless the context states otherwise:

Building. *Includes, but is not limited to, any building, fence, awning, canopy, sign, shed, garage, house, tent, trailer or other structure whatsoever.*

Dangerous structure. *Any structure that does not comply with the minimum standards, as defined herein.*

Minimum standards. *The minimum standards for continued use and occupancy of a building as set forth in section 3.06.003 herein.*

Municipal court of record. *The municipal court of record of Sherman, Texas.*

Occupancy. *The purpose for which a building, structure, or portion thereof is utilized or occupied.*

Owner of record. Any person, agent, firm, corporation or governmental agency shown to be the owner or owners of a building in:

- (1) The real property, assumed name, or appraisal district record of the county;
- (2) The tax or utility records of the City; or
- (3) The records of the secretary of state.

Public nuisance.

- (1) Whatever is dangerous to human life or health; whatever renders the ground, water, air or food hazardous to human life, or health, or that is offensive to the senses; or that is or threatens to become detrimental to the public health; or
- (2) Any building that creates a hazard to health, safety, comfort or welfare is a public nuisance.

Unoccupied structure. Any structure or building that appears vacant or abandoned as evidenced by: no active utility accounts, absence of personalty, general conditions of neglect and any other substantiated evidence of vacancy or abandonment that may be presented by the inspecting official.

Unsecured structure. Any structure or building that currently has no occupant with the right of possession of the building and which has missing or unlocked doors or windows, or other unsecured openings into the building through which unauthorized persons can enter. Any unoccupied, unsecured structure or building is hereby declared to be a danger to public health and safety and is hereby declared to be a public nuisance.

Sec. 3.06.002 Abatement of substandard structures

- (a) It shall be unlawful for any owner or other person in control of a building to allow that building to be in a condition that does not conform to the minimum standards.
- (b) Any building that does not conform to the minimum standards is hereby declared to be a public nuisance and shall be subject to abatement by repair, demolition, or removal as necessary upon the issuance of an order to abate issued by the municipal court of record in accordance with the procedures specified in this article.

Sec. 3.06.003 Minimum standards

A building is considered not to meet the minimum standards of the City regardless of its date of construction, under any of the following conditions:

- (a) Any building that is dilapidated, substandard, or unfit for human habitation and a hazard to public health, safety and welfare; including, but not limited to:
 - (1) Any building with roof, ceiling, floors, walls, sills, windows, or foundation or any combination thereof rotted or decayed, and falling apart; or that is uninhabitable due to obsolescence and deterioration caused by neglect, vandalism, fire damage, or the elements;
 - (2) Any structure or building that is in a state of dilapidation, deterioration or decay, faulty construction, open, vacant or abandoned, damaged by fire to the extent as not to provide shelter in danger of collapse or failure and dangerous to anyone on or near the premises;
 - (3) Any building that is a fire hazard because it is in a dilapidated condition, as described in subsections (1) and (2) above or that is likely to become a fire hazard or be set on fire;

- (4) *Any building that is in an unsanitary condition and is likely to create disease because of the presence of insects, rodents or other pests;*
- (5) *Any building that is damp and in an unsanitary condition and is likely to create disease and sickness because of being in the condition in subsections (1), (2), (3) or (4) above, or for other reasons;*
- (6) *Any structure that because of any physical condition, use or occupancy of any premises or its appurtenances would be considered an attractive nuisance to children, including, but not limited to, buildings, abandoned wells, shafts, basements, excavations, swimming pools and unsafe fences or other structures; or*
- (7) *Any structure that because of the state of disrepair is such that it could reasonably cause injury, damage, or harm to a considerable portion of the community in the use and enjoyment of property, materially interfering with the proper use or comfort and enjoyment of surrounding property, taking into consideration the nature and use of the properties in the area and the character of the community in which they are situated, which condition would be substantially offensive and annoying to persons of ordinary sensibilities living in the community.*
- (b) *Any building that is not occupied by its owners, lessees or other invitees and is not secure from unauthorized entry so that it could be entered or used by vagrants, other uninvited persons or children regardless of its structural condition; or*
- (c) *Any building that is boarded up, fenced or secured if:*
 - (1) *The building constitutes a danger to the public even though secured from entry; or*
 - (2) *The means used to secure the building are inadequate to prevent unauthorized entry or use of the building.*

Sec. 3.06.004 Inspection and notice of abatement

- (a) *The city manager shall designate an appropriate official ("inspecting official") of the City to inspect or cause to be inspected any building that he has probable cause to believe does not meet the minimum standards. If the inspecting official is unable to obtain permission to search the building from the owner or a person in control of the premises, the city shall apply for an administrative search warrant pursuant to Texas Code of Criminal Procedure section 18.05, as amended, unless an exception to the warrant requirement exists.*
- (b) *After completing the inspection, the inspecting official shall determine if the building is a substandard structure.*
- (c) *After an initial determination that a building is a substandard structure, the inspecting official will notify the owner of record of the building, by certified mail, return receipt requested, of the nature of the violation(s) of the minimum standards.*
- (d) *The inspecting official shall also notify the owner of record of the building, by certified mail, return receipt requested, that the building is a substandard structure and that the owner must repair, demolish, or remove the building for the good of the public health, safety and welfare.*
- (e) *The inspecting official shall also notify the owner of record of the building, by certified mail, return receipt requested, that if said violations have not been cured after a period*

of thirty (30) days the inspection official may cause a hearing to be held before the municipal court of record in accordance with this article.

- (f) A notice shall be posted on the dangerous building as follows:

“THIS BUILDING IS A SUBSTANDARD STRUCTURE ACCORDING TO THE MINIMUM STANDARDS SET FORTH IN THE OFFICIAL CODE OF THE CITY OF SHERMAN, CHAPTER 3, ARTICLE 3.06 AND THE OWNER MUST REPAIR, DEMOLISH OR REMOVE IT.

CONTACT _____ AT _____ FURTHER INFORMATION.

DATE _____ ”

Sec. 3.06.005 Order to abate

- (a) General. Whenever the inspecting official has inspected or caused to be inspected any structure or lot and has found and determined that such structure or lot is substandard, he may commence proceedings to cause repair, rehabilitation, or demolition of the structure or lot.
- (b) Notice and administrative order to abate. The inspecting official shall issue a notice and administrative order to abate a substandard structure or lot. The notice and administrative order shall contain:
- (1) The street address and a legal description sufficient for identification of the premises upon which the structure is located.
 - (2) A statement that the inspecting official has found the structure or lot to be substandard with a brief and concise description of the conditions found to render the structure or lot substandard under the provisions of this chapter.
 - (3) A statement of the action recommended to be taken as determined by the inspecting official.
 - (4) A statement advising that a notice of hearing is forthcoming and a description of the hearing. The hearing shall provide the municipal court of record the means to consider or determine whether a structure or lot complies with the standards set forth herein and to consider or determine whether a structure or lot must be repaired or demolished, as recommended by the inspecting official in the notice and administrative order.
 - (5) Statements advising that if the owner or owners of record are in full agreement with a demolition order, and that if the owner or owners of record are financially unable to abate such nuisance, then the owner or owners of record may grant the City written permission to abate said nuisance, and, in doing so shall grant the City a lien against the real property as described in this article.
- (c) Notice of hearing. The inspecting official shall give notice of a public hearing to all known owners; lienholders, or mortgagees for the municipal court of record to consider or determine whether a structure or lot complies with this code and to consider or determine whether a structure or lot must be repaired, secured or demolished. The notice shall be mailed and posted as provided herein, and published in the official newspaper of the City on one occasion, on or before the tenth (10th) day before the date of the hearing. The notice of hearing shall contain:
- (1) The name and address of the owner of the affected property, if known;
 - (2) A legal description of the property, as well as the physical address;

- (3) *A description of the hearing;*
 - (4) *The date, time, and place of the public hearing. This date shall be established not less than ten (10) days from the date of the administrative order;*
 - (5) *Statement that the owner; lienholder; or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with this article and the time it will take to reasonably perform the work.*
- (d) *Service of notice and administrative order to abate and notice of hearing.* *The notice of the administrative order to abate, the notice of hearing and any supplemental notices or orders shall be served upon the owner; lessor, lienholder; and mortgagees of record and occupant, if different than the owner of the structure or lot. Service of these notices and orders shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice by certified mail, return receipt requested, and an optional second copy by regular mail, to each such person at his address as it appears on the county tax rolls, or as discovered by due diligence, as defined by subsections (d)(1)–(d)(6) of this section, and the notice shall be posted on the front door of each improvement situated on the affected property or as close to the front door as practical. The following of these procedures shall be prima facie evidence of notification. If a certified notice is returned as refused or unclaimed, the validity of the notice is not affected, and the notice shall be deemed delivered. The City has satisfied the requirements of this section to make a diligent effort to determine the identity and address of an owner, a lienholder, or a mortgagee if the City searches the following records:*
- (1) *County real property records of the county in which the building is located;*
 - (2) *Appraisal district records of the appraisal district in which the building is located;*
 - (3) *Records of the secretary of state;*
 - (4) *Assumed name records of the county in which the building is located;*
 - (5) *City tax records; and*
 - (6) *City utility records.*
- (e) *Filing of notice and administrative order at the county.* *A copy of the notice and any administrative orders, or such orders as may be issued pursuant to these provisions, shall be filed with the county deed records in the county where the property is located. The notice must contain the name and address of the owner of the affected property if that information can be determined from a reasonable search of the instruments on file in the office of the county clerk, or upon a due diligence search as set forth herein, a legal description of the affected property, and a description of the proceeding. The filing of said notice and any said orders, is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of said notice or any said orders, and constitutes notice of said hearing and notice of any said orders, on any subsequent recipient of any interest in the property who acquires such interest after the filing of said notice or filing of any said orders.*
- (f) *Public hearing.*
- (1) *During an officially noticed hearing, the municipal court of record shall hold a public hearing on each case and shall hear such testimony as may be presented by any department of the City or the owner, occupant, mortgagee or any other*

person having an interest in such building to determine whether a building complies with the standards of this code. The owner, lienholder, or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with this code and the time it will take to perform the work. After all testimony has been received, the public hearing shall be closed and the municipal court of record shall render its decision.

- (2) If a structure is found in violation of the standards set forth herein, the municipal court of record may order that the building be secured, repaired, removed, or demolished by the owner within a reasonable time in accordance with state law and City ordinances.*
- (g) Post meeting procedure. The city attorney shall, within ten (10) days after the date the order is issued:*
 - (1) File a copy of the order in the office of the city clerk;*
 - (2) Publish in a newspaper of general circulation in the City a notice containing:*
 - (A) The street address or legal description of the property;*
 - (B) The date of the hearing;*
 - (C) A brief statement indicating the results of the order; and*
 - (D) Instructions stating where a complete copy of the order may be obtained; and*
 - (3) Shall promptly mail by certified mail, return receipt requested, and an optional second copy by regular mail, a copy of the order to the owner; any lienholder, and any mortgagee of the building, as determined by due diligence, as defined herein.*

Sec. 3.06.006 Enforcement

- (a) Criminal.*
 - (1) A person who violates a provision of this code, or who fails to perform an act required of him by this code, or who, fails to adhere to an order issued by the municipal court of record under this code, commits a class C misdemeanor offense. A person commits a separate offense each day or portion of a day during which a violation is committed, permitted, or continued.*
 - (2) An offense under this code is punishable by a fine of \$500.00 per day per violation.*
 - (3) Allegation and evidence of a culpable mental state is not required for the commission of an offense under this code.*
- (b) Civil.*
 - (1) The City may, in accordance with sections 54.012 et seq. of the Texas Local Government Code, as amended, bring a civil action against a person violating a provision of this code relating to dangerously damaged or deteriorated structures or improvements or for conditions caused by accumulations of trash, garbage, refuse, vegetation, or other matter that creates breeding and living places for insects and rodents.*
 - (2) The civil action may include, but is not limited to, a suit to recover a civil penalty not to exceed \$1,000.00 for each day or portion of a day during which the*

violation is committed, continued, or permitted by the owner or occupant of the property, as provided below.

- (3) *The City, by resolution of the City Council, may assess and recover a civil penalty against a property owner, if the owner fails to take the requisite action as ordered by the municipal court of record, after an administrative a hearing on the matter. The civil penalty may not exceed \$1,000.00 a day for each violation if the City proves:*
 - (A) *The property owner was notified of the requirements of this code and the owner's need to comply with the requirements; and*
 - (B) *After notification, the property owner committed an act in violation of this code or failed to take an action necessary, for compliance with this code.*
- (4) *A determination by the City Council which involves the establishment of an amount and duration of a civil penalty shall be final and binding and constitute prima facie evidence of the penalty in any court of competent jurisdiction in a civil suit brought by the City for final judgment in accordance with the established penalty.*
- (5) *To enforce any civil penalty under this section, the City must file in the district clerk's office in which the municipality and property is located, a certified copy of the resolution of the City Council establishing the amount and duration of the penalty. No other proof is required for a district court to enter final judgment on the penalty.*
- (c) *Other available remedies. The City shall have all other available remedies at law and in equity to enforce the provisions of this article.*

Sec. 3.06.007 Authority to secure unoccupied, unsecured, substandard, open buildings and structures

- (a) *Purpose. The owner or person in control of an unoccupied structure shall ensure that the building is in such condition that an unauthorized person cannot enter the structure through missing or unlocked doors or windows or through other openings into the building. The City may secure unoccupied, unsecured structures, or structures occupied by persons who do not have the right of possession to the building. A lien may be filed on real property to ensure the cost of securing the structure as set forth in this article.*
- (b) *City may secure.*
 - (1) *The inspecting official may secure a building that:*
 - (A) *Violates the standards of this code; and*
 - (B) *Is an unsecured structure.*
 - (2) *This authority is in addition to that regarding substandard structures.*
- (c) *Notice.*
 - (1) *Before the eleventh (11th) day after the date the building is secured, the inspecting official shall give notice to the owner of record by:*
 - (A) *Personally serving the owner with written notice;*
 - (B) *Sending a copy of the notice certified mail, return receipt requested, and an optional copy by regular mail, at the owner's post office or physical*

address;

- (C) *Publishing the notice at least twice within a ten (10) day period in the City's official newspaper if personal service cannot be obtained and the owner's post office or physical address is unknown; or*
 - (D) *Posting the notice on or near the front door of the building if personal service cannot be obtained or the owner's post office or physical address is unknown.*
- (2) *The notice must contain the following:*
- (A) *An identification, which is not required to be a legal description, of the building and the property on which it is located;*
 - (B) *A description of the violation of this code that is present at the building;*
 - (C) *A statement that the City will secure or has secured, as the case may be, the building; and*
 - (D) *A statement that the owner may request a hearing about any matter related to the City's securing of the building, and that if such a hearing is requested, it shall be held pursuant to Texas Local Government Code section 214.0011(e), as amended.*
- (3) *The City shall conduct a hearing before the municipal court of record at which the owner may testify or present witnesses or written information about any matter relating to the City's securing of the building if within thirty (30) days after the date the City secures the building, the owner files with the city clerk, a written request for the hearing. The City shall conduct the hearing within thirty (30) days after the date the request is filed.*

Sec. 3.06.008 Appeals

Any owner, lienholder or mortgagee of record of a property jointly or severally aggrieved by an order under this article shall be entitled to judicial review of said order pursuant to Texas Local Government Code section 214.0012, as amended.

Sec. 3.06.009 Abatement by City and liens

- (a) *If an owner or other interested party does not take the action required by an order issued pursuant to this article within the time specified and has not filed a timely appeal in accordance with this article and the Texas Local Government Code section 214.0012 the City may take the appropriate action at its expense at the direction of the City Council in accordance with the laws of the state.*
- (b) *Any expenses incurred by the City pursuant to subsection (a) of this section will be assessed against the property on which the building stands or stood. The City will have a privileged lien upon filing same in the official public records of the county clerk subordinate only to tax liens against the property unless it is a homestead as protected by the Texas Constitution. The lien will be extinguished if the property owner or other interested party reimburses the City for all expenses and penalties.*

Sec. 3.06.010 Receiver

The City may bring an action in district court against an owner of residential property that is not in substantial compliance with the minimum standards and request the appointment of a receiver for proposes of rehabilitating the property in accordance with Texas Local Government Code section 214.003, as amended.

ARTICLE 3.07 BACKFLOW DEVICES

Sec. 3.07.001 Backflow Devices.

- (a) Backflow devices must be installed above flood stage. At no time shall a backflow device be installed below grade or in ground.*
- (b) All backflow devices shall be protected from freezing conditions, by insulation, heat or both.*
- (c) All backflow devices for commercial uses shall be tested annually.*
- (d) A pressure vacuum breaker assemblies used for residential lawn irrigation, shall be tested every five years.*
- (e) All reduced pressure principal backflow prevention assemblies on residential applications shall be tested annually.*
 - (1) Customer service inspection. A customer service inspection certification shall be completed prior to providing continuous water service to new construction, on any existing service when the City has reason to believe that cross connections or other unacceptable plumbing practices exist, or after any material improvement, correction, or addition to the private plumbing facilities. The existence of a serious threat to the integrity of the public water supply shall be considered sufficient grounds for immediate termination of water service.*
 - (2) Backflow assembly testing.*
 - (A) All backflow prevention assemblies shall be tested upon installation by a recognized backflow prevention assembly tester and certified to be operating within specifications. Backflow prevention assemblies which are installed to provide protection against high health hazards must also be tested and certified to be operating within specifications at least annually by a recognized backflow prevention device tester.*
 - (B) It shall be the duty of the customer at any premises where backflow prevention assemblies are installed to have a certified inspection and operational tests conducted annually. In those instances where the City deems the hazard to be deleterious to human health, customer service inspection certifications may be required semiannually. Inspections and tests shall be at the expense of the customer or customer representative and shall be performed by a certified backflow technician.*
 - (C) Assemblies shall be repaired, overhauled, or replaced at the expense of the customer whenever said assemblies are found to be defective. Records of such tests, repairs and overhaul shall be kept and submitted to the City within five (5) days of the test, repairs or overhaul of each backflow prevention assembly.*
 - (D) No device or assembly shall be removed from use, relocated, or other device or assembly substituted without the approval of the City. Whenever the existing assembly is moved from the present location, requires more than minimum maintenance, or when the City finds that the maintenance constitutes a hazard to health, the unit shall be replaced by a backflow prevention assembly complying with*

requirements of this section and the current plumbing code of the City.

- (E) *A test report must be completed by the recognized backflow prevention assembly tester for each assembly tested. The signed and dated original must be submitted to the City building and zoning regulation department within five (5) days of the test.*
- (F) *A recognized backflow prevention assembly tester must have completed a state commission on environmental quality (TCEQ) approved course on cross connection control and backflow prevention and pass an examination administered by the TCEQ or its designated agent.*
- (G) *A permit is required before the removal or replacement of any backflow device, along with and inspection after the removal or replacement.*
- (H) *Testable backflow devices shall not be installed below flood stage.*

(e) Minimum standards for installation of irrigation systems.

- (1) *A pressure vacuum breaker (PVB) assembly or a reduced pressure principal backflow prevention assembly is required on all irrigation systems. Where chemicals are added. A Reduced pressure principal backflow device must be used.*
- (2) *Inspections:*
 - (A) *An open trench inspection is required on all irrigation systems.*
 - (B) *A final walkthrough inspection is required on all irrigation systems.*
- (3) *The installation and design of the Irrigation system must be to the TCEQ rules and regulations.*
- (4) Definitions. *The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise.*

Air gap. *A complete physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel.*

Atmospheric vacuum breaker. *An assembly containing an air inlet valve, a check seat, and an air inlet port. The flow of water into the body causes the air inlet valve to close the air inlet port. When the flow of water stops the air inlet valve falls and forms a check against back-siphonage. At the same time it opens the air inlet port allowing air to enter and satisfy the vacuum. Also known as an atmospheric vacuum breaker back-siphonage prevention assembly.*

Backflow prevention. *The mechanical prevention of reverse flow, or back-siphonage, of non-potable water from an irrigation system into the potable water source.*

Backflow prevention assembly. *Any assembly used to prevent backflow into a potable water system. The type of assembly used is based on the existing or potential degree of health hazard and backflow condition.*

Completion of irrigation system installation. *When the landscape irrigation system has been installed, all minimum standards met, all tests performed, and the irrigator is satisfied that the system is operating correctly.*

Consulting. *The act of providing advice, guidance, review or recommendations related to landscape irrigation systems.*

Cross-connection. *An actual or potential connection between a potable water source and an irrigation system that may contain contaminants or pollutants or any source of water that has been treated to a lesser degree in the treatment process.*

Design. *The act of determining the various elements of a landscape irrigation system that will include, but not be limited to, elements such as collecting site specific information, defining the scope of the project, defining plant watering needs, selecting and laying out emission devices, locating system components, conducting hydraulics calculations, identifying any local regulatory requirements, or scheduling irrigation work at a site. Completion of the various components will result in an irrigation plan.*

Design pressure. *The pressure that is required for an emission device to operate properly. Design pressure is calculated by adding the operating pressure necessary at an emission device to the total of all pressure losses accumulated from an emission device to the water source.*

Double check valve. *An assembly that is composed of two independently acting, approved check valves, including tightly closed resilient seated shutoff valves attached at each end of the assembly and fitted with properly located resilient seated test cocks. Also known as a double check valve backflow prevention assembly.*

Emission device. *Any device that is contained within an irrigation system and that is used to apply water. Common emission devices in an irrigation system include, but are not limited to, spray and rotary sprinkler heads, and drip irrigation emitters.*

Employed. *Engaged or hired to provide consulting services or perform any activity relating to the sale, design, installation, maintenance, alteration, repair, or service to irrigation systems. A person is employed if that person is in an employer-employee relationship as defined by Internal Revenue Code, 26 United States Code Service, section 3212(d) based on the behavioral control, financial control, and the type of relationship involved in performing employment related tasks.*

Head-to-head spacing. *The spacing of spray or rotary heads equal to the manufacturer's published radius of the head.*

Health hazard. *A cross-connection or potential cross-connection with an irrigation system that involves any substance that may, if introduced into the potable water supply, cause death or illness, spread disease, or have a high probability of causing such effects.*

Hydraulics. *The science of dynamic and static water; the mathematical computation of determining pressure losses and pressure requirements of an irrigation system.*

Inspector. *A licensed plumbing inspector, water district operator, other governmental entity, or irrigation inspector who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor.*

Installer. *A person who actually connects an irrigation system to a private or public raw or potable water supply system or any water supply, who is licensed*

according to title 30, Texas Administrative Code, chapter 30 (relating to occupational licenses and registrations).

Irrigation inspector. A person who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor and is required to be licensed under title 30, Texas Administrative Code, chapter 30 (relating to occupational licenses and registrations).

Irrigation plan. A scaled drawing of a landscape irrigation system which lists required information, the scope of the project, and represents the changes made in the installation of the irrigation system.

Irrigation services. Selling, designing, installing, maintaining, altering, repairing, servicing, permitting, providing consulting services regarding, or connecting an irrigation system to a water supply.

Irrigation system. An assembly of component parts that is permanently installed for the controlled distribution and conservation of water to irrigate any type of landscape vegetation in any location, and/or to reduce dust or control erosion. This term does not include a system that is used on or by an agricultural operation as defined by Texas Agricultural Code, section 251.002.

Irrigation technician. A person who works under the supervision of a licensed irrigator to install, maintain, alter, repair, service or supervise installation of an irrigation system, including the connection of such system in or to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under title 30, Texas Administrative Code, chapter 30 (relating to occupational licenses and registrations).

Irrigation zone. A subdivision of an irrigation system with a matched precipitation rate based on plant material type (such as turf, shrubs, or trees), microclimate factors (such as sun/shade ratio), topographic features (such as slope) and soil conditions (such as sand, loam, clay, or combination) or for hydrological control.

Irrigator. A person who sells, designs, offers consultations regarding, installs, maintains, alters, repairs, services or supervises the installation of an irrigation system, including the connection of such system to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under title 30, Texas Administrative Code, chapter 30.

Irrigator-in-charge. The irrigator responsible for all irrigation work performed by an exempt business owner, including, but not limited to obtaining permits, developing design plans, supervising the work of other irrigators or irrigation technicians, and installing, selling, maintaining, altering, repairing, or servicing a landscape irrigation system.

Landscape irrigation. The science of applying the necessary amount of water to promote or sustain healthy growth of plant material or turf.

License. An occupational license that is issued by the Texas Commission on Environmental Quality under title 30, Texas Administrative Code, chapter 30 to an individual that authorizes the individual to engage in an activity that is covered by title 30, Texas Administrative Code, chapter 30.

Mainline. A pipe within an irrigation system that delivers water from the water

source to the individual zone valves.

Maintenance checklist. A document made available to the irrigation system's owner or owner's representative that contains information regarding the operation and maintenance of the irrigation system, including, but not limited to: checking and repairing the irrigation system, setting the automatic controller, checking the rain or moisture sensor, cleaning filters, pruning grass and plants away from irrigation emitters, using and operating the irrigation system, the precipitation rates of each irrigation zone within the system, any water conservation measures currently in effect from the water purveyor, the name of the water purveyor, a suggested seasonal or monthly watering schedule based on current evapotranspiration data for the geographic region, and the minimum water requirements for the plant material in each zone based on the soil type and plant material where the system is installed.

Major maintenance, alteration, repair, or service. Any activity that involves opening to the atmosphere the irrigation mainline at any point prior to the discharge side of any irrigation zone control valve. This includes, but is not limited to, repairing or connecting into a main supply pipe, replacing a zone control valve, or repairing a zone control valve in a manner that opens the system to the atmosphere.

Master valve. A remote control valve located after the backflow prevention device that controls the flow of water to the irrigation system mainline.

Matched precipitation rate. The condition in which all sprinkler heads within an irrigation zone apply water at the same rate.

New installation. An irrigation system installed at a location where one did not previously exist.

Pass-through contract. A written contract between a contractor or builder and a licensed irrigator or exempt business owner to perform part or all of the irrigation services relating to an irrigation system.

Potable water. Water that is suitable for human consumption.

Pressure vacuum breaker. An assembly containing an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. Also known as a pressure vacuum breaker backsiphonage prevention assembly.

Reclaimed water. Domestic or municipal wastewater which has been treated to a quality suitable for beneficial use, such as landscape irrigation.

Records of landscape irrigation activities. The irrigation plans, contracts, warranty information, invoices, copies of permits, and other documents that relate to the installation, maintenance, alteration, repair, or service of a landscape irrigation system.

Reduced pressure principle backflow prevention assembly. An assembly containing two independently acting approved check valves together with a hydraulically operating mechanically independent pressure differential relief valve located between the two check valves and below the first check valve.

Static water pressure. The pressure of water when it is not moving.

Supervision. The on-the-job oversight and direction by a licensed irrigator who

is fulfilling his or her professional responsibility to the client and/or employer in compliance with local or state requirements. Also a licensed installer working under the direction of a licensed irrigator or beginning January 1, 2009, an irrigation technician who is working under the direction of a licensed irrigator to install, maintain, alter, repair or service an irrigation system.

Water conservation. *The design, installation, service, and operation of an irrigation system in a manner that prevents the waste of water, promotes the most efficient use of water, and applies the least amount of water that is required to maintain healthy individual plant material or turf, reduce dust, and control erosion.*

Zone flow. *A measurement, in gallons per minute or gallons per hour, of the actual flow of water through a zone valve, calculated by individually opening each zone valve and obtaining a valid reading after the pressure has stabilized. For design purposes, the zone flow is the total flow of all nozzles in the zone at a specific pressure.*

Zone valve. *An automatic valve that controls a single zone of a landscape irrigation system.*

- (5) *Valid license required.* *Any person who connects an irrigation system to the water supply within the City or the City's extraterritorial jurisdiction, commonly referred to as the ETJ, must hold a valid license, as defined by title 30, Texas Administrative Code, chapter 30 and required by chapter 1903 of the Texas Occupations Code, or as defined by chapter 365, title 22 of the Texas Administrative Code and required by chapter 1301 of the Texas Occupations Code.*

Exemptions. *A property owner is not required to be licensed in accordance with Texas Occupations Code, title 12, section 1903.002(c)(1) if he or she is performing irrigation work in a building or on a premises owned or occupied by the person as the person's home. A home or property owner who installs an irrigation system must meet the standards contained in title 30, Texas Administrative Code, chapter 344 regarding spacing, water pressure, spraying water over impervious materials, rain or moisture shut-off devices or other technology, backflow prevention and isolation valves. See Texas Occupations Code section 1903.002 for other exemptions to the licensing requirement.*

- (6) *Permit required.* *Any person installing an irrigation system, adding to an irrigation system or changing out a backflow device within the territorial limits or extraterritorial jurisdiction of the City is required to obtain a permit from the City. Failure to obtain the required permit before work begins, will result in an administrative fee, in addition to the required permit fees. Any plan approved for a permit must be in compliance with the requirements of this chapter.*

Exemptions.

- (A) *An irrigation system that is that an on-site sewage disposal system, as defined by section 355.002, Health and Safety Code; or*
- (B) *An irrigation system used on or by an agricultural operation as defined by section 251.002, Agriculture Code; or*
- (C) *An irrigation system connected to a groundwater well used by the property owner for domestic use.*

(7) Backflow prevention methods and devices.

- (A) *Any irrigation system that is connected to the potable water supply must be connected through a backflow prevention method. The backflow prevention device must comply with the International Plumbing Code and must be certified by the American Society of Sanitary Engineers (ASSE); or the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California; or International Code Council – Evaluation Service (ICC-ES); or the International Association of Plumbing and Mechanical Officials – Research and Testing (IAPMO R&T); or any other certifying agencies that have equivalent capabilities for both the laboratory and field evaluation of backflow prevention assemblies. The backflow prevention device must be installed in accordance with the laboratory approval standards or, if the approval does not include specific installation information, the manufacturer’s current published recommendations.*
- (B) *If conditions that present a health hazard exist, one of the following methods must be used to prevent backflow;*
- (i) *An air gap may be used if:*
- (1) *There is an unobstructed physical separation; and*
 - (2) *The distance from the lowest point of the water supply outlet to the flood rim of the fixture or assembly into which the outlet discharges is at least one inch or twice the diameter of the water supply outlet, whichever is greater.*
- (ii) *Reduced pressure principle backflow prevention assemblies may be used if:*
- (1) *The device is installed at a minimum of 12 inches above ground in a location that will ensure that the assembly will not be submerged; and*
 - (2) *Drainage is provided for any water that may be discharged through the assembly relief valve.*
- (iii) *Pressure vacuum breakers may be used if:*
- (1) *No back-pressure condition will occur; and*
 - (2) *The device is installed at a minimum of 12 inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler.*
- (iv) *Atmospheric vacuum breakers may be used if:*
- (1) *No back-pressure will be present;*
 - (2) *There are no shutoff valves downstream from the atmospheric vacuum breaker;*
 - (3) *The device is installed at a minimum of six inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the*

retracted position from the top of the sprinkler;

- (4) *There is no continuous pressure on the supply side of the atmospheric vacuum breaker for more than 12 hours in any 24-hour period; and*
 - (5) *A separate atmospheric vacuum breaker is installed on the discharge side of each irrigation control valve, between the valve and all the emission devices that the valve controls.*
 - (C) *Backflow prevention devices used in applications designated as health hazards must be tested upon installation and annually thereafter.*
 - (D) *If an existing irrigation system without a backflow prevention assembly requires major maintenance, alteration, repair, or service, the system must be connected to the potable water supply through an approved, properly installed backflow prevention method before any major maintenance, alteration, repair, or service is performed.*
 - (E) *The irrigator shall ensure the backflow prevention device is tested by a licensed backflow prevention assembly tester prior to being placed in service and the test results provided to the local water purveyor and the irrigation system's owner or owner's representative within ten business days of testing of the backflow prevention device.*
- (8) *Specific conditions and cross-connection control.*
 - (A) *Before any chemical is added to an irrigation system connected to the potable water supply, the irrigation system must be connected through a reduced pressure principle backflow prevention assembly or air gap.*
 - (B) *Connection of any additional water source to an irrigation system that is connected to the potable water supply can only be done if the irrigation system is connected to the potable water supply through a reduced-pressure principle backflow prevention assembly or an air gap.*
 - (C) *Irrigation system components with chemical additives induced by aspiration, injection, or emission system connected to any potable water supply must be connected through a reduced pressure principle backflow device.*
 - (D) *If an irrigation system is designed or installed on a property that is served by an on-site sewage facility, as defined in title 30, Texas Administrative Code, chapter 285, then:*
 - (i) *All irrigation piping and valves must meet the separation distances from the on-site sewage facilities system as required for a private water line in title 30, Texas Administrative Code, section 285.91(10);*
 - (ii) *Any connections using a private or public potable water source that is not the City's potable water system must be connected to the water source through a reduced pressure principle backflow prevention assembly as defined in title 30, Texas Administrative Code, section 344.50; and*
 - (iii) *Any water from the irrigation system that is applied to the*

surface of the area utilized by the on-site sewage facility system must be controlled on a separate irrigation zone or zones so as to allow complete control of any irrigation to that area so that there will not be excess water that would prevent the on-site sewage facilities system from operating effectively.

- (9) Water conservation. *All irrigation systems shall be designed, installed, maintained, altered, repaired, serviced, and operated in a manner that will promote water conservation as defined in the definitions subsection of this section.*

- (10) Irrigation plan design: minimum standards.

- (A) *An irrigator shall prepare an irrigation plan for each site where a new irrigation system will be installed. A paper or electronic copy of the irrigation plan must be on the job site at all times during the installation of the irrigation system. A drawing showing the actual installation of the system is due to each irrigation system owner after all new irrigation system installations. During the installation of the irrigation system, variances from the original plan may be authorized by the licensed irrigator if the variance from the plan does not:*

- (i) Diminish the operational integrity of the irrigation system;*
- (ii) Violate any requirements of this section; and*
- (iii) Go unnoted in red on the irrigation plan.*

- (B) *The irrigation plan must include complete coverage of the area to be irrigated. If a system does not provide complete coverage of the area to be irrigated, it must be noted on the irrigation plan.*

- (C) *All irrigation plans used for construction must be drawn to scale. The plan must include, at a minimum, the following information:*

- (i) The irrigator's seal, signature, and date of signing;*
- (ii) All major physical features and the boundaries of the areas to be watered;*
- (iii) A north arrow;*
- (iv) A legend;*
- (v) The zone flow measurement for each zone;*
- (vi) Location and type of each:*
 - (1) Controller; and*
 - (2) Sensor (for example, but not limited to, rain, moisture, wind, flow, or freeze);*
- (vii) Location, type, and size of each:*
 - (1) Water source, such as, but not limited to, a water meter and point(s) of connection;*
 - (2) Backflow prevention device;*
 - (3) Water emission device, including, but not limited to, spray heads, rotary sprinkler heads, quick-couplers,*

that all of the emission devices in that zone irrigate at the same precipitation rate.

- (G) Irrigation systems shall not spray water over surfaces made of concrete, asphalt, brick, wood, stones set with mortar, or any other impervious material, such as, but not limited to, walls, fences, sidewalks, streets, etc.*
- (H) Master valve. When provided, a master valve shall be installed on the discharge side of the backflow prevention device on all new installations.*
- (I) PVC pipe primer solvent. All new irrigation systems that are installed using PVC pipe and fittings shall be primed with a colored primer prior to applying the PVC cement in accordance with the Uniform Plumbing Code (section 316) or the International Plumbing Code (section 605).*
- (J) Rain or moisture shut-off devices or other technology. All new automatically controlled irrigation systems must include sensors or other technology designed to inhibit or interrupt operation of the irrigation system during periods of moisture or rainfall. Rain or moisture shut-off technology must be installed according to the manufacturer's published recommendations. Repairs to existing automatic irrigation systems that require replacement of an existing controller must include a sensor or other technology designed to inhibit or interrupt operation of the irrigation system during periods of moisture or rainfall.*
- (K) Isolation valve. All new irrigation systems must include an isolation valve between the water meter and the backflow prevention device.*
- (L) Depth coverage of piping. Piping in all irrigation systems must be installed according to the manufacturer's published specifications for depth coverage of piping.*

 - (i) If the manufacturer has not published specifications for depth coverage of piping, the piping must be installed to provide minimum depth coverage of six inches of select backfill, between the top of the pipe and the natural grade of the topsoil. All portions of the irrigation system that fail to meet this standard must be noted on the irrigation plan. If the area being irrigated has rock at a depth of six inches or less, select backfill may be mounded over the pipe. Mounding must be noted on the irrigation plan and discussed with the irrigation system owner or owner's representative to address any safety issues.*
 - (ii) If a utility, manmade structure, or roots create an unavoidable obstacle, which makes the six-inch depth coverage requirement impractical, the piping shall be installed to provide a minimum of two inches of select backfill between the top of the pipe and the natural grade of the topsoil.*
 - (iii) All trenches and holes created during installation of an irrigation system must be backfilled and compacted to the original grade.*

- (iv) *The water service, to the backflow device, shall be 12 minimum in depth to the top of the piping.*
- (M) *Wiring irrigation systems.*
 - (i) *Underground electrical wiring used to connect an automatic controller to any electrical component of the irrigation system must be listed by Underwriters Laboratories as acceptable for burial underground.*
 - (ii) *Electrical wiring that connects any electrical components of an irrigation system must be sized according to the manufacturer's recommendation.*
 - (iii) *Electrical wire splices which may be exposed to moisture must be waterproof as certified by the wire splice manufacturer.*
 - (iv) *Underground electrical wiring that connects an automatic controller to any electrical component of the irrigation system must be buried with a minimum of six inches of select backfill.*
- (N) *Water contained within the piping of an irrigation system is deemed to be nonpotable. No drinking or domestic water usage, such as, but not limited to, filling swimming pools or decorative fountains, shall be connected to an irrigation system. If a hose bib (an outdoor water faucet that has hose threads on the spout) is connected to an irrigation system for the purpose of providing supplemental water to an area, the hose bib must be installed using a quick coupler key on a quick coupler installed in a covered purple valve box and the hose bib and any hoses connected to the bib must be labeled "nonpotable, not safe for drinking." An isolation valve must be installed upstream of a quick coupler connecting a hose bib to an irrigation system.*
- (O) *Beginning January 1, 2010, either a licensed irrigator or a licensed irrigation technician shall be on site at all times while the landscape irrigation system is being installed. When an irrigator is not on site, the irrigator shall be responsible for ensuring that a licensed irrigation technician is on site to supervise the installation of the irrigation system.*
- (12) *Completion of irrigation system installation.* *Upon completion of the irrigation system, the irrigator or irrigation technician who provided supervision for the on-site installation shall be required to complete four items:*
 - (A) *A final walk through with the irrigation system's owner or the owner's representative to explain the operation of the system;*
 - (B) *The maintenance checklist on which the irrigator or irrigation technician shall obtain the signature of the irrigation system's owner or owner's representative and shall sign, date, and seal the checklist. If the irrigation system's owner or owner's representative is unwilling or unable to sign the maintenance checklist, the irrigator shall note the time and date of the refusal on the irrigation system's owner or owner's representative's signature line. The irrigation system owner or owner's representative will be given the original maintenance checklist and a duplicate copy of the maintenance checklist shall be maintained by the irrigator. The items on the maintenance checklist shall include but are*

not limited to:

- (i) The manufacturer's manual for the automatic controller, if the system is automatic;*
 - (ii) A seasonal (spring, summer, fall, winter) watering schedule based on either current/real time evapotranspiration or monthly historical reference evapotranspiration (historical ET) data, monthly effective rainfall estimates, plant landscape coefficient factors, and site factors;*
 - (iii) A list of components, such as the nozzle, or pump filters, and other such components; that require maintenance and the recommended frequency for the service; and*
 - (iv) The statement, "This irrigation system has been installed in accordance with all applicable state and local laws, ordinances, rules, regulations or orders. I have tested the system and determined that it has been installed according to the irrigation plan and is properly adjusted for the most efficient application of water at this time."*
- (C) A permanent sticker which contains the irrigator's name, license number, company name, telephone number and the dates of the warranty period shall be affixed to each automatic controller installed by the irrigator or irrigation technician. If the irrigation system is manual, the sticker shall be affixed to the original maintenance checklist. The information contained on the sticker must be printed with waterproof ink and include [sic]:*
- (D) The irrigation plan indicating the actual installation of the system must be provided to the irrigation system's owner or owner representative.*
- (13) Maintenance, alteration, repair, or service of irrigation systems.*
- (A) The licensed irrigator is responsible for all work that the irrigator performed during the maintenance, alteration, repair, or service of an irrigation system during the warranty period. The irrigator or business owner is not responsible for the professional negligence of any other irrigator who subsequently conducts any irrigation service on the same irrigation system.*
 - (B) All trenches and holes created during the maintenance, alteration, repair, or service of an irrigation system must be returned to the original grade with compacted select backfill.*
 - (C) Colored PVC pipe primer solvent must be used on all pipes and fittings used in the maintenance, alteration, repair, or service of an irrigation system in accordance with the Uniform Plumbing Code (section 316) or the International Plumbing Code (section 605).*
 - (D) When maintenance, alteration, repair or service of an irrigation system involves excavation work at the water meter or backflow prevention device, an isolation valve shall be installed, if an isolation valve is not present.*
- (14) Advertisement requirements.*

- (A) *All vehicles used in the performance of irrigation installation, maintenance, alteration, repair, or service must display the irrigator's license number in the form of "LI _____" in a contrasting color of block letters at least two inches high, on both sides of the vehicle.*
 - (B) *All forms of written and electronic advertisements for irrigation services must display the irrigator's license number in the form of "LI _____." Any form of advertisement, including business cards, and estimates which displays an entity's or individual's name other than that of the licensed irrigator must also display the name of the licensed irrigator and the licensed irrigator's license number. Trailers that advertise irrigation services must display the irrigator's license number.*
 - (C) *The name, mailing address, and telephone number of the commission must be prominently displayed on a legible sign and displayed in plain view for the purpose of addressing complaints at the permanent structure where irrigation business is primarily conducted and irrigation records are kept.*
- (15) Contracts.
- (A) *All contracts to install an irrigation system must be in writing and signed by each party and must specify the irrigator's name, license number, business address, current business telephone numbers, the date that each party signed the agreement, the total agreed price, and must contain the statement, "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ), MC-178, P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's website is: www.tceq.state.tx.us." All contracts must include the irrigator's seal, signature, and date.*
 - (B) *All written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system(s) must include the irrigator's name, license number, business address, current business telephone number(s), and the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ) (MC-178), P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's web site is: www.tceq.state.tx.us."*
 - (C) *An individual who agrees by contract to provide irrigation services as defined in title 30, Texas Administrative Code, section 344.30 (relating to license required) shall hold an irrigator license issued under title 30, Texas Administrative Code, chapter 30 (relating to occupational licenses and registrations) unless the contract is a pass-through contract as defined in title 30, Texas Administrative Code, section 344.1(36) (relating to definitions). If a pass-through contract includes irrigation services, then the irrigation portion of the contract can only be performed by a licensed irrigator. If an irrigator installs a system pursuant to a pass-through contract, the irrigator shall still be responsible for providing the irrigation system's owner or owner's representative a copy of the warranty and all other documents required under this chapter. A pass-through contract must identify by name and license number the irrigator that will perform the work and must provide*

a mechanism for contacting the irrigator for irrigation system warranty work.

(D) *The contract must include the dates that the warranty is valid.*

(16) *Warranties for systems.*

(A) *On all installations of new irrigation systems, an irrigator shall present the irrigation system's owner or owner's representative with a written warranty covering materials and labor furnished in the new installation of the irrigation system. The irrigator shall be responsible for adhering to terms of the warranty. If the irrigator's warranty is less than the manufacturer's warranty for the system components, then the irrigator shall provide the irrigation system's owner or the owner's representative with applicable information regarding the manufacturer's warranty period. The warranty must include the irrigator's seal, signature, and date. If the warranty is part of an irrigator's contract, a separate warranty document is not required.*

(B) *An irrigator's written warranty on new irrigation systems must specify the irrigator's name, business address, and business telephone number(s), must contain the signature of the irrigation system's owner or owner's representative confirming receipt of the warranty and must include the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ), MC-178, P.O. Box 130897, Austin, Texas 78711-3087. TCEQ's website is: www.tceq.state.tx.us."*

(C) *On all maintenance, alterations, repairs, or service to existing irrigation systems, an irrigator shall present the irrigation system's owner or owner's representative a written document that identifies the materials furnished in the maintenance, alteration, repair, or service. If a warranty is provided, the irrigator shall abide by the terms. The warranty document must include the irrigator's name and business contact information.*

(17) *Duties and responsibilities of City irrigation inspectors.* *A licensed irrigation inspector shall enforce the ordinance of the City, and shall be responsible for:*

(A) *Verifying that the appropriate permits have been obtained for an irrigation system and that the irrigator and installer or irrigation technician, if applicable, are licensed;*

(B) *Inspecting the irrigation system;*

(C) *Determining that the irrigation system complies with the requirements of this chapter;*

(D) *Determining that the appropriate backflow prevention device was installed, tested, and test results provided to the City;*

(E) *Investigating complaints related to irrigation system installation, maintenance, alteration, repairs, or service of an irrigation system and advertisement of irrigation services; and*

(F) *Maintaining records according to this chapter.*

(18) *Items not covered by this section.* *Any item not covered by their ordinance and*

required by law shall be governed by the Texas Occupations Code, the Texas Water Code, title 30 of the Texas Administrative Code, and any other applicable state statute or Texas Commission on Environmental Quality rule.

(19) *Fees. The City Council may create a schedule of fees for obtaining and renewing an irrigation permit. These fees will be in amounts sufficient to cover the City's costs in issuing and renewing the permits, including, but not limited to, staff time and other overhead costs. This schedule will be kept at the City offices.*

(20) *Enforcement.*

(A) *The City shall have the power to administer and enforce the provisions of this chapter as may be required by governing law. Any person, firm, corporation or agent who shall violate a provision of this code, or fails to comply therewith, or with any of the requirements thereof, is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of the ordinance codified in this chapter is declared to be a nuisance.*

(B) *Any person violating any provision of chapter shall, upon conviction, be fined a sum not exceeding \$2,000.00. Each day that a provision of this chapter is violated shall constitute a separate offense. An offense under this chapter is a class C misdemeanor, punishable by a fine of up to \$2,000.00.*

(C) *Nothing in this chapter shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law, including, but not limited to the following:*

(i) *Injunctive relief to prevent specific conduct that violates the ordinance or to require specific conduct that is necessary for compliance with the ordinance; and*

(ii) *Other available relief.*

Secs. 3.07.002–3.07.999 Reserved

ARTICLE 3.08 ADMINISTRATIVE PROVISIONS

Sec. 3.08.001 Schedule of Fees, Charges and Expenses

(a) *The City Council shall establish a schedule of fees, charges and expenses, and a collection procedure for building permits, plan review, inspections, appeals and other matters pertaining to this chapter. The schedule of fees, charges and expenses are set forth in appendix C (Comprehensive Fee Schedule) of the Code of Ordinances, which may be altered or amended only by the City Council.*

(b) *No permit shall be issued, nor shall any other action be taken, unless or until all applicable costs, charges, fees or expenses have been paid in full.*

Secs. 3.08.002–3.08.999 Reserved

ARTICLE 3.09 MANUFACTURED HOUSING, MOBILE HOMES AND TRAVEL TRAILERS

Sec. 3.09.001 General.

(a) Trailers used as temporary office or shelter. A trailer may be used as a temporary office or shelter (for a period of up to eighteen (18) months) incidental to construction on or a development of the premises on which the trailer is located. The applicant must maintain an active building permit for the site while the trailer is in use. If it is determined that the building permit for the site is no longer valid, the trailer shall be removed from the site within thirty (30) days. An application for special permit may be submitted pursuant to the requirements contained herein for extension of the eighteen-month time period.

(b) Definitions. For the purpose of this article, certain terms, words and phrases shall have the meanings hereinafter described:

Agent. Any person authorized by the licensee of a mobile home or trailer park to operate or maintain such park under the provisions of this article.

Boat. Any vehicle designed for traveling on water.

Boat trailer. Any trailer designed to transport a boat.

Building official. The legally designated inspection authority of the building and zoning department of the City or his authorized representative.

Driveway. A minor private way used by vehicles and pedestrians on a mobile home or travel trailer stand or used for common access to a small group of stands or facilities.

HUD-code manufactured home. A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 C.F.R. section 3282.8(g).

Inspecting Authority. The inspecting authority shall mean the building official, building inspector, plumbing inspector, electrical inspector, fire marshal and health officer, and such persons as are appointed and authorized as assistants or agents of such authority as may be necessary to carry out the provisions of this article.

License. A written license issued by the building official allowing a person to operate and maintain a mobile home park or travel trailer park under the provisions of this article and regulations issued hereunder.

Licensee. Any person licensed to operate and maintain a mobile home or trailer park under the provisions of this article.

Manufactured home subdivision. A unified development of manufactured home sites on lots platted for such purpose, which lots may be sold to the owners of mobile homes situated thereon, meeting the area and yard requirements of the general zoning ordinance and designed to accommodate manufactured homes on a permanent basis.

Manufactured housing or manufactured home. A HUD-code manufactured home or a mobile home and collectively means and refers to both.

Mobile home. A structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred

twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems.

Mobile home park. A unified development of local home spaces arranged on a large tract or site under single ownership, meeting all requirements of this article, and designed to accommodate mobile homes for a more or less permanent duration.

Motor home. A vehicular-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which uses its own motive power.

Permit. A written permit or certification issued by the building official permitting the construction, alteration and extension of a mobile home or travel trailer park under the provisions of this article and regulations issued hereunder.

Person. Any natural individual, firm, trust, partnership, association or corporation.

Pickup coach. A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation uses.

Service building. A structure housing toilet, lavatory and such other facilities as may be required by this article.

Sewer connection. The connection consisting of all pipes, fittings and appurtenances from the drain outlet of a mobile home or travel trailer to the inlet of the corresponding riser pipe of the sewer system serving the mobile home or travel trailer park.

Sewer riser pipe. That portion of a sewer lateral which extends vertically to the ground elevation, and terminates at a mobile home or travel trailer space.

Space. A plot of ground within a mobile home or travel trailer park designed for the accommodation of one mobile home or travel trailer unit. This term shall also include the terms "lot," "stand," and "stall."

Trailer. A vehicle without motive power, designed to be towed by a motor vehicle but not designed for human occupancy and which may include a utility trailer, boat trailer, horse trailer, or similar.

Travel or tent trailer. A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling, and to be towed behind a motor vehicle.

Travel trailer park. Any premises on which one or more pickup coaches or travel trailers are parked or situated and used for the purpose of supplying to the public a parking space for one or more such coaches or trailers.

Water connection. The connection consisting of all pipes, fittings, and appurtenances from the water riser pipe to the water inlet pipe of the distribution system within a mobile home or travel trailer.

Water riser pipe. That portion of the water supply system serving a mobile home or travel trailer park which extends vertically to the ground elevation and terminates at a designated point at a mobile home or travel trailer space.

Zoning ordinance. The general zoning ordinance of the City.

- (c) Placement of mobile home in city limits prohibited. The placement of any mobile home, as defined in this article, within the city limits, is prohibited.

Sec. 3.09.002 Permit.

- (a) Required. It shall be unlawful for any person to construct, alter or extend any mobile or travel trailer park within the limits of the City unless he holds a valid permit issued by the building official in the name of such person for the specific construction, alteration or extension proposed.
- (b) Application contents. All applications for permits shall contain the following:
 - (1) Name and address of applicant.
 - (2) Location and legal description of the mobile home or travel trailer park.
 - (3) A site plan, as hereinafter described
- (c) Issuance. When, upon review of the application by the Planning and Zoning Commission, the building official is satisfied that the proposed plan meets the requirements of this and other applicable articles, a permit shall be issued.

Sec. 3.09.003 Certificate of Occupancy.

It shall be unlawful for any person to operate any mobile home or travel trailer park within the limits of the City unless he holds a valid certificate of occupancy issued by the building official in the name of such person for the specific park. All applications for licenses shall be made to the building official, who shall issue a license upon compliance by the applicant with provisions of this article.

Sec. 3.09.004 Inspections.

- (a) Required. The building official is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this article.
- (b) Entry on premises.
 - (1) The building official shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this article. It shall be the duty of the licensee or his agent to give the building official free access to all lots at reasonable times for the purposes of inspections.
 - (2) Whenever necessary to make an inspection to enforce any of the provisions of this article or whenever the building official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the building official or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this article. If such building or premises be occupied he shall first present proper credentials and request entry, and if such building or premises be unoccupied he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused or if no owner or other person having charge or control of the building or premises can be located, the building official or his authorized representative shall have recourse to every remedy provided by law to secure entry.
- (c) Inspection of register. The building official shall have the power to inspect the register containing a record of all residents of the mobile home or travel trailer park.

Sec. 3.09.005 Notices, Hearings, and Orders.

- (a) Notice of violation. Whenever the building official determines that there are grounds to believe that there has been a violation of any provision of this article, the building official shall give notice of such alleged violation to the licensee or agent, as hereinafter provided. Such notice shall:
 - (1) Be in writing;
 - (2) Include a statement of the reasons for its issuance;
 - (3) Allow a reasonable time for the performance of any act it requires;
 - (4) Be served upon the owner or his agent as the case may require, provided that such notice or order shall be deemed to have been properly served upon such licensee or agent when a copy thereof has been sent by registered mail to his last known address, or when he has been served with such notice by any method authorized or required by the laws of this state; and
 - (5) Contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this article.
- (b) Appeal from notice. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this article may request and shall be granted a hearing on the matter before the building official, provided that such person shall file in the office of the building official a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten (10) days after the day the notice was served. The filing of the request for a hearing shall operate as a stay of the notice and of the suspension, except in the case of an order issued under section 3.09.125. Upon receipt of such petition, the building official shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than ten (10) days after the day on which the petition was filed, provided that, upon application of the petitioner, the building official may postpone the date of the hearing for a reasonable time beyond such ten-day period when, in his judgment, the petitioner has submitted good and sufficient reasons for such postponement.
- (c) Hearing; order. After such hearing, the building official shall make findings as to compliance with the provisions of this article and shall issue an order in writing sustaining, modifying or withdrawing the notice, which order shall be served as provided in section 3.09.005(a)(4). Upon failure to comply with any order sustaining or modifying a notice, the certificate of occupancy of the park affected by the order shall be revoked.
- (d) Hearing records; judicial review. The proceedings at such a hearing, including the findings and decision of the building official, together with a copy of every notice and order related thereto, shall be entered as a matter of public record in the office of the building official, but the transcript of the proceedings need not be transcribed unless judicial review of the decision is sought as provided by this section. Any person aggrieved by the decision of the building official may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this state.
- (e) Order without notice in emergency. Whenever the building official finds that an emergency exists which requires immediate action to protect the public health, he may without notice or hearing issue an order reciting the existence of such an emergency

and requiring that such action be taken as he may deem necessary to meet the emergency, including the suspension of the permit or license. Notwithstanding any other provisions of this article, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the building official shall be afforded a hearing as soon as possible. The provisions of sections 3.09.005 (c) and (d) shall be applicable to such hearing and the order issued thereafter.

Sec. 3.09.006 *Manufactured Home Subdivision.*

Any development of manufactured homes as a manufactured home subdivision shall be governed by the provisions of the zoning and subdivision ordinances of the City.

Sec. 3.09.007 *Mobile Home Parks and Manufactured Home Communities.*

- (a) Site requirements. Any development, redevelopment, alteration, or expansion of a mobile home park in the City shall be done in compliance with the following site requirements:*
 - (1) Location. A mobile home park shall be located only where such use is permissible under the terms and provisions of the general zoning ordinance.*
 - (2) Site plan. A site plan, as required by the general zoning ordinance, shall be approved by the Planning and Zoning Commission, showing the following:*
 - (A) The area and dimensions of the tract of land;*
 - (B) The number, location and size of all mobile home spaces;*
 - (C) The location, width, and specifications of roadways and walkways;*
 - (D) The location and specifications of water and sewer lines and riser pipes;*
 - (E) The location and details of lighting and electrical systems;*
 - (F) The location and specifications of all buildings constructed or to be constructed within the park;*
 - (G) Such other information as municipal reviewing officials may reasonably require.*
 - (3) Soil and ground cover. Exposed ground surfaces in all parts of every mobile home park shall be paved, covered with stone screenings or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating dust.*
 - (4) Area, setback and screening requirements. The minimum areas, setbacks, spacing and screening shall be as prescribed in the general zoning ordinance.*
 - (5) Open space. Open-space recreation areas shall be provided in compliance with the terms of the general zoning ordinance. Such areas shall be located so as to be free of traffic hazards, easily accessible to all park residents, and centrally located near the entrance of the park.*
- (b) Access and traffic circulation. All mobile home parks shall provide access and means of motor vehicle and pedestrian traffic circulation as follows:*
 - (1) Access. Motor vehicle entrances and exits shall be designed for safe and convenient traffic movement from adjacent public streets and onto internal streets.*
 - (2) Internal drives. Internal drives shall be privately owned, built and maintained*

and shall be designed for safe and convenient access to all spaces and to facilities for common use of park residents that meets the requirements of the fire code, building code, zoning ordinance and engineering design manual.

- (3) Street specifications. *Internal drives shall be constructed of concrete or asphalt and shall be maintained free of cracks, holes and other hazards. Drives shall be lighted at night pursuant to the residential street-lighting policy of the City.*
 - (4) Parking. *Vehicular parking shall be provided in compliance with section 14.04.003 zoning ordinance.*
- (c) Mobile home spaces. *The area of the mobile home space shall be improved to provide adequate support for the placement of the mobile home, preventing against uplift, sliding, rotation, and overturning due to frost action, inadequate drainage, vibration or other forces acting on the structure.*
- (d) Service buildings and other community service facilities.
 - (1) Applicability. *The requirements of this section shall apply to service buildings, recreation buildings and other community service facilities, such as management offices, maintenance and storage areas, and sanitary or laundry facilities.*
 - (2) Required community sanitary facilities. *Every park shall be provided with emergency sanitary facilities consisting of not less than one (1) flush toilet and one (1) lavatory per sex for each 100 mobile home lots, which shall be accessible to all mobile homes.*
 - (3) Barbecue pits, fireplaces, stoves and incinerators. *Cooking shelters, barbecue pits, fireplaces, wood-burning stoves and incinerators shall be so located, constructed, maintained and used so as to minimize fire hazards and smoke nuisance. No open fire shall be permitted except in approved facilities. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors.*
- (e) Utility Connections. *No overhead utilities including electrical, or franchise utilities are permitted.*
- (f) Refuse Handling.
 - (1) *The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.*
 - (2) *All refuse shall be stored in flytight, watertight, rodentproof containers, which shall be located not more than three hundred (300) feet from any space. Containers shall be provided in sufficient number and capacity to properly store all refuse and shall be screened.*
 - (3) *Refuse collection stands shall be provided for all refuse containers. Such container stands shall be so designed as to prevent containers from being tipped to minimize spillage and container deterioration, and to facilitate cleaning around them.*
 - (4) *All refuse stands shall provide a screening device as an enclosure for garbage and trash containers.*
 - (A) *Such enclosure shall be located within the building area of the lot.*

- (B) *The container shall be positioned or screened in such a way so that it is not visible from any street, highway or major thoroughfare.*
- (C) *Enclosures shall be constructed of masonry or similar durable material.*
- (D) *Trash enclosures may be permitted in the required rear or side yards when adjacent to other multifamily or non-residential zoning districts.*

(g) *Insect and Rodent Control.*

- (1) *Grounds, buildings and structures shall be maintained free of insect and rodent runs, harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the county health department.*
- (2) *Parks shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.*
- (3) *The growth of brush, weeds and grass shall be controlled to prevent harborage of noxious insects or other pests. Parks shall be so maintained as to prevent the growth of noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.*

(h) *Miscellaneous Requirements.*

(1) *Responsibilities of park management.*

- (A) *The licensee or his agent shall operate the park in compliance with this article and other applicable ordinances and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.*
- (B) *The licensee or agent shall notify park occupants of all applicable provisions of this article and inform them of their duties and responsibilities under this article.*
- (C) *The licensee or agent shall maintain a register of park occupancy which shall contain the following information:*
 - (i) *Name and address of park residents.*
 - (ii) *Mobile home registration data, including make, length, width, year of manufacture and identification number.*
 - (iii) *Location of each mobile home within the park by space or lot number.*
 - (iv) *Dates of arrival and departure.*

A new register shall be initiated on January 1 of each year, and the old register may thereafter be retired but shall be retained on the premises for at least three (3) years following its retirement. Registers shall be available for inspection at all reasonable times by any official of the City whose duties may necessitate access to the information contained therein.(2) *Responsibilities of park occupants.*

- (A) *The park occupant shall comply with all requirements of this article and shall maintain his mobile home space, its facilities and equipment in good repair and in a clean and sanitary condition.*
- (B) *Skirtings, porches, awnings, and other additions, when permitted, shall*

be maintained in good repair.

Sec. 3.09.008 Travel Trailer Parks

(a) Site requirements. Any development, redevelopment, alteration, or expansion of a travel trailer park in the City shall be done in compliance with the following site requirements:

- (1) Location. A travel trailer park shall be located only where such use is permissible under the Section 14.10.001 Use Chart.
- (2) Site plan. A site plan shall be submitted to and must be approved by the planning and zoning commission prior to the issuance of a building permit. The requirements for site plan submittal can be found in Section 14.06.004.
- (3) Parking and Site Paving. Parking aisles, driveways, and travel trailer parking stalls must be paved concrete or asphalt.
- (6) Usable open space requirements. Any development with twenty-five (25) or more lots/units shall provide usable open space. Developments with twenty-five (25) to forty-nine (49) lots/units shall provide usable open space which equals or exceeds five (5) percent of the gross platted area, excluding rights-of-way for major thoroughfares. Developments with fifty (50) or more lots/units shall provide usable open space which equals or exceeds ten (10) percent of the gross platted area.

(b) Access and traffic circulation. All travel trailer parks shall provide access and means of motor vehicle and pedestrian traffic circulation as follows:

- (1) Access. Motor vehicle entrances and exits shall be designed for safe and convenient traffic movement from adjacent public streets and onto internal streets leading to each space. No entrance or exit from a trailer park shall be through a residentially zoned district, nor require movement of traffic from the park through a residentially zoned district.
- (2) Internal drive aisles. Internal drive aisles shall be privately owned, built and maintained, and shall be designed for safe and convenient access to all spaces and facilities for common use of park occupants. Where any portions of parks are intended for overnight occupancy only, it is preferred that internal drive aisles be arranged to accommodate drive-through spaces. Internal drive aisles shall comply with the requirements in Section 14.04.003(d)(4) Parking aisle design.
- (3) Parking. Vehicular parking shall be provided in a park in compliance with Section 14.04.003(e) (Parking requirements by use).

(c) Use of Spaces for Occupancy.

- (1) Spaces in travel trailer parks may be used by travel trailers, equivalent facilities constructed in or on automobile vehicles, tents, or other short-term housing or shelter arrangements or devices.
- (2) Spaces shall be rented by the day or week only, and an occupant of any space shall remain in the same travel trailer park not more than ninety (90) days.

(d) Utility Connections. No overhead utilities including electrical, or franchise utilities are permitted.

(e) Refuse Handling.

- (1) The storage, collection and disposal of refuse in the travel trailer park shall be

so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.

- (2) *All refuse shall be stored in flytight, watertight, rodentproof containers, which shall be located not more than three hundred (300) feet from any space. Containers shall be provided in sufficient number and capacity to properly store all refuse and shall be screened.*
- (3) *Refuse collection stands shall be provided for all refuse containers. Such container stands shall be so designed as to prevent containers from being tipped to minimize spillage and container deterioration, and to facilitate cleaning around them.*
- (4) *All refuse stands shall provide a screening device as an enclosure for garbage and trash containers.*
 - (A) *Such enclosure shall be located within the building area of the lot.*
 - (B) *The container shall be positioned or screened in such a way so that it is not visible from any street, highway or major thoroughfare.*
 - (C) *Enclosures shall be constructed of masonry or similar durable material.*
 - (D) *Trash enclosures may be permitted in the required rear or side yards when adjacent to other multifamily or non-residential zoning districts.*

(f) *Insect and Rodent Control.*

- (1) *Grounds, buildings and structures shall be maintained free of insect and rodent runs, harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the county health department.*
- (2) *Parks shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.*
- (3) *The growth of brush, weeds and grass shall be controlled to prevent harborage of noxious insects or other pests. Parks shall be so maintained as to prevent the growth of noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.*

(g) *Service and Auxiliary Buildings.*

- (1) *Applicability.* *The requirements of this section shall apply to service buildings, recreation buildings, and other auxiliary facilities, such as management offices, repair shops and storage areas, sanitary and laundry facilities, and commercial uses supplying essential goods or services for the exclusive use of park occupants.*
- (2) *Location and maintenance.* *All service buildings shall be convenient to the units which they serve, and shall be maintained in a clean condition.*
- (3) *Construction.* *All service buildings shall be of permanent construction built in compliance with applicable ordinances of the City.*
- (4) *Sanitary facilities.* *Every park shall contain one or more service buildings of permanent construction, containing the following minimum sanitary fixtures:*

	<i>Toilets</i>	<i>Urinals</i>	<i>Lavatories</i>	<i>Showers</i>
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Trailer Spaces	<i>Men</i>	<i>Women</i>	<i>Men</i>	<i>Men</i>	<i>Women</i>	<i>Men</i>	<i>Women</i>
1–15	1	1	1	1	1	1	1
16–45	1	2	1	2	2	1	1
46–100	2	3	2	3	3	2	2

For parks having more than one hundred (100) spaces, there shall be provided one (1) additional toilet and lavatory for each sex for each thirty (30) spaces, one additional shower for each additional forty (40) spaces, and one additional men's urinal for each additional one hundred (100) spaces. At least one slop sink shall be provided.

- (5) *Interior finish. The interior finish of a service building shall be moisture resistant which will withstand frequent washing and cleaning. The floors shall be constructed of material impervious to water, easily cleanable and sloped to floor drains connected to the sewer system.*
- (6) *Separation and marking of toilet rooms. Separate men's and women's toilet rooms shall be provided and distinctly marked and isolated by a sound-resistant wall. The rooms shall be screened by means of a vestibule or wall to prevent direct view of the interior when the exterior doors are open.*
- (7) *Water closets. Water closets shall be located in separate compartments equipped with self-closing doors.*
- (8) *Hot water facilities. A continuous supply of hot water shall be available in each service building.*
- (9) *Shower facilities. Shower facilities shall be provided for both sexes. The shower stalls shall be of the individual type and screened from view. Dressing compartments shall be provided for women which are screened from view and each equipped with a stool or bench. A shower stall of approximately three by three (3 x 3) feet in area is suggested, with the dressing compartment of the same dimensions for women.*
- (10) *Heating facilities. Service buildings shall be maintained at the temperature required by local authorities. In the absence of such requirements, service buildings shall be maintained at a temperature of at least 70 degrees Fahrenheit during use.*
- (11) *Window areas and ventilation. Window areas in service buildings shall be equal to at least ten (10) percent of the floor area. Windows shall be located as high as practicable. All rooms of service buildings shall be well ventilated and all exterior openings shall be covered with 16-mesh screen.*
- (12) *Lighting. Service building rooms shall be well lighted at all times. The following illumination levels are suggested:*
 - (A) *General seeing tasks: 5 footcandles;*
 - (B) *Laundry room work area: 40 footcandles;*

- (C) *Toilet room, in front of mirrors: 40 footcandles.*
- (13) *Eating places. Park buildings, including restaurants and dining rooms used for the preparation of food and drink, shall be constructed and operated in accordance with the laws and regulations of this state, as well as local requirements, applicable to public places offering food and drink for sale to the public.*
- (14) *Auxiliary buildings. Auxiliary buildings or other buildings not specifically covered in this article shall be constructed in accordance with local requirements.*
- (15) *Sanitary stations.*
- (A) *Sufficient facilities shall be provided at sanitary stations for the sole purpose of removing and disposing of wastes from all holding tanks in a clean, efficient and convenient manner.*
- (B) *Each sanitary station shall consist of a drainage basin constructed of impervious material, containing a disposal hatch and self-closing cover, and related washing facilities. Such units shall be provided on the basis of one for every one hundred (100) self-contained units or fractional part thereof.*
- (C) *Sanitary stations shall be located not less than fifty (50) feet from any space. Such facilities shall be screened from other activities by visual barriers such as fences, walls or natural growth.*
- (D) *The disposal hatch of sanitary station units shall be connected to the park sewage disposal system. Related facilities required to wash holding tanks and the general area of the sanitary station shall be connected to the park water supply system.*
- (E) *Sanitary stations shall be approved by the county health department.*
- (h) *Barbecue pits; fireplaces; stoves; incinerators. Cooking shelters, barbecue pits, fireplaces, wood burning stoves and incinerators shall be so located, constructed, maintained and used so as to minimize fire hazards and smoke nuisance. No open fire shall be permitted except in approved facilities. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors.*
- (i) *Responsibilities of Park Management.*
- (1) *The licensee or his agent shall operate the park in compliance with this article and other applicable ordinances and shall provide adequate supervision to maintain the park, its facilities, and equipment in good repair and in a clean and sanitary condition.*
- (2) *The licensee or agent shall notify park occupants of all applicable provisions of this article and inform them of their duties and responsibilities under this article.*
- (3) *The licensee or agent shall maintain a register of park occupancy which shall contain the following information:*
- (A) *Name and address of park residents.*
- (B) *Registration of the towing vehicle.*

(C) *Dates of arrival and departure.*

A new register shall be initiated on January 1 of each year, and the old register may thereafter be retired but shall be retained on the premises for at least three (3) years following its retirement. Registers shall be available for inspection at all reasonable times by any official of the City whose duties may necessitate access to the information contained therein.

Sec. 3.09.009 Trailer and Motor Home Storage.

(a) *Administration and enforcement.* *The administration and enforcement of this article shall be the duty of the inspecting authority.*

(b) *Parking of trailers, travel trailers, boats, tent trailers and motor homes.*

(1) *Trailers, travel trailers, boats, motor homes, tent trailers and other similar that meet the following requirements may be stored in the rear yard of a single-family residential building:*

(A) *Trailers, travel trailers, boats and boat trailers, motor homes, tent trailers and other similar shall not have connections made for water supply, sanitary sewer service, gas or electrical service of any kind.*

(B) *All liquid petroleum gas supply tanks shall be turned off in a manner so as not to be accidentally turned on.*

(C) *No trailers, travel trailers, boats and boat trailers, motor homes, tent trailers and other similar shall be occupied for any purpose.*

(D) *All trailers, travel trailers, boats and boat trailers, motor homes, tent trailers and other similar shall be kept in a clean and sanitary condition subject to all ordinances governing same.*

(E) *All trailers, travel trailers, boats and boat trailers, motor homes, tent trailers and other similar shall be parked on approved surfaces, of concrete or asphalt, in the rear yard or side yard on corner lots and must be fully screened as required in Section 14.04.004 (Fences and Screening Devices).*

(F) *Trailers, travel trailers, boat and boat trailers, motor homes, tent trailers and other similar shall not be located in the front yard or on public streets.*

Sec. 3.09.010 Violations.

Violations of any of the provisions of this article are punishable as provided in Section 1.01.009 of this Code.

Secs. 3.09.011–3.09.999 Reserved

ARTICLE 3.10 STREETS AND SIDEWALKS

Sec. 3.10.001 General.

(a) *Obstructions Generally.*

(1) *It shall be unlawful for any person, acting either for himself or as the agent or employee of another, to obstruct any sidewalk, alley, street or highway of the City in any manner, by means of any fence, by tying any animal of any kind*

thereon or across the same, by placing or leaving any vehicle or machine or any animate or inanimate object thereon which is sufficient to interfere with the travel of pedestrians or vehicles, or by congregating or causing others to congregate thereon in such manner as to prevent free passage along and upon same or any part thereof.

- (2) *It is an exception to the application of this subsection that the obstruction is in compliance with Subsection 3.10.001(b).*

(b) Use of Public Way in the Central Business District.

- (1) Definitions. *For the purposes of this section, the following terms, words, phrases and the derivations thereof shall have the meaning given herein.*

Central Business District *see Subsection 14.03.009(b)(1) of this Code for Central Business District Area boundaries.*

Merchandise *means any tangible or intangible property offered for display or sale and shall include but not be limited to goods, wares, tickets, publications, services or examples of goods or wares, or likenesses of items offered for sale within the adjoining businesses. The term does not include the sale of food and beverages.*

Potted plants and benches *means potted plants and benches placed for public convenience and decoration and shall not contain advertising or represent an example of merchandise for sale within the district.*

Public way *means all sidewalk areas held or controlled by the City or other public entity legally open to public use.*

Sign *means any advertising signs for the tenants or property owners of the building immediately adjacent to the public way.*

Special event *means any occasion including but not limited to fairs, shows, exhibitions, City-wide celebrations, festivals, and the like within a specifically defined area of the City for a time period not to exceed the period of the event.*

Unobstructed pedestrian area *means an area that is at least 36 inches in width between the curb and the property line that is completely unobstructed, even with posts, and must include the sidewalk area.*

- (2) *It shall be unlawful for any person to place or deposit any merchandise, food, signs, potted plants, benches, tables, or chairs within the unobstructed pedestrian area of the public way in the Central Business District.*
- (3) *No merchandise may be sold from the public way unless allowed through a Special Event.*
- (4) *Any tables or chairs placed in the public right of way shall be of sturdy, non-rusty and non-splintering construction and appropriate in color and style to the area in which they are placed.*
- (5) *All potted plants and benches in the public way may be anchored so as to deter theft or vandalism, but must remain removable with minimal damage, which is easily repairable, to the sidewalk. Pots must be planted, and all plants must be non-hazardous, trimmed and maintained.*
- (6) *Awning and balcony supports may be permitted within the sidewalk subject to approval by the Director of Engineering.*

- (7) *It is a defense to prosecution under this article to the application of the foregoing prohibitions if a person:*
- (A) *Is a participant in a special event and is vending on the premises designated for the special event;*
 - (B) *Is vending in connection with the transaction of official government business; or*
 - (C) *Is the grantee of a contract with the City to operate a concession on designated areas of public property.*
- (c) *Erection of poles, pedestals, columns or other structures.* *The erection of poles, pedestals, columns, piers or other structures for any purpose on any street, alley, sidewalk or parkway in the City is hereby prohibited; provided, however, that telephone, communication, power and light companies shall have the right to erect poles for the support of their wires, cables, etc., in such sections of the City as may be covered by their franchises.*
- (d) *Deposit of gravel or hard granular substance on paved street.*
- (1) *It shall be unlawful for any person by any means whatsoever place, drop, leave or cause to remain upon any paved street within the City any gravel or hard granular substance of any kind.*
 - (2) *The provisions of this subsection shall not apply to or prevent depositing or placing temporarily upon paved streets quantities of material for use in the construction of improvements upon public or private property contiguous thereto.*
- (e) *Mixing or placing mortar, concrete, etc., on paved street.* *No person shall mix, place or permit to be mixed or placed upon any paved street within the City any mortar, concrete or similar substance.*
- (f) *Gates swinging over street or sidewalk.* *It shall be unlawful for any person to permit a gate, on premises owned, occupied or controlled, to swing over the public right-of-way or any part of a sidewalk or street in this City.*
- (g) *Signs or advertisements on sidewalks.* *It shall be unlawful for any person to write, stencil, paint or paste any sign or advertisement on any sidewalk in this City.*
- (h) *Signs over sidewalks.* *It shall be unlawful for any person to hang, place, locate or maintain any sign over, upon or across any sidewalk within the City, except where otherwise permitted in this Code.*
- (i) *Banners over streets.* *Signs written on canvas or other cloth material may be placed so as to extend over, along or across any street in the City, provided that no such sign shall be placed without first obtaining permission from the city manager, and such permission shall not extend over a period of more than seven (7) days.*
- (j) *Clearance of tree limbs extending over streets and sidewalks.* *It shall be the duty of the owner or occupant of any lot or parcel of ground within the limits of the City in front of and adjacent to which any trees are growing, so as to extend the limbs over the sidewalk and street, to keep the same trimmed up in such a manner as the limbs and branches of the same overhanging the sidewalk shall be at least seven (7) feet above such sidewalk and the limbs and branches of such trees shall be at least fourteen (14) feet above the level of the street.*
- (k) *Trees, shrubs or other vegetation obstructing streets and alleys.* *It shall be unlawful for*

any person, whether owner, occupant or tenant, to permit the growth and extension of trees, shrubs or other vegetation into or along any public streets, alleys or thoroughfares that would prevent free and unobstructed passage of any person or vehicle along or through such public streets, alleys and thoroughfares.

(l) Plantings in Parkway.

- (1) No tree, shrub or other type of vegetation, except lawn grass, may be planted in any parkway existing between an established curblin and property line in the City.*
- (2) "Parkway," for the purposes of this section, is defined as that property existing between an established curblin and the property line of the City.*
- (3) Any condition in violation of this section is declared a nuisance and injurious to the health, safety and comfort of the citizens of the City.*

Sec. 3.10.002 *Street Improvements, Paving, Etc.*

- (a) Plans and specifications generally. The city engineer is hereby directed to prepare plans and specifications for the improvement of streets and file the same with the City Council. Such plans and specifications shall be made under the direction of the city manager and shall be in all respects full, complete, exact and unambiguous and shall be so drawn and prepared as to fully protect the City and abutting property owners against loss, damage and inconvenience from any cause whatever. Such plans and specifications shall contain adequate provisions for requiring the contractor to make, enter into and file a good and sufficient construction bond to secure prompt and faithful performance of the contract for constructing such improvement, and good and sufficient bond for the protection of all materialmen and laborers who shall at any time furnish any material or perform any labor for or in the construction of such improvement and may be drawn with or without provision for a maintenance bond, at the discretion of the City Council. In preparing such plans and specifications, the city engineer shall specify the use of such paving materials as shall be directed by the city manager or the City Council. No plans and specifications prepared as required hereby shall combine any two (2) or more of such paving materials, but each set of plans and specifications shall be complete within itself and shall specify only one (1) paving material.*
- (b) Adoption of state law. The Texas Transportation Code, Chapter 313, is adopted as an alternative method of determining, fixing and levying assessments for permanent street improvements of the City.*
- (c) Lowering or adjusting mains and conduits prior to street paving.*
 - (1) Any person maintaining, using or having any sewer, gas or water mains or any other underground conduits within any of the public streets in the city shall, when notified by the city manager that a public street then occupied by such person is going to be improved by laying a permanent pavement thereon, immediately and without any unnecessary delay and within two (2) days after receiving such written notice, begin to lower or adjust the sewer, gas or water mains or other underground conduits so maintained, used or controlled by him so as not to interfere or delay the construction of such street improvement work in any manner and in accordance with the profile of such street improvement work which may be obtained from the city engineer. Such work of lowering or adjusting underground gas, sewer or water mains or other underground*

conduits shall be prosecuted diligently after such second day and so as not to cause the city or anyone else any delay whatever in improving or paving the street as herein contemplated.

- (2) *If any person shall fail, refuse or neglect to comply in all things with the provisions of this section, the city shall have the right to immediately perform such work and comply with such requirements for such person, and any person failing to do such work in compliance with this section shall be liable to the city for the actual cost of performing such work together with a penalty of one hundred (100) percent to be recovered in any court having jurisdiction of the matter and the amount thereof as liquidated damages for such failure.*
- (d) *Walking, riding, etc., on fresh pavement. It shall be unlawful for any person to walk, operate a vehicle or traverse in any manner on or over any pavement on a street or sidewalk in the City which has been newly placed or constructed, until such pavement has been approved by the city engineer.*

Sec. 3.10.003 Street Excavations, Utility Access in Public Right-of-Way.

- (a) *Any excavation made by any utility, plumber or any other person in any improved public street shall be refilled and repaved by the City to the specifications of the City at the expense of the utility, plumber or such other person having the permit to make such excavation.*
- (b) *All permits issued for excavations shall provide that the excavation shall be filled and the street repaved by the City at the expense of the utility, plumber or other person having the permit to make such excavation.*
- (c) *At all times during work activity, the utility, plumber or such other person making excavation shall place and maintain all necessary and proper barriers, barricades, traffic control devices and other safeguards, upon and around the work site area for the prevention of accidents, all in accordance with the Texas Manual on Uniform Traffic Control Devices (TMUTCD). When necessary for public safety, the utility, plumber or such other person shall employ flagpersons whose duties shall be to control traffic around and through the work site. After daylight hours all barriers, barricades, traffic control devices and other safeguards must be reflectorized and must be illuminated or have barricade warning lights in accordance with the TMUTCD. All barriers, barricades, traffic control devices and other safeguards used must be removed immediately upon completion of excavation. A traffic control plan shall be submitted with the right-of-way permit application and approved by the city engineer.*
- (d) *Removal of dirt, sand, rock or other material when work completed. It shall be the duty of any person making an excavation in or upon any street, alley or public ground to remove all dirt, sand, rock or other material from the street, alley or public ground when the work is completed.*
- (e) *Access to utilities under streets. Access to utilities under streets shall be by boring. Street cuts shall only be made in the event of an emergency and no other alternative is available with prior approval of the city engineer or his designee.*
- (f) *Permit required; issuance restricted. It shall be unlawful for any person to make any cut or excavation within the right-of-way of any street, alley or other public place within the City without first obtaining a permit from the city engineer.*
- (g) *Permit application. The application for a permit required by this subsection shall be made to the city engineer showing the location of the cut or excavation and such other*

information as may be required by the city engineer.

- (h) Fees. The City Council shall establish a schedule of fees, charges and expenses, and a collection procedure for filling the excavation and repaving the street. The schedule of fees are set forth in Appendix C (comprehensive fee schedule) of the City's Code of Ordinances, which may be altered or amended only by City Council.
- (i) Emergency procedures. In an emergency when the office of the city engineer is closed, cuts may be made, provided the public works department is notified and approved before any cut is made, and the cut is reported to the office of the city engineer the next day the office is open for business.

Sec. 3.10.004 Sidewalk Construction or Repair.

- (a) Permit required. No person shall construct, reconstruct or repair any sidewalk in the City without first obtaining a permit so to do from the city engineer.
- (b) Bond. It shall be unlawful for any person to build, construct or complete any sidewalk within the city limits, and no permit shall be issued so to do, unless such person has filed with the city clerk a bond approved by the City Council. Such bond shall be in the sum of one thousand dollars (\$1,000.00), payable to the City, conditioned that the principal shall faithfully and strictly comply with the regulations and ordinances relating to the construction, reconstruction and repair of sidewalks, and further conditioned that the principal shall promptly, when notified so to do by the city engineer, remedy any defect in any sidewalk constructed, reconstructed or repaired by such person, due to defective material or workmanship which shall be discovered or shall occur within one (1) year after the completion and acceptance of such work.
- (c) Width; slope; location with respect to property line. Shall be constructed per City engineering standards and details.
- (d) Supervision and approval of work. All sidewalks shall be constructed, reconstructed and repaired under the supervision and subject to the direction and approval of the city engineer, whose decision shall be final.
- (e) Approval of materials. Upon notice from the city engineer, no materials of any kind shall be used in the construction, reconstruction or repair of any sidewalk until they have been examined and approved by the city engineer, and the contractor shall furnish whatever samples may be required for making tests and examinations in sufficient time prior to use of same.
- (f) Lights, barricades and warning devices. During construction of any sidewalk, the contractor shall see that the necessary lights, barricades and other warning devices required by the city engineer are placed so that pedestrians or vehicle traffic shall not be injured in any manner.
- (g) Removal of excess material upon completion of work. Immediately upon completion of work under a permit required by this division, the contractor shall remove all unused materials and surplus dirt. The contractor shall ensure that the street and sidewalk are clean and usable by the public.

Sec. 3.10.005 Access Driveways.

- (a) Permit, required. No access driveway to any street or public right-of-way within the City shall be constructed, reconstructed or repaired without a permit issued by the City, and no driveway, approach, or other improvement constructed on the right-of-way shall be relocated or its dimensions altered without a duly executed permit from the City.

Application for such permit shall be made by the owner or lessee of the property, who shall represent all parties in interest, and shall be for the bona fide purpose of securing access to their property.

- (b) *Bond.* *It shall be unlawful for any person to build, construct or complete any access driveway within the city limits, and no permit shall be issued so to do, unless such person has filed with the city clerk a bond approved by the City Council. Such bond shall be in the sum of one thousand dollars (\$1,000.00), payable to the City, conditioned that the principal shall faithfully and strictly comply with the regulations and ordinances relating to the construction, reconstruction and repair of access driveways, and further conditioned that the principal shall promptly, when notified so to do by the city engineer, remedy any defect in any access driveway constructed, reconstructed or repaired by such person, due to defective material or workmanship which shall be discovered or shall occur within one (1) year after the completion and acceptance of such work.*
- (c) *Materials.* *Shall be constructed per City engineering standards and details.*
- (d) *Design Requirements Generally.*

 - (1) *Common design requirements for commercial and noncommercial access driveways are as follows:*

 - (A) *All parts of entrances and exits on street rights-of-way shall be confined within the property owner's street frontage.*
 - (B) *Location of access driveways shall be selected to provide maximum safety for street traffic and for users of the driveway subject to City engineering standards and details and as approved by the city engineer.*
 - (C) *Drainage in street side ditches shall not be altered or impeded. When drainage structures are required, the size of opening and other design features shall be approved by the city engineer.*
 - (D) *Radii for all access driveways within the City shall be subject to City engineering standards and details or as approved by the city engineer.*
 - (2) *The City may authorize or require certain changes in the design limits prescribed in this division when such changes are necessary to preserve the normal and safe movement of traffic or to permit reasonable access.*
- (e) *Maintenance; inspection; correction of defects.* *The maintenance of all driveways, islands and other access driveway appurtenances on the right-of-way shall be the responsibility of the property owner. The City reserves the right to inspect these installations at the time of construction and at all times thereafter, and to require that such changes, maintenance and repairs be made as may at any time be considered necessary to provide protection of life or property on or adjacent to the street. The cost of changes, maintenance and repairs shall be borne by the property owner, except as otherwise specifically provided.*
- (f) *Driveways to State Highways.*

 - (1) *The City of Sherman permits access driveways to State Highways.*
 - (2) *The City hereby adopts the Regulations for Access Driveways to State Highways, as adopted by the state highway commission and as revised in November, 1963, for use on state highways within the corporate limits of the City as such corporate limits are now established or as same may be hereafter*

extended. With reference to access driveways to state highways, such regulations shall govern in case of conflict with any provision of this division.

Sec. 3.10.006 Violations.

Violations of any of the provisions of this article are punishable as provided in Section 1.01.009 of this Code.

Secs. 3.10.007–3.10.999 Reserved

ARTICLE 3.11 RESIDENTIAL RENTAL PROPERTY LICENSE AND STANDARDS

Sec. 3.11.001 Purpose.

The purpose of this article is to protect the health, safety, and welfare of the citizens of the City by establishing minimum standards governing the construction, use, occupancy, management, operation and maintenance of a residential rental unit, duplex or multi-family dwelling unit and apartment house; by establishing additional standards governing utilities, facilities, and other physical components and conditions essential to make residential rental units, duplex or multi-family dwelling units and apartment houses safe, sanitary and fit for human use, occupancy and habitation; and by fixing penalties for the violation of the provisions of this article. This article is hereby declared to be remedial and essential to the public interest, safety, health and welfare, and it is intended that this article be liberally construed to effectuate the purposes as stated above. Finally, it is found and declared that the fees imposed pursuant to this article are necessary to cover the cost of exercising the proper regulation of residential rental units, duplex or multi-family dwellings as set forth in this article.

Sec. 3.11.002 Definitions.

For the purposes of this article, the following definitions shall apply unless the context indicates or requires a different meaning:

Administrator or Inspecting Official. *The department(s) or division(s) of the City designated by the city manager to administer and/or enforce the provisions of this article and any person or persons designated by such a department or division to represent the department or division for said purpose.*

Apartment. *A room or suite of rooms arranged or designed to be used as a residence by a single individual or group of individuals.*

Apartment building. *Any structure containing four or more dwelling units.*

Apartment house. *Any building, or portion thereof, which is designed, built, rented, leased, let, or hired out to be occupied as four or more dwelling units or which is occupied as the home or residence of four or more families living independently from each other and maintaining separate cooking facilities.*

Building official. *The chief building official or other designated authority charged with the administration and enforcement of the building codes, and/or the building official's duly authorized representative.*

Change in ownership. *For purposes of this section, a "change in ownership of a multi-family dwelling complex" occurs when more than fifty percent (50%) of the equity interest of a multi-family dwelling complex is owned by a person or persons other than the person or persons listed on the last multi-family dwelling license application on file for that multi-family dwelling complex.*

Code official. The official who is charged with the administration and enforcement of this Code, and/or any duly authorized representative.

Common area. The communal areas of the complex, including hallways, stairways, lobby areas, laundry rooms, pool facilities, green spaces, recreation rooms and parking lots.

Condominium. A complex of individually owned residential units with undivided co-ownership of common elements.

Congregate residence. Any building or portion thereof which contains facilities for living, sleeping and sanitation (and may include facilities for cooking and eating) for occupancy by other than a family, such as a shelter, a convent, a monastery, a dormitory, a fraternity or sorority house, a jail or a hospital.

Construction codes. The building code, electrical code, energy conservation code, fire code, fuel gas code, mechanical code, property maintenance code, and plumbing code, collectively.

Duplex. A dwelling occupied other than as a single-family or multi-family dwelling and is occupied or intended to be occupied for residential purposes by two families.

Dwelling unit. Any room or group of rooms providing complete, independent living facilities for the occupants thereof and occupied, or which is intended or designed to be occupied, as the home or residence of one individual, group of individuals, family or household, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Exterminated and/or extermination. The control and elimination of insects, rodents and vermin by eliminating their places of harborage and by removing or making inaccessible, materials that may serve as their food and by poisoning, spraying, fumigating, trapping or by any other approved means of pest elimination.

Fire code. The official fire code of the City in effect at the time of construction; provided, however, that all existing structures and equipment and any replacement or new installation must comply with the current official fire code of the City to the extent required by said code.

Floor space. The total area of all habitable space.

Garbage. Refuse, animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Graffiti. Words, phrases, designs, symbols, letters or drawings written, painted or scratched on sidewalks, fences, walls, windows, walls of buildings, trees or other structures or items.

Hot water. Hot water supplied to plumbing fixtures at a temperature of not less than 110 degrees Fahrenheit.

Infestation. The presence within or continuous, to a dwelling unit of insects, rodents, vermin or other pests.

Landlord. The owner or lessor of a multi-family dwelling complex and additionally includes a management company or managing agent (including an onsite manager) of a multi-family dwelling complex.

Litter. Garbage, refuse and rubbish and all other waste material.

Multi-family dwelling complex. Any building or group of buildings that provides three or more dwelling units owned by the same person on a single platted lot, or if the land on which the building or buildings is not platted, then any building or group of buildings that provides three or more dwelling units owned by the same person on a contiguous tract of land under a common ownership.

- (1) The term also includes any accessory structures and facilities incidental to the use thereof, including but not limited to yards, courts, parking areas, storage buildings, equipment buildings, mail rooms, laundry facilities, swimming pools, spas, ponds, cabanas, play rooms and play yards, recreational and picnic facilities, public assembly rooms, garages, carports, fences, walls, and all other similar building structures and facilities on the premises.*
- (2) The term shall not include hotels, motels or congregate residences. The term shall also not include a premises that is inspected by a state or federal governmental entity for compliance with the provisions of any state or federal law or regulation regulating the fitness of said premises for human habitation if at least 50 percent of the dwelling units of the premises are subject to said state or federal law or regulation. For purposes of this definition, the term "state or federal governmental entity" shall mean the government of the United States; a department, division, agency or subdivision of the United States government; the State of Texas; or a political subdivision of the State of Texas. Also for purposes of this definition, the term "state or federal law or regulation" shall mean a law, rule, regulation or standard of (a) the government of the United States; (b) a department, division, agency or subdivision of the United States government; (c) the State of Texas; or (d) a political subdivision of the State of Texas other than the City*

Occupancy. *The purpose for which a building or portion thereof is utilized or occupied.*

Occupant. *Any individual living or sleeping in a building, or having possession of a space within a building.*

Owner. *Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of such person if ordered to take possession of real property by a court.*

- (1) If the owner does not live within 50 miles of the city, then in addition to the contact information required for registration, the same contact information shall be required for a local contact person who lives within the city limits or within 50 miles of the city limits and who has the authority to represent the owner in all matters relating to maintenance of the residential rental unit, duplex or multi-family dwelling complex.*

Person. *An individual, partnership, firm, company, corporation, association, business trust, estate trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.*

Plumbing. *Includes all of the following supplied facilities, equipment, and devices: gas pipes, toilets, lavatories, sinks, laundry tubs, catch basins, wash basins, bathtubs, shower baths, waste sewer pipes and sewerage system, septic tanks, drains, vents, traps, and any other fuel-burning or water-using fixtures and appliances, including private fire hydrants, together with all connections to water, wastewater, sewer, or gas.*

Premises. *A lot, plot or parcel of land, including any structures thereon.*

Property manager. *A person who has managing control of real property; in a condominium regime, the term shall include the council of owners, the homeowner association or the entity having control over the common, co-owned elements.*

Refuse. *Refers to all putrescible and non-putrescible solid wastes (except body wastes) including, but not limited to, garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.*

Regular license fee. The monetary fee a rental property licensee must pay per dwelling unit per year.

Rental property. Each residential rental unit, duplex or multi-family dwelling unit.

Rental property license. The license issued by the building official pursuant to this article and referred to as "license" in this article.

Resident manager. An onsite manager or agent of a property manager who is the person with whom the tenant normally deals concerning the rental agreement or apartment building use of the property.

Residential rental unit. Any building or portion thereof which is rented, leased or let to be occupied for compensation as a residence.

Rubbish. Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrapping, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

Secure. To lock all exterior doors and windows within 24 hours after such units become vacant and exercise reasonable care to maintain such locks as necessary to deter unauthorized entrance into any unoccupied dwelling.

Structure. That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Swimming pool. Any structure, basin, chamber, or tank containing an artificial body of water for swimming, diving, or physical fitness, or recreational bathing and having a depth of two feet or more at any point. This phrase does not include lakes or creeks.

Tenant. Any person who occupies a dwelling unit for living or dwelling purposes with the landlord's consent.

Utility company. The entity providing gas, electric service, water or sanitary sewer to a master metered dwelling.

Washateria. A self-service laundry room accessible to all residents and which contains two or more pairs of washers and dryers.

Sec. 3.11.003 Inspection Standards.

Any residential rental unit, duplex or multi-family dwelling complex inspected under the authority of this article must comply with the standards set forth in this section in order to pass inspection.

- (a) Structural integrity of premises. All residential rental units, duplex or multi-family dwelling complexes must be structurally sound and comply with the applicable construction codes as required by law. All permits required for any replacements or new installations must be obtained.
- (b) Egress required. All dwelling units shall be provided safe and unobstructed means of egress leading to safe and open space at ground level. All windows must meet the applicable requirements of the construction codes. When an unsafe condition exists through lack of, or improper location of exits, the administrator may require the installation of additional exits.
- (c) Bedroom window required. Every bedroom in a dwelling unit must have at least one window or opening facing directly to the outdoors which is capable of being easily opened by any occupant as far as it was originally designed to open.

- (d) Screening required. Every window in any dwelling unit which is used for ventilation purposes directly to or from outdoor space shall be equipped with an insect-proof screen.
- (e) Painting, waterproofing and repair to prevent deterioration. All exterior surfaces must be painted, waterproofed, and/or maintained in good repair as necessary in order to prevent deterioration including but not limited to the following items: loose siding with holes or excessive cracks, rotted boards which allows air or water to penetrate rooms, loose roof covering, holes or leaks in roof, rotting, sagging, or deteriorating supports for steps, stairs, and porches, balconies, or other similar structures.
- (f) Railings, stairs, steps, balconies, porches. All railings, stairs, steps, balconies, porches, or landings must be designed and maintained as specified in the applicable construction codes. Any holes, cracks and other defects in stairs, porches, steps and balconies must be repaired.
- (g) Floors, walls, ceiling and all supporting structural members. All floors, walls, ceilings, and supporting structural members must be maintained in a sound condition, free of holes, breaks, or loose surface materials, and capable of bearing imposed loads safely.
- (h) Plumbing, electrical, heating, and air conditioning systems. All installed systems in each dwelling unit in the residential rental unit, duplex or multi-family dwelling complex must maintain all plumbing, electrical, heating, and air conditioning systems in compliance with the applicable construction codes and all necessary permits obtained. All such systems must meet the following requirements:
 - (1) Kitchen requirements. All units must be provided with a kitchen sink connected to the municipal water supply and approved sanitary sewer systems; cooking appliance and refrigerator maintained in safe operating condition. Such fixtures and equipment shall be installed so as not to be a health or sanitation hazard.
 - (2) Bathroom requirements. All units must be provided with a flush water toilet, lavatory basin, and a bathtub or shower connected to the municipal water supply and approved sanitary sewer systems. Such flush water toilet, lavatory basin, and bathtub or shower shall be installed so as not to be a health and sanitation hazard.
 - (3) Fixtures connected to hot, cold water. Every kitchen sink, lavatory basin and bathtub or shower required by the provisions of this article shall be connected with both hot and cold water lines.
 - (4) Water-heating equipment. Water-heating equipment shall be provided and maintained in operating condition and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110 degrees Fahrenheit.
 - (5) Boilers. All boilers must meet all state law requirements and have the inspection certification posted in accordance with the state department of licensing and regulation boiler division laws and regulations.
 - (6) Ventilation, flues and vent attachments. All ventilation, flues and vent attachments must function properly.
 - (7) Connections. All connections of plumbing fixtures and heating equipment must be in accordance with the applicable construction codes as required by law.

- (8) Sewage and wastewater disposal. Wastewater disposal systems must be properly installed and maintained. Sewage must not be allowed to back up into the building or accumulate on the property. All sewage pipes and connections must be free of leaks. All wastewater lines must be properly capped.
 - (9) Electrical service supply lines. Each dwelling unit must be connected to supply lines for electrical service and said lines must be maintained in operating condition. Each electrical meter must be permanently marked to designate the unit and/or building it is servicing.
 - (10) Electrical circuits and outlets. All electrical circuits and outlets must be maintained in compliance with the applicable construction codes as required by law. Ground fault interrupters must be properly installed where required.
 - (11) Natural gas service line. All natural gas service lines to each dwelling unit must be maintained in compliance with the applicable construction codes.
 - (12) Security devices. Security devices must be installed and maintained in good working order including keyless deadbolt locks, door viewers, window and door locks, and sliding glass door security.
 - (13) Lighting. Exterior illumination shall be provided at appropriate points adjacent to all building entrances, including individual dwelling units, stairwells, and hallways as required by the applicable construction codes. Lighting shall be sufficient to illuminate area where hazards may reasonably exist, and shall be operable between a half-hour after sunset and a half hour before sunrise. If control mechanisms for such lighting are not accessible by each tenant, such illumination shall be activated and deactivated by a photo cell or seasonally-adjusted timer switch, not operable by individual tenants of the multi-family dwelling complex. A landlord shall repair all inoperable exterior lighting fixtures within a reasonable period of time after being notified that the fixture is not working, in no instance shall a reasonable period of time be deemed to mean more than seven days.
- (i) General maintenance; grounds and premises. The exterior and grounds of any residential rental unit, duplex or multi-family dwelling complex must be maintained in compliance with all applicable provisions of this Code. In addition to any requirements of said code, the exterior and grounds of any residential rental unit, duplex or multi-family dwelling complex must comply with the following minimum requirements:
- (1) Graffiti. All buildings, structures and grounds must be maintained free of graffiti.
 - (2) Extermination of insects, rodents or other pests. Every residential rental unit, duplex or multi-family dwelling complex must be properly inspected and exterminated for any observed pests a minimum of twice a year or more frequently as needed for specific dwelling units to maintain the premises free from rodents, insects, and other pests. All pest control must be performed by a properly licensed pest control operator in accordance with applicable state laws and regulations.
 - (3) Garbage and refuse collection. Except when placed curbside for collection in accordance with all applicable requirements of the City, any outside storage of garbage must be in a container that is constructed of durable, rodent-proof material and that has an intact lid. When placed outside for the purposes of

curbside collection, all garbage and refuse must meet all applicable requirements of the City. Any commercial container must meet all applicable City requirements regarding enclosure and/or screening of the container.

- (4) Elimination of hazards. There must not be any hole, excavation, sharp protrusion, or other object or condition that exists on the land and is a health or safety hazard.
- (5) Stagnant water. Each residential rental unit, duplex or multi-family dwelling complex must provide drainage on the premises sufficient to prevent standing water.
- (6) Dead trees and tree limbs. All dead trees and tree limbs that pose a health or safety hazard must be removed from the premises.
- (7) Vacant interior structures. The interior of a vacant structure or vacant portion of a structure must be maintained free from rubbish and garbage. All vacant or unoccupied dwelling units must be secured from unauthorized entry by the installation and maintenance of appropriate locking devices and intact doors and windows which are proportioned to securely and completely fit the openings.
- (8) Overgrown vegetation; junk and litter; junk vehicles. Grounds must be maintained free of overgrown vegetation; junk and litter; and junk vehicles in accordance with the ordinances, as they currently exist or may be amended, of the City.
- (9) Fences and retaining walls. All fences, gates and retaining walls must be maintained in good repair.
- (10) Swimming pools. All swimming pools must be maintained in compliance with the ordinances, as they currently exist or may be amended, of the City.
- (j) Fire safety. All residential rental units, duplexes and multi-family dwelling complexes shall meet the following minimum requirements with regard to fire safety:
 - (1) Parking lot and fire lane markings. Parking lots, fire lanes and required paved areas must have legible parking stripes and must be maintained in accordance with the fire code.
 - (2) Posting of addresses. Approved numbers and/or addresses shall be provided for all new and existing buildings so that the number and/or address is legible, in contrasting colors, and clearly visible from the public roadway. Such numbers and/or addresses must comply with the fire code.
 - (3) Smoke and fire detection systems; alarm systems. All fire and smoke detection systems and fire alarm systems required by the fire code must be installed in accordance with the fire code. At a minimum, such systems must be maintained in operating condition and in accordance with any applicable fire code requirements. Battery powered smoke detectors must be maintained in operating condition with adequately charged batteries properly installed.
 - (4) Extinguishers. All fire extinguishing appliances, fire hydrants, and portable fire extinguishers must be installed and maintained in compliance with the fire code. Automatic fire suppression systems shall be inspected annually. Backflow prevention devices shall be tested by a certified backflow prevention tester.

- (5) Storage of combustible, flammable materials. Combustible and flammable materials and all equipment or appliances containing flammable material must be properly stored in accordance with the fire code.

Sec. 3.11.004 License Required.

No person shall own, operate, manage or maintain a residential rental unit, duplex or multi-family dwelling complex without a valid rental property license from the City, issued by the Inspecting Official. A license that has been revoked, that has expired or that has lapsed for any reason is not valid. A suspended license is not valid during the period of suspension.

- (a) Issuance of license. The administrator shall issue a rental property license so long as the information provided on the application indicates that the residential rental unit, duplex or multifamily dwelling complex complies with all of the requirements of this article and other City ordinances as applicable and all required fees are paid.
- (b) Licenses not transferable. A rental property license is not transferable from one person to another or from one location to another location. A rental property license shall authorize the operation of the residential rental unit, duplex or multi-family dwelling complex only at the location and for the owner to which it is granted.
- (c) Application for a rental property license shall be made in writing on the form provided by the administrator. A separate application is required for each residential rental unit, duplex or multi-family dwelling complex for which a license is sought. A new application is required for properties with a change in ownership.
- (d) An application fee is due with each application for a rental property license.
- (e) Posting of licenses. A valid rental property license shall at all times be available on the premises for inspection. For multi-family dwelling complexes, the rental property license shall at all times be displayed in public view in the business office.
- (f) License Duration.
- (1) Each license, including without limitation any renewal of a license, issued under this article shall expire at the end of each calendar year. Each license shall specify on its face the effective date of the license and the date of expiration.
- (2) Any rental property license that is not renewed before its expiration date may be renewed only upon payment of both the annual license fee and the required late fee.

Sec. 3.11.005 Fees.

- (a) Submission of payment. The requirements for licenses and administrative fees as set forth in Appendix C of this Code shall require the payment to be submitted to the administrator.
- (b) Types of fees imposed. An annual license fee shall be required for the initial issuance of a rental property license and for each annual renewal of a rental property license in the amount set forth in Appendix C of this Code. A late fee may be charged when the annual license fee is not paid before the expiration of the existing rental property license. The annual license fee associated with the initial issuance of a rental property license may be prorated. In the event any of the inspections authorized in this article requires a reinspection due to noted violations, then after the first inspection, there shall be a reinspection fee for each additional reinspection of each unit required to ensure the correction of said violations.

- (c) Problem Properties. All rental properties with three or more documented violations of federal, state or local laws within a twelve (12) month period shall be assessed an additional annual license fee the following year.
- (d) Nonrefundable. Any and all fees imposed in conjunction with this article are not refundable.

Sec. 3.11.006 Inspections.

Inspections are necessary to determine compliance with minimum building and property maintenance standards in accordance with the International Property Maintenance Code and other applicable City codes.

- (a) Exceptions. All newly constructed rental properties are exempt from inspection requirements for the initial three years of operation unless the property includes three or more documented violations of federal, state or local laws within a twelve (12) month period. The property will still need to obtain an annual rental property license.
- (b) Inspection authority. The administrator is authorized to conduct such inspections as the administrator deems necessary to ensure compliance with all provisions of the construction codes and all other provisions of this Code. The Administrator shall have the right of entry at any reasonable hour upon the premises. The administrator shall have the authority to inspect all unoccupied dwelling units upon giving reasonable notice to the owner, landlord, resident or property manager. The administrator shall have the authority to inspect any occupied dwelling unit when, upon reliable information, the administrator has reason to believe that violations of this article or of state law exist that involve serious threats to life, safety, health or property.
- (b) Inspection frequency. Inspections may be performed annually for the enforcement of this article. The administrator shall provide a 30-day notice prior to the inspection date. Notice shall include an inspection checklist.
- (c) Inspection based on complaint. In addition to any other authority granted by this article, the administrator shall have the authority to inspect based on complaints or other credible information indicating the possibility of a violation of this article.
- (d) Inspection areas. Inspections shall be performed in areas such as all building exteriors, all exterior and interior common areas, vacant dwelling units and comparative samples of occupied dwelling units upon receipt of consent by the unit's tenant or other recourse as provided by law.

Sec. 3.11.007 Minimum Responsibilities of Occupant.

At a minimum, an occupant shall:

- (a) *Maintain those portions of the interior of a dwelling unit under the occupant's control free from rubbish, garbage, conditions that would encourage infestation of insects, rodents or other pests and other unsanitary conditions.*
- (b) *Maintain the dwelling unit and all plumbing equipment and facilities provided in a clean, sanitary condition at all times.*
- (c) *Not alter a dwelling unit or its facilities so as to create a nonconformity with this article.*

Sec. 3.11.008 Landlord/Tenant Inspections.

- (a) *The landlord or their designee of a residential rental unit, duplex or multi-family dwelling complex shall inspect each dwelling unit within the residential rental unit,*

duplex or multi-family dwelling complex in accordance with this section.

- (1) The inspection of a dwelling unit shall be conducted with the unit's tenant when the occupancy of the unit changes.*
- (2) The landlord shall sign each inspection report, and shall require a tenant to sign the report for the tenant's dwelling unit. If the tenant disagrees with any notation made by the landlord on the report, the landlord shall permit the tenant to make written comments on the report prior to signing it. The landlord shall provide the tenant with a copy of the report after it is signed by the tenant and the landlord.*
- (3) The minimum building and property maintenance standards established by the International Property Maintenance Code and other applicable City codes shall be covered by the inspection, including but not limited to the following items:*
 - (A) Electrical facilities.*
 - (B) Plumbing facilities.*
 - (C) Heating facilities.*
 - (D) Ventilation.*
 - (E) Smoke detectors.*
 - (F) Occupancy limitations.*
 - (G) Means of egress.*
 - (H) Handrails and guardrails.*
 - (I) Exterior property areas.*
 - (J) Rubbish and garbage.*
- (4) The failure of a landlord to make inspections as required by this section, to maintain records of the inspections, and to permit inspection of those records pursuant to subsection (b) of this section is a violation of this article.*
- (b) A landlord shall maintain reports of the inspections conducted pursuant to subsection (a) of this section for all dwelling units within the multi-family dwelling complex.*
 - (1) The reports shall be in a form acceptable to the administrator.*
 - (2) The report shall include places for marking whether the dwelling unit complies with the inspection standards set by this section and shall include the names of all persons occupying the dwelling unit other than overnight guests.*
- (c) The report shall also include:*
 - (1) The names of designated employees or other authorized persons who shall be assigned to respond to emergency conditions;*
 - (2) The telephone number where said employees can be contacted during any 24-hour period. Emergency conditions shall include fire, natural disaster, flood, collapse hazard, burst pipes or violent crime; and*
 - (3) A notice for reporting code violations to the City as follows:*

“TO REPORT UNRESOLVED VIOLATIONS OF THE CITY'S RENTAL PROPERTY LICENSE AND STANDARDS ORDINANCE FOR THESE

PREMISES, CONTACT THE CITY OF SHERMAN DEVELOPMENT SERVICES DEPARTMENT.”

- (d) *The landlord shall maintain the inspection reports required by this section on the premises of the multi-family dwelling complex and shall make them available to the administrator for inspection at all reasonable times. If there is no business office on the premises of the residential rental unit, duplex or multi-family dwelling complex, the landlord shall maintain reports at the landlord's central business office, and shall make them available to the administrator for inspection at the residential rental unit, duplex or multi-family dwelling complex at all reasonable times.*

Sec. 3.11.009 Compliance with Applicable Codes.

- (a) *Residential rental units, duplexes and multi-family dwelling complexes must comply with all applicable construction codes.*
- (b) *Each residential rental unit, duplex and multi-family dwelling complex and all units within each complex must comply with all applicable health, fire and safety ordinances of the City at all times.*

Sec. 3.11.010 Failure to Comply.

- (a) *Failure to comply with any provision of this article may result in the probation, denial, suspension or revocation of a rental property license.*
- (b) *Probationary status. Residential rental units, duplex or multi-family dwelling complexes that either (1) fail to pass both an inspection and the associated reinspection or (2) fail to continually maintain compliance with the provisions of this article will be placed on a probationary status until such time as it is determined that the residential rental unit, duplex or multifamily dwelling complex passes inspection and remains in compliance.*
- (1) *While a residential rental unit, duplex or multi-family dwelling complex is in probationary status, no dwelling unit of said residential rental unit, duplex or multifamily dwelling complex may be occupied by different occupants or newly occupied until the dwelling unit has passed an inspection by the administrator.*
- (2) *Probationary status may be removed after the residential rental unit, duplex or multi-family dwelling complex successfully passes inspection.*
- (c) *Denial of license. Upon determination that a residential rental unit, duplex or multi-family dwelling complex does not comply with the provisions of this article, the administrator shall notify the owner or landlord of the residential rental unit, duplex or multi-family dwelling complex of existing violations. If the residential rental unit, duplex or multi-family dwelling complex does not have a license or is applying for the renewal of an existing license, the administrator may deny the issuance of the requested license until the violations are corrected. Whenever a license is denied, the applicant shall be offered an opportunity for a meeting with the administrator within 20 days of receipt of a request for a meeting. The request for a meeting, however, must be made in writing within ten days of receiving notice that the license was denied.*
- (d) *Failure to pay fees. The administrator may suspend or deny a license for the failure to pay any fee required by the provisions of this article until such time as the appropriate fee is paid.*
- (e) *Suspension of license. The administrator may, without warning, advance notice or hearing, suspend any license to operate a residential rental unit, duplex or multi-family*

dwelling complex if the operation of the residential rental unit, duplex or multi-family dwelling complex constitutes an imminent hazard to public health or safety. Upon suspension of a license, the owner may not continue to allow new tenants to occupy any unit until the license is reinstated.

- (1) Notice of suspension. Whenever a license is suspended, the holder of the license, or the responsible person shall be notified in writing that the license is, upon service of the notice, immediately suspended.*
 - (2) Duration. Suspension of a rental property license shall continue until the administrator determines, after an inspection, that the reasons for suspension no longer exist, and until all applicable fees required by this article have been paid, as applicable.*
 - (3) Other remedies reserved. Suspension of a rental property license shall not preclude the administrator from taking any other enforcement action authorized by law.*
- (f) Public utility services. When it is determined by the administrator that an imminent threat to health or safety exists, the administrator may notify all public utility companies serving the residential rental unit, duplex or multi-family dwelling complex of the health or safety hazard and request that all public utility services affected by the hazard be discontinued for some or all of those dwelling units at peril. The City is not responsible for any fees incurred in connection with utility disconnection or reconnection.*
- (g) Revocation of license. The administrator, after providing opportunity for a meeting, may revoke a license for repeated or serious violations of any of the requirements of this article or for interference with the administrator in the performance of the administrator's duties.*

Secs. 3.11.011–3.11.999 Reserved

ARTICLE 3.12 FLOOD DAMAGE PREVENTION

Division 1. Generally

Sec. 3.12.001 Statutory authorization.

The legislature of the state has, in the Flood Control Insurance Act, Texas Water Code, section 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City adopts this article in accordance with applicable law.

Sec. 3.12.002 Findings of fact.

- (a) The flood hazard areas of the City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.*
- (b) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.*

Sec. 3.12.003 Statement of purpose.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;*
- (2) Minimize expenditure of public money for costly flood control projects;*
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;*
- (4) Minimize prolonged business interruptions;*
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;*
- (6) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and*
- (7) Ensure that potential buyers are notified that property is in a flood area.*

Sec. 3.12.004 Methods of reducing flood losses.

In order to accomplish its purposes, this article uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;*
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;*
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;*
- (4) Control filling, grading, dredging and other development which may increase flood damage;*
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.*

Sec. 3.12.005 Definitions

Unless specifically defined below, words or phrases used in this article shall be interpreted to give them the meaning they have in common usage and to give this article its most reasonable application.

Appeal. *A request for a review of the floodplain administrator's interpretation of any provision of this article.*

Appurtenant structure. *A structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.*

Area of shallow flooding. *A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.*

Base flood. *The flood having a one percent annual chance of being equaled or exceeded in any given year.*

Base flood elevation (BFE). *The elevation shown on the flood insurance rate map (FIRM) and found in the accompanying flood insurance study for zones A, AE, AH, A1-A30, AR, V1-V30,*

or VE that indicates the water surface elevation resulting from the flood that has a one percent (1%) annual chance of equaling or exceeding that level in any given year; also called the base flood.

Basement. Any area of a building having its floor subgrade (below ground level) on all sides.

Breakaway wall. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Conditional letter of map amendment (CLOMA). A proposed amendment to the currently effective FEMA map which establishes that a property is not located in a special flood hazard area contingent upon adherence to a specified plan of construction.

Conditional letter of map revision (CLOMR). The Federal Emergency Management Agency's comment on a proposed project that would affect the hydraulic or hydrologic characteristics of a flooding source that would result in the modification of the existing regulatory floodway, effective base flood elevation, or special flood hazard area.

Critical facilities. Structures or equipment that, if damaged or made non-functional, would impact the health, safety, and welfare of the public. For some facilities, even a slight chance of flooding is too great a threat. Typical critical facilities include, but are not limited to hospitals, nursing homes, orphanages, penal institutions, police stations, fire stations, emergency services, storage of critical records, water and sewage treatment plants, and pump stations.

Development. Any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building. For insurance purposes, a non-basement building which has its lowest floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Elevation certificate. A form used by the National Flood Insurance Program to indicate the elevation of the lowest inhabitable floor of a structure (including basements).

Existing construction. Structures for which the "start of construction" commenced before the effective date of the current flood insurance rate map. "Existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the flood insurance rate map.

Expansion to an existing manufactured home park or subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Emergency Management Agency (FEMA). An agency within the U.S. Department of Homeland Security charged with responding to presidentially-declared disasters. This agency is responsible for administering the National Flood Insurance Program.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; or

(2) *The unusual and rapid accumulation of runoff of surface waters from any source.*

Flood elevation study. *An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.*

Flood insurance rate map (FIRM). *An official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.*

Flood insurance study (FIS). *The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the flood boundary-floodway map.*

Flood protection system. *Physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.*

Floodplain or floodprone area. *Land area susceptible to being inundated by water from any source. (See definition of “flood or flooding”.)*

Floodplain management. *The operation of an overall program of corrective and preventative measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.*

Floodplain management regulations. *Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of enforcement. The term describes such state or local regulations, or any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.*

Floodproofing. *A combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.*

Floodway. *See regulatory floodway.*

Functionally dependent use. *A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.*

Highest adjacent grade. *The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.*

Historic structure. *Any structure that is:*

- (1) *Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;*
- (2) *Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;*

- (3) *Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or*
- (4) *Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:*
 - (A) *By an approved state program as determined by the Secretary of the Interior; or*
 - (B) *Directly by the Secretary of the Interior in states without approved programs.*

Known flood hazard area. *A local area with a historic tendency of flooding or other drainage-related challenges that is not documented in flood insurance rate maps.*

Levee. *A manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.*

Levee system. *A flood protection system which consists of a levee or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.*

Letter of map amendment (LOMA). *An amendment to the currently effective Federal Emergency Management Agency map which establishes that a property is not located in a special flood hazard area. A LOMA may only be issued by the Federal Emergency Management Agency.*

Letter of map revision (LOMR). *An official amendment to the currently effective Federal Emergency Management Agency map. It is issued by the Federal Emergency Management Agency and changes flood zones, delineations, and elevations.*

Lowest floor. *The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the requirements of section 60.3 of the National Flood Insurance Program regulations.*

Manufactured (mobile) home. *A structure transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured (mobile) home" does not include a "recreational vehicle."*

Manufactured (mobile) home park or subdivision, existing. *A parcel (or contiguous parcels) of land divided into two (2) or more manufactured (mobile) home lots for rent or sale.*

Manufactured (mobile) home park or subdivision, new. *A manufactured home park or subdivision completed on or after the effective date of floodplain management regulations adopted by the City. Completion shall be defined as the date on which the facilities for servicing the manufactured home lots are constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).*

Mean sea level (MSL). *For purposes of the National Flood Insurance Program, the North American Vertical Datum of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.*

New construction. *Structures for which the "start of construction" commenced on or after the effective date of the current effective flood insurance rate map and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction"*

means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the City and includes any subsequent improvements to such structures.

National Flood Insurance Program (NFIP). *The program of flood insurance coverage and floodplain management administered under the act and applicable federal regulations promulgated in title 44 of the Code of Federal Regulations, subchapter B.*

Nonresidential structure. *A commercial or non-habitational building, or a mixed-use building that does not qualify as a residential building. This includes but is not limited to small businesses, churches, schools, farm buildings (including grain bins and silos), garages, pool houses, clubhouses, recreational buildings, mercantile buildings, agricultural and industrial buildings, warehouses, nursing homes, licensed bed-and-breakfasts, and hotels and motels with normal room rentals for less than 6 months.*

Physical map revision (PMR). *An amendment to the effective Federal Emergency Management Agency floodplains.*

Recreational vehicle. *A vehicle which is:*

- (1) Built on a single chassis;*
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projections;*
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and*
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.*

Regulatory floodway. *The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation (i.e. a rise of zero (0) feet).*

Residential structure. *A non-commercial building designed for habitation by one or more families or a mixed-use building that qualifies as a single-family, 2-4 family, or other residential building.*

Riverine. *Relating to, formed by, or resembling a river (including tributaries), stream, creek, brook, etc.*

Special flood hazard area (SFHA). *An area having special flood, mudflow or flood-related erosion hazards and shown on a flood hazard boundary map or a flood insurance rate map zone A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-A30, V1-V30, VE or V. The SFHA is the area where the National Flood Insurance Program's floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.*

Start of construction. *For new construction or substantial improvements, the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means:*

- (1) The first placement of permanent construction of a structure on a site or any work beyond the stage of excavation, not including land preparation (clearing, grading or filling), the erection of temporary forms or accessory buildings (garages or sheds not occupied as dwelling units or part of the main structure), or the installation of streets and/or walkways,*

- (2) *The placement of a manufactured home on a foundation;*
- (3) *For substantial improvement, the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.*

Structure. *For floodplain management purposes, a walled and roofed building that is principally above ground, including gas or liquid storage tanks and manufactured homes. A structure has two or more outside rigid walls and a roof that is affixed to a permanent site. The Federal Emergency Management Agency uses “structure” and “building” interchangeably.*

Substantial damage. *Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.*

Substantial improvement. *Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not include:*

- (1) *Improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or*
- (2) *Alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.”*

Variance. *A grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see section 60.6 of the National Flood Insurance Program regulations.)*

Violation. *The failure of a structure or other development to be fully compliant with the City’s floodplain management regulations, including failure to provide elevation certificates, other certifications, or evidence of compliance as required in section 60.3 of the National Flood Insurance Program regulations until such time as that documentation is provided.*

Water surface elevation. *The height, in relation to the North American Vertical Datum of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.*

Sec. 3.12.006 Applicable lands.

This article shall apply to all areas of special flood hazard within the jurisdiction of the City, including areas within city limits and the City’s extraterritorial jurisdiction.

Sec. 3.12.007 Basis for establishing areas of special flood hazard.

The areas of special flood hazard identified by FEMA in the current scientific and engineering report entitled, “The Flood Insurance Study for Grayson County, Texas and Incorporated Areas” dated September 1, 2022, with accompanying flood insurance rate maps, and any updates or revisions thereto, as well as areas which have not yet been delineated on the FEMA maps but are known to constitute a known flood hazard area, are hereby adopted by reference and declared to be a part of this article.

Sec. 3.12.008 Establishment of floodplain development permit.

A floodplain development permit shall be required to ensure conformance with the provisions

of this article.

Sec. 3.12.009 Compliance.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this article and other applicable regulations.

Sec. 3.12.010 Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 3.12.011 Interpretation.

In the interpretation and application of this article, all provisions shall be:

- (1) Considered as minimum requirements;*
- (2) Liberally construed in favor of the governing body; and*
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.*

Sec. 3.12.012 Warning and disclaimer of liability.

- (a) The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by manmade or natural causes. This article does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages.*
- (b) This article shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder. In no case shall responsibility of liability arise from the design or operation of drainage facilities dedicated to the City.*

Secs. 3.12.013–3.12.040 Reserved

Division 2. Administration

Sec. 3.12.041 Designation of floodplain administrator.

The city engineer is hereby appointed the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 Code of Federal Regulations (CFR) of the Emergency Management and Assistance - NFIP Regulations pertaining to floodplain management.

Sec. 3.12.042 Duties and responsibilities of floodplain administrator.

- (a) Duties and responsibilities of the floodplain administrator shall include, but not be limited to the following:*
 - (1) Maintain and hold open for public inspection all records pertaining to the provisions of this article;*
 - (2) Review building permit applications to determine whether proposed building site projects, including the placement of manufactured homes, will be reasonably safe from flooding;*
 - (3) Review, approve, or deny all applications for floodplain development permits*

required by this article;

- (4) Review permits for proposed development to assure that all necessary permits have been obtained from required federal, state or local governmental agencies, including section 404 of the Clean Water Act (Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334). However, these assurances do not assume any responsibility on the part of the floodplain administrator or the City to enforce the conditions of permits issued by agencies other than the City;*
- (5) Interpret, where necessary, the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions);*
- (6) In riverine situations, notify adjacent communities and the state coordinating agency, which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA;*
- (7) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained;*
- (8) Obtain, review, and reasonably utilize any base flood elevation data and/or floodway data available from a federal, state or other source, in order to administer the provisions of division 3 of this article when base flood elevation data has not been provided in accordance with section 3.12.007;*
- (9) When a regulatory floodway has not been designated, require that no new construction, substantial improvements, or other development (including fill) is permitted within zones AI-30 and AE on the community's FIRM unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood (rise of zero (0) feet) at any point within the community;*
- (10) May approve certain development in zones AI-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood, provided that the community first completes all of the provisions required by 44 CFR chapter 1, section 65.12 of the NFIP regulations;*
- (11) Maintain a record of all variance actions, including justification for their issuance; and*
- (12) Review, comment, and approve or deny all CLOMR or LOMR requests to be submitted on behalf of the City to FEMA. The floodplain administrator must approve all CLOMRs and LOMRs before they are submitted to FEMA.*
- (b) The City may require an additional third-party review fee depending on the complexity of the proposed project.*

Sec. 3.12.043 Floodplain permit procedures.

- (a) A City floodplain development permit shall be required for all proposed development within a SFHA or floodplain to assure conformance with the provisions of this article. The floodplain development permit shall be issued by the engineering department.*
- (b) Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by the City and may include, but are not limited to:*

- (1) *Plans, drawn to scale, showing:*
 - (A) *The locations, dimensions, and elevation of proposed landscape alterations, including fences.*
 - (B) *The locations and dimensions of existing and proposed structures (including manufactured homes), along with:*
 - (i) *The elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures; and*
 - (ii) *The elevation (in relation to mean sea level) to which any nonresidential structure shall be floodproofed;*
- (2) *The location of the foregoing in relation to areas of special flood hazard with BFEs shown where applicable, Additionally, the following information is required:*
 - (A) *A certificate from a professional engineer or architect, registered in the state, that the nonresidential floodproofed structure shall meet the floodproofing criteria of section 3.12.072(2);*
 - (B) *A description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of the proposed;*
 - (C) *A model in the latest-available version of HEC-RAS or equivalent software showing existing and proposed conditions of the proposed project area and sufficient upstream and downstream extents to show no negative impact outside of the proposed project area;*
 - (D) *Where required, a CLOMR approved by the City's floodplain administrator and FEMA; and*
 - (E) *A maintained record of all information in accordance with section 3.12.042(a)(2).*
- (c) *Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of this article and the following relevant factors:*
 - (1) *The danger to life and property due to flooding or erosion damage;*
 - (2) *The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;*
 - (3) *The danger that materials may be swept onto other lands to the injury of others;*
 - (4) *The compatibility of the proposed use with existing and anticipated development;*
 - (5) *The safety of access to the property in times of flood for ordinary and emergency vehicles;*
 - (6) *The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;*
 - (7) *The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;*
 - (8) *The necessity to the facility of a waterfront location, where applicable;*

- (9) *The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and*
- (10) *The relationship of the proposed use to the comprehensive plan for that area.*

Sec. 3.12.044 Variance procedures.

- (a) *The board of adjustments, as authorized by this code, shall hear and render judgment on written requests for variances from the requirements of this article.*
- (b) *The board of adjustments shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this article.*
- (c) *Any person or persons aggrieved by the decision of the board of adjustments may appeal such decision in the courts of competent jurisdiction.*
- (d) *The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.*
- (e) *Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this article.*
- (f) *Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section 3.12.043(b) of this division have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.*
- (g) *Upon consideration of the factors noted above and the intent of this article, the board of adjustments may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article (section 3.12.003).*
- (h) *Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.*
- (i) *Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.*
- (j) *Prerequisites for granting variances:*
 - (1) *Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;*
 - (2) *Variances shall only be issued upon:*
 - (A) *Showing a good and sufficient cause;*
 - (B) *A determination that failure to grant the variance would result in exceptional hardship to the applicant; and*
 - (C) *A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or*

victimization of the public, or conflict with existing local laws or ordinances.

- (3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.*
- (k) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:*
 - (1) The criteria outlined in subsections (a) through (i) of this section are met; and*
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.*

Sec. 3.12.045 Enforcement.

- (a) A person commits an offense by*
 - (1) Commencing development within a SFHA or floodplain without first obtaining a floodplain development permit from the City;*
 - (2) failing to return the property to its original or previous condition after commencing development within a SFHA or floodplain without first obtaining a floodplain development permit from the City; or*
 - (3) Failing to adhere to the regulations established within this article without first obtaining an appropriate variance as outlined in section 3.12.044.*
- (b) A violation of any provision of this article shall be required to return the property to its previous or original condition or complete the appropriate floodplain permitting process including any requirements stated from said process.*
- (c) Any person found to be in violation of this article commits an offense and shall be subject to the provisions of section 1.01.009 of this code.*

Secs. 3.12.046–3.12.070 Reserved

Division 3. Flood Hazard Reduction Standards

Sec. 3.12.071 General standards.

In all SFHAs, the following provisions are required for all new construction and substantial improvements:

- (1) Designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;*
- (2) Constructed by methods and practices that minimize flood damage;*
- (3) Constructed with materials resistant to flood damage;*
- (4) Constructed with electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;*

- (5) *Designed to minimize or eliminate infiltration of floodwaters into the system;*
- (6) *Designed to minimize or eliminate infiltration of floodwaters into wastewater systems and discharge from the systems into floodwaters; and*
- (7) *On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.*

Sec. 3.12.072 Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 3.12.007, section 3.12.042(8) or section 3.12.074(c), the following provisions are required:

- (1) *Residential construction.*
 - (A) *New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to two (2) feet above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standards proposed in section 3.12.043(b)(1)—(4) are satisfied.*
 - (B) *Any fill dirt required for improvements in the 1% annual chance (100-year) floodplain shall come from the lot that the proposed improvements are to be placed on. It shall be unlawful to bring into the 1% annual chance (100-year) floodplain, with the exception of sand necessary to construct an approved foundation that meets the requirements of this section, any fill materials. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in section 3.12.043(b)(1) is satisfied.*
- (2) *Nonresidential construction.*
 - (A) *New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to at least two (2) feet above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator.*
 - (B) *Any fill dirt required for improvements in the 1% annual chance (100-year) floodplain shall come from the lot that the proposed improvements are to be placed on. It shall be unlawful to bring into the 1% annual chance (100-year) floodplain, with the exception of sand necessary to construct an approved foundation that meets the requirements of this section, any fill materials. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in section 3.12.043(b)(1) is satisfied.*

- (3) *Enclosures. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:*
- (A) *A minimum of two (2) openings on separate walls having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;*
 - (B) *The bottom of all openings shall be no higher than one (1) foot above grade; and*
 - (C) *Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.*
- (4) *Manufactured homes.*
- (A) *All manufactured homes to be placed within zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.*
 - (B) *No development permit shall be issued for the construction of the following structures within the 1% annual chance (100-year) floodplain: hospitals, nursing or convalescent homes, sanitariums, homes for the aged or infirm, mental or penal institutions, refugee centers or camps, halfway houses.*
 - (C) *Manufactured homes along with attending utilities that are placed or substantially improved within zones A1-30, AH, and AE on the community's FIRM on sites:*
 - (i) *Outside of a manufactured home park or subdivision;*
 - (ii) *In a new manufactured home park or subdivision;*
 - (iii) *In an expansion to an existing manufactured home park or subdivision;*
or
 - (iv) *In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood; must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least three (3) feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.*
 - (D) *Require that manufactured homes along with attending utilities be placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of subsection (4) of this section be elevated so that either*

- (i) *The lowest floor of the manufactured home is at least three (3) feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement; or*
 - (ii) *The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.*
- (5) *Recreational vehicles. Require that recreational vehicles placed on sites within zones A1-30, AH, and AE on the community's FIRM either:*
 - (A) *Be on the site for fewer than one hundred eighty (180) consecutive days;*
 - (B) *Be fully licensed and ready for highway use; or*
 - (C) *Meet the permit requirements of section 3.12.043(b)(1)—(4), and the elevation and anchoring requirements for "manufactured homes" in subsection (4)(A) of this section. A recreational vehicle is ready for highway use if it is:*
 - (i) *On its wheels or jacking system;*
 - (ii) *Is attached to the site only by quick disconnect-type utilities and security devices, and*
 - (iii) *Has no permanently attached additions.*

Sec. 3.12.073 Subdivision plats.

All subdivision plats embracing proposed development of portions of any area officially identified as having special flood hazards must be approved prior to the start of construction. Subdivisions or other proposed new development shall be required to be consistent with the need to minimize flood damage, locate, elevate, and construct all public utilities and facilities, such as sewer, gas, electrical and water systems, to minimize or eliminate flood damage and to provide adequate drainage so as to reduce exposure to flood hazards; as a part of subdivision plat approval, water supply and sanitary sewer systems shall be designed and installed to minimize or eliminate infiltration of floodwaters into water systems and discharges from sewer systems into floodwaters. Plats with planned on-site waste disposal systems shall be approved only where the systems can be designed, located, and constructed so as to avoid impairment of these or contamination from these during flooding. Official floodplain delineations and delineations of floodways denoting limits of permissible flood flow restricting development shall be clearly shown on all plats submitted for approval wherever such contain floodplain and floodway segments.

Sec. 3.12.074 Standards for subdivision proposals.

- (a) *All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be consistent with the provisions of this article.*
- (b) *All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet floodplain development permit requirements of this article.*
- (c) *Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions, which is greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to this article.*

- (d) *Base flood elevation data, with the establishment of a floodway, shall be generated by a detailed engineering study for all zone A areas, within one hundred (100) feet of the contour lines of zone A areas, and other streams not mapped by, indicated on the community's FIRM.*
- (e) *All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.*
- (f) *All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.*

Sec. 3.12.075 Standards for areas of shallow flooding (AO/AH zones).

Located within the areas of special flood hazard established in section 3.12.007 are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) *All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to at least two (2) feet above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified). The minimum lowest floor elevation shall be two (2) feet above the flood elevation if flood elevation data is available.*
- (2) *All new construction and substantial improvements of nonresidential structures shall:*
 - (A) *Have the lowest floor (including basement) elevated to at least two (2) feet above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified); the minimum lowest floor elevation shall be at least two (2) feet above the flood elevation if flood elevation data is available; or*
 - (B) *Be designed so that the structure and attendant utility and sanitary facilities are watertight (substantially impermeable to the passage of water and structurally capable of resisting hydrostatic and hydrodynamic loads or effects of buoyancy) below the base specified flood depth in an AO zone, or below the base flood elevation in an AH zone, as well as attendant utility and sanitary facilities*
 - (C) *A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in section 3.12.043(b)(1), are satisfied.*
 - (D) *Require within zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.*

Sec. 3.12.076 Floodways.

Located within areas of special flood hazard established in section 3.12.007 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- (1) *Encroachments are prohibited, including fill, new construction, substantial*

improvements and other development unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a licensed engineer registered in the state that the proposed encroachment would not result in any increase in flood levels within the city during the occurrence of the base flood discharge.

- (2) If subsection (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this division.*
- (3) Under the provisions of 44 CFR chapter 1, section 65.12 of the NFIP regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by section 65.12 of the NFIP regulations.*

Secs. 3.12.077–3.12.999 Reserved

ARTICLE 3.13 STORMWATER DISCHARGES RESULTING FROM CONSTRUCTION ACTIVITIES

Sec. 3.13.001 Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Belowground installations. *Activity that causes excess sediment laden water, concrete sawing wash water, wash water or drilling mud pumped from an excavation or structure and shall be treated as sediment laden runoff for erosion control purposes.*

Building official. *The building official for the City or his designee.*

City. *The City and its employees with authority to inspect or enforce stormwater compliance.*

Construction activities. *Construction activities that require a building permit.*

Construction Site BMP Manual. *The North Central Texas Storm Water Quality BMP (Best Management Practices) Manual, as amended from time to time. A current copy of the manual shall be kept on file in the office of development services.*

Erosion control plan. *A site plan with necessary details, showing the property where land disturbing activity will take place and showing the locations and types of devices, procedures and practices to be used to control erosion and sedimentation.*

Final approval. *Completion of a project, site or building in accordance with City requirements and ordinances. In the case of a building, a certificate of occupancy is issued.*

Land disturbing activity. *Any activity, including but not limited to excavation, planting, tilling, and grading, which disturbs the natural or improved vegetative ground cover so as to expose soil to the erosive forces of rain, stormwater runoff or wind. All installations and maintenance of franchise utilities such as telephone, gas, electric, etc., shall be considered land disturbing activities.*

MS4. *Municipal separate storm sewer system.*

NPDES. *The National Pollutant Discharge Elimination System as administered by the Environmental Protection Agency.*

Off-site borrow area. *A source of earth fill material used in the construction of embankments or other earth fill structures, that is located on another parcel of property other than where the principal construction is occurring.*

Off-site sedimentation. Deposit of soil material beyond the limits of the property undergoing land disturbing activity or in City streets, alleys or drainage facilities in an amount sufficient to constitute a threat to public safety and comfort.

Off-site spoil area. An area on another parcel of property, other than where the principal construction is occurring, where excess earth, rock or construction material is disposed of.

Permanent erosion control devices. Devices or practices installed prior to final approval and maintained after final approval to prevent or minimize the erosion and deposit of soil materials. Such devices may include, but shall not be limited to, permanent seeding, sod, storm drain channels, channel linings, storm drain pipes, outlet velocity control structures and stormwater detention structures.

Permanent ground cover. Permanent vegetative cover on all bare soil areas of a property not covered by a permanent structure or landscaping improvements, including but not limited to, live sod, perennial grasses or other materials which lessen runoff and soil erosion on the property.

Related land area. Includes the property where the principal land disturbing activity is taking place, all adjacent property, off-site borrow areas, off-site spoil areas, off-site properties necessary for required utility extensions, and off-site areas for required street improvements.

Responsible party. A business entity, franchised utility company, developer, property owner, contractor or holder of a building permit who is required to comply with the terms of this article.

Staging area. An on-site or off-site location used by a contractor to store materials for a project, to assemble portions of equipment or structures, to store equipment or machinery, to park vehicles, or for other construction-related uses.

Stop work order. The suspension of all City permits with no approvals or inspections of work for the site or project being performed.

Temporary erosion control devices. Devices installed or practices implemented and maintained during land disturbing activities to prevent, minimize or control the erosion and deposit of soil materials.

TPDES. The Texas Pollutant Discharge Elimination System as administered by the state commission on environmental quality.

Sec. 3.13.002 Introduction; purpose.

- (a) During the construction process, soil is the most vulnerable to erosion by wind and water. This eroded soil endangers water resources by reducing water quality, and causing the siltation of aquatic habitat for fish and other desirable species. Depositing of eroded soil also necessitates repair of sewers and ditches, and the dredging of lakes. In addition, clearing and grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitat, which provide a healthy living environment for citizens of the City. Management of wastes from construction sites is also important in preventing polluted stormwater runoff from a site.
- (b) Therefore, the purpose of this local regulation is to safeguard persons, protect property, prevent damage to the environment and promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity which disturbs or breaks the topsoil or results in the movement of earth on land in the City, in accordance with requirements set forth in the EPA's NPDES Phase II Storm Water Program as administered by the state commission

on environmental quality.

Sec. 3.13.003 Erosion control required.

- (a) Duty of property owner to prevent dirt, mud, etc., from washing onto public streets, alleys, etc. It shall be unlawful and an offense and shall constitute a nuisance for any person owning or having control of real property within the City to permit soil, mud, rock or debris to wash, slide, erode or otherwise be moved from said real property onto streets, alleys, utility facilities, storm drains, rights-of-way or easements or receiving waters. It shall be the duty of each property owner or party in control thereof to prevent soil, mud, rock or debris from such real property being deposited or otherwise transported onto the streets, alleys, storm drains, utility facilities, rights-of-way, easements or receiving waters of the City.
- (b) Erosion control plan implementation and compliance. A responsible party engaging in any land disturbing activity, or any construction activities of one acre or greater or construction activity that is part of larger common plan of development or sale that would disturb one acre or more, shall file a notice of intent and prepare an erosion control plan in accordance with the Texas Pollutant Discharge Elimination System construction general permit, permit number TXR 150000, and file a copy of the notice of intent to comply with the TPDES general permit with the City as operator of the MS4 in which construction is occurring.
- (c) Limited pollution prevention plan. Operators of construction sites of less than one acre not required to comply with TPDES general permit number 150000 shall prepare a limited pollution prevention plan, for submission at the time of application for a building permit, containing the following:
 - (1) Statement of erosion and sediment controls to be used at the construction site
 - (2) Statement of pollution prevention practices to be used at the construction site
- (d) Implementation and maintenance of erosion control measures. Each responsible party shall implement and maintain erosion control measures to minimize the erosion and the transport of silt, earth, topsoil, etc., by water runoff or construction activities, beyond the limits of the responsible party's site onto City streets, drainage easements, drainage facilities, storm drains or other City property prior to beginning any land disturbing activity. A construction site pollution prevention inspection fee of \$25 for less than one acre and \$45 for one acre or greater shall be submitted by the responsible party at the time of filing the building permit.
- (e) Off-site borrow, spoil and staging areas. Where applicable, off-site borrow areas, spoil areas and construction staging areas shall be considered as part of the project site and shall be governed by this article.
- (f) Related land areas. The erosion control requirements of this article shall apply to all related land areas. Additionally, when land disturbing activity occurs on a project, all disturbed land areas related to the project shall have permanent erosion control established before final occupancy of structures located thereon or final acceptance of the subdivision may be obtained. This subsection applies whether or not a building permit is required.
- (g) Belowground installations. All discharges resulting from belowground installations shall be passed through City-approved erosion control device(s) or removed from the site and properly disposed of.
- (h) Exclusions. No site development permit is required for the following activities:

- (1) *Any emergency activity which is immediately necessary for the protection of life, property or natural resources.*
- (2) *Existing nursery and agricultural operations conducted as a permitted main or accessory use.*

Sec. 3.13.004 Erosion control plan requirements generally.

Each erosion control plan required by this article shall clearly identify all erosion and sediment control measures to be installed and maintained throughout the duration of the project for which that plan is submitted. For land disturbing activity of one acre or greater, the responsible party shall install and maintain erosion control devices in accordance with TPDES or NPDES construction site permit requirements.

Sec. 3.13.005 Design requirements.

- (a) *Design criteria.* *Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the North Central Texas Storm Water Quality Construction Site BMP Manual, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the City.*
- (b) *Clearing and grading.*
 - (1) *Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other chapters of this code.*
 - (2) *Clearing techniques that retain natural vegetation and retain natural drainage patterns, as described in the Construction Site BMP Manual, shall be used to the satisfaction of the City.*
 - (3) *Phasing shall be required on all sites disturbing greater than thirty acres, with the size of each phase to be established at plan review and as approved by the City.*
 - (4) *Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.*
- (c) *Erosion control.*
 - (1) *Soil must be stabilized within five days of clearing or inactivity in construction, using recommended methods described in the Construction Site BMP Manual.*
 - (2) *Soil stockpiles must be stabilized or covered at the end of each workday.*
 - (3) *Techniques shall be employed to prevent the blowing of dust or sediment from the site.*
 - (4) *Techniques that divert upland runoff past disturbed slopes shall be employed.*
- (d) *Sediment controls.*
 - (1) *Sediment controls shall be provided in the form of settling basins or sediment traps or tanks, and perimeter controls.*
 - (2) *Where possible, settling basins shall be designed in a manner that allows adaptation to provide long-term stormwater management.*
 - (3) *Adjacent properties shall be protected by the use of a vegetated buffer strip, in combination with perimeter controls.*

(e) Waterways and watercourses.

- (1) *When a wet watercourse must be crossed regularly during construction, a temporary stream crossing shall be provided and an approval obtained from the City.*
- (2) *When in-channel work is conducted, the channel shall be stabilized before, during and after work.*
- (3) *All on-site stormwater conveyance channels shall be designed according to the criteria outlined in the Construction Site BMP Manual.*
- (4) *Stabilization adequate to prevent erosion must be provided at the outlets of all pipes and paved channels.*

(f) Construction site access.

- (1) *A temporary access entrance shall be provided at all sites.*
- (2) *Other measures may be required at the discretion of the City in order to ensure that sediment is not tracked onto public streets by construction vehicles, or washed into storm drains.*

(g) Removal of temporary erosion control devices. *Upon final occupancy or upon establishing permanent ground cover on a lot, all temporary erosion control devices shall be removed.*

Sec. 3.13.006 Franchised utility companies.

Subject to the terms of its franchise agreement with City, including but not limited to terms regarding permits, a franchised utility company engaging in land disturbing activities within the City shall comply with the following:

- (1) Erosion control plan. *Prior to beginning any land disturbing activity of one acre or greater, a copy of the notice of intent for NPDES or TPDES permit coverage shall be filed with the City.*
- (2) Emergency construction. *Construction activity in response to weather emergencies where services are being restored by a franchised utility company are not subject to the requirements for filing an erosion control plan. At the conclusion of emergency construction activity, the utility company responsible for construction activities should take any needed action to clean up or contain sediment or debris resulting from the emergency construction activity.*

Sec. 3.13.007 Construction waste management.

Construction site operators must, at a minimum, control waste such as discarded building materials, concrete truck washout water, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. This includes:

- (1) *Operators must keep solid waste materials in either a container or an enclosed waste collection area on site that does not receive a substantial amount of runoff from upland areas and that does not drain directly to a water body, and prohibits pollutant runoff from the construction site.*
- (2) *Chemicals, paint, petroleum, fertilizer, and pesticides must be stored in a covered enclosure*
- (3) *Aboveground petroleum storage tanks must be placed in a bermed enclosure.*
- (4) *Empty/unused chemical containers must be disposed of in accordance with label*

instructions.

- (5) *Potentially hazardous waste must be segregated from nonhazardous waste.*
- (6) *Daily cleanup of construction site must ensure that all litter is contained in an appropriate enclosure or container so as not to accumulate on the ground.*
- (7) *All construction site wastes must be disposed of at authorized disposal facilities.*
- (8) *Recycling of waste materials is encouraged where feasible.*
- (9) *Concrete truck washout water must be contained on site in a designated washout pit, and concrete residue should be removed at conclusion of construction.*
- (10) *Sanitary waste facilities should be located a minimum of 15 feet from storm drain inlets and receiving waters or facilities must be contained.*

Sec. 3.13.008 Inspection and review.

- (a) *Site plan review and inspection programs aid in compliance and enforcement, and provide an opportunity for guidance and education.*
 - (1) *The City shall perform a site plan review for consideration of potential water quality impacts at the time of filing of site plans in accordance with the permitting schedule established by the City's Zoning Ordinance.*
 - (2) *The City shall establish appropriate frequencies for inspection of construction stormwater pollution prevention measures at all active construction sites.*
 - (3) *The City shall require notification from a construction site operator prior to start or upon completion of various stages of construction on a schedule approved by the building official of the City.*
- (b) *The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved erosion and sediment control plan. The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and made available for review by the City.*

Sec. 3.13.009 Enforcement.

- (a) *Violations. It shall be an offense for a responsible party or a third party performing work on a project to violate any of the requirements of this article, including, but not limited to, the following:*
 - (1) *Conducting any land disturbing or construction activity of greater than one acre without submitting a notice of intent to comply with NPDES or TPDES construction site permit requirements for the location where the land disturbing activity occurred.*
 - (2) *Failing to install erosion control devices or to maintain erosion control devices throughout the duration of land disturbing activities of greater than one acre, in compliance with the approved erosion control plan for the location where the violation occurred.*
 - (3) *Failing to remove off-site sedimentation that is a direct result of land disturbing activities where such off-site sedimentation results from the failure to implement or maintain erosion control devices as specified in this article.*
 - (4) *Allowing sediment laden water resulting from belowground installations to flow*

from a site without being treated through an erosion control device.

- (5) Failing to repair damage to existing erosion control devices, including replacement of existing grass or sod.*
- (6) Failing to provide adequate measures to contain and properly dispose of solid waste, sanitary waste, hazardous waste, chemicals, petroleum products, or concrete truck washout at or from a construction site.*
- (b) Notice of violation. Written notice of violation shall be given to the responsible party or his job site representative as identified in the erosion control plan for a site. Such notice shall identify the nature of the alleged violation and the action required to obtain compliance with the approved erosion control plan within twenty-four (24) hours. At the end of the twenty-four-hour cure period, City shall reinspect the site. If, at the time of such reinspection, the erosion control devices at the site have not been brought into compliance with the approved erosion control plan, City may issue a stop work order and issue a citation for each violation of this article.*

Correction shall include sediment cleanup, erosion control device repair, erosion control device maintenance and/or installation of additional erosion control devices to prevent recurrence of the violation. The twenty-four-hour cure period may be extended for inclement weather or other factors at the discretion of the City.
- (c) Class C misdemeanor. Any person, firm, or corporation violating any of the provisions or terms of this article shall be deemed guilty of a class C misdemeanor and, upon conviction thereof, be subject to a fine in accordance with the general penalty provision set forth in section 1.01.009 of this code.*

Sec. 3.13.010 – 3.13.999 Reserved.

ARTICLE 3.14. REASONABLE ACCOMMODATIONS FOR RESIDENTIAL USES

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ARTICLE 3.01 GENERAL PROVISIONS

Sec. 3.01.001 — Fire zone established.

~~The central business district as shown on the zoning map of the city is hereby designated as the fire zone. Such fire zone is also the fire district and may be referred to as such.~~

Sec. 3.01.002 — Inspection tags.

- ~~(a) — Any inspector from the inspection department of the city shall display a tag at the time of inspection of any construction or installation requiring an inspection under the ordinances of the city. There shall be two (2) tags of contrasting colors for this use. One (1) shall be red to be displayed when the work is rejected, and one (1) shall be green to be displayed when the work is approved.~~
- ~~(b) — It shall be unlawful for any person to proceed with any work requiring an inspection or conceal any work unless a green tag is displayed, approving the work. It shall be unlawful to proceed with or conceal any work when a red tag is displayed rejecting such work.~~
- ~~(c) — No public utility, including gas, lights, water, and electricity, shall permanently install any utility meter for utility consumption unless and until the inspection tag, dated and~~

signed by the proper inspector, has been affixed to the construction showing compliance with the ordinances of the city affecting the work under progress.

- (d) — Only the city inspector may remove a tag after it is displayed on the work, except that utility companies shall remove the green tag when the utility meter is installed and shall retain such green tag on file for a period of two (2) years. Any other person removing a tag from the work shall be guilty of a misdemeanor.

Sec. 3.01.003 — Denial of permits for property being rezoned.

No permit shall be granted by any of the inspectors of the city for the construction, occupancy, repair or maintenance of any property within any area when the same is under study for a change in the zoning classification of the area, or while ordinances making such change are in the process of being finally passed.

Sec. 3.01.004 — Enclosure for private swimming pools.

- (a) — Every outdoor private swimming pool shall be completely surrounded by a fence or wall not less than four (4) feet in height, which shall be so constructed as not to have openings, holes, or gaps larger than four (4) inches in any dimension except for doors and gates. If a picket fence is erected or maintained, the horizontal dimension shall not exceed four (4) inches. A dwelling house or accessory building may be used as part of such enclosure.
- (b) — All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped.
- (c) — This section shall be applicable to all private swimming pools constructed after January 5, 1959, other than indoor pools, and shall apply to all pools existing on such date which have a minimum depth of eighteen (18) inches of water. No person in possession of land within the city, either as owner, purchaser, lessee, tenant or licensee, upon which is situated a private swimming pool having a minimum depth of eighteen (18) inches, shall fail to provide and maintain such fence or wall as herein provided.
- (d) — The building inspector and the city engineer may make modifications in individual cases, upon a showing of good cause with respect to the height, nature or location of the fence, wall, gates or latches, or the necessity therefor, provided the protection as sought hereunder is not reduced thereby. The building inspector and city engineer may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the wall, fence, gate and latch described herein.

ARTICLE 3.02 BUILDING, LIFE SAFETY AND RESIDENTIAL CODES

Sec. 3.02.001 — Adopted.

- (a) — The following codes and the standards contained therein, are hereby adopted as the Minimum Building Standard Codes of the city:
- (1) — International Residential Code, 2018 edition, including appendices A, B, C, and J;
- (2) — International Building Code, 2018 edition, including appendices A, C, D, F, and I;

- (3) — ~~National Electrical Code (NEC), 2020 edition;~~
 - (4) — ~~International Fuel Gas Code, 2018 edition, including appendices A, B, C, and D;~~
 - (5) — ~~International Mechanical Code, 2018 edition, including appendix A;~~
 - (6) — ~~International Plumbing Code, 2018 edition, including appendices D, E, and F;~~
 - (7) — ~~International Energy Conservation Code, 2018 edition;~~
 - (8) — ~~International Fire Code, 2018 edition;~~
 - (9) — ~~International Existing Building Code, 2018 edition; and~~
 - (10) — ~~International Swimming Pool and Spa Code, 2018 edition.~~
- (b) — ~~Where a provision of the International Building Code, 2018 edition, including appendices A, C, D, F and I; International Residential Code, 2018 edition, including appendices A, B, C, and J; International Plumbing Code, 2018 edition, including appendices D, E and F; International Mechanical Code, 2018 edition, including appendix A; International Fuel Gas Code, 2018 edition, including appendices A, B, C and D; International Energy Conservation Code, 2018 edition; International Fire Code, 2018 edition; International Existing Building Code, 2018 edition; the National Electrical Code (NEC), 2020 edition, and/or the International Swimming Pool and Spa Code, 2018 edition; conflicts with a section of this article, the language contained in this article governs. A copy of the codes shall be retained on file in the office of the building official.~~

Sec. 3.02.002 — Amendments to codes.

- (a) — ~~Residential code. The following additions, amendments, and/or deletions to the 2018 IRC are hereby adopted:~~
- (1) — ~~P2906 Materials, Joints and Connections. Table P2906 Water Service Pipe, Table P2906.5 Water Distribution Pipe, Table P2906.6 Pipe Fittings, and Section P3002 Materials are hereby deleted and replaced with the following:~~
 - (A) — ~~Materials for water:~~
 - (i) — ~~In structure: copper, K, L, chlorine resistant PEX, and chlorine resistant PEX/AL/PEX.~~
 - (ii) — ~~Service: copper, PVC 40, chlorine resistant PEX, and chlorine resistant PEX/AL/PEX.~~
 - (B) — ~~Material for drains. PVC Schedule 40, cast iron, copper, SDR35 in sizes over 4 inches. Note: PVC cell core and foam core are not permitted.~~
 - (2) — ~~Part VIII Electrical, chapters 34-43, shall be deleted.~~
 - (3) — ~~Section R313.2, One and two family dwellings automatic fire systems, shall be deleted.~~
 - (4) — ~~International Swimming Pool and Spa Code (ISPSC 2018), Section 305.2.1 Barrier Height and Clearances, is amended to read as follows:~~
 - 1. — ~~The top of the barrier shall be at least 72 inches (1830 mm) above grade measured on the side of the barrier which faces away from the swimming pool. The remainder of the section is unchanged.~~
 - (5) — ~~Contractor roofing bond. It shall be the duty of every residential roofing~~

~~contractor who shall make contracts for the erection, construction, enlargement, alteration, and repair of roofs for which a permit is required, and every contractor or builder making such contracts and subletting the same, or any part thereof to pay a permit fee as provided in the general license ordinance and to register his name with the building official, in a book provided for that purpose, giving full name, residence and place of business and, in case of removal from one place to another, to have made corresponding change in said register accordingly; and it shall be the further duty of every such person to give good and sufficient bond in the sum of twenty thousand dollars and no cents (\$20,000.00), conditioned to conform to the building regulations, the regulation of this section, and other ordinances or laws of the City Council and the state.~~

(b) ~~Building code.~~ The following additions, amendments, and/or deletions to the 2018 IBC:

(1) ~~Chapter 1, Section 101.4.5, is hereby amended to add the following section:~~

~~101.4.1 Property Maintenance.~~

~~All buildings and structures, both existing and new and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this code in a building when erected, altered, or repaired, shall be maintained in good working order. The owner, or his designated agent, shall be responsible for the maintenance of buildings and structures.~~

~~The building official shall keep, or cause to be kept, a record of the business of the department. The records of the department shall be open to public inspection.~~

(2) ~~109.7 Contractor bond required.~~ A five thousand dollar (\$5,000.00) obstruction bond shall be required for persons doing work on and over public ways. Person doing repair work or demolition work on or over public ways shall be required to furnish a five thousand dollar (\$5,000.00) obstruction bond and proof of, as a condition to said obstruction bond, public liability insurance in the amount of one hundred thousand dollars (\$100,000.00) per occurrence and three hundred thousand dollars (\$300,000.00) aggregate.

(3) ~~Section 1101.2. Design,~~ shall be changed to read as follows:

~~Buildings and facilities shall be designed and constructed to be accessible in accordance with this code and ICC/ANSI A117.1. All buildings governed by Texas Department of Licensing and Regulations will take precedence over this code or ICC/ANSI A117.1.~~

(4) ~~Chapter 17 Structural Tests and Special Inspections,~~ shall be deleted in its entirety.

(5) ~~Section 3109.3 Public Swimming Pools,~~ is amended to read as follows:

~~Public swimming pools shall be completely enclosed by a fence at least 6 feet (1830 mm) in height or a screen enclosure. The remainder of the section is unchanged.~~

(6) ~~International Swimming Pool and Spa Code (ISPSC 2018) Section 305.2.1 Barrier Height and Clearances~~ shall be amended to read as follows:

~~The top of the barrier shall be at least 72 inches (1830 mm) above grade measured on the side of the barrier which faces away from the swimming pool. The remainder of the section is unchanged.~~

- (7) ~~Chapter 1, Section 110, is hereby amended to add the following section:~~

~~110.2.1 Existing building certificate of occupancy. A certificate for any existing building may be obtained by applying to the building official and supplying the information and data necessary to determine compliance with this code and the city's zoning ordinance.~~

- (8) ~~Chapter 1, Section 112, shall be deleted and replaced with the following:~~

~~CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS~~

~~112.4 Appointment. There is hereby established a board to be called the Construction Board of Adjustment and Appeals, which shall consist of five members and two alternates. The Board shall be appointed by the applicable governing body.~~

~~112.4.1 Membership and terms.~~

~~112.4.1.1 Membership. The Construction Board of Adjustment and Appeals should consist of five members. Such board members should be composed of individuals with knowledge and experience in the technical codes, such as design professionals, contractors or building industry representatives. In addition to the regular members, there should be two alternate members, one member at large from the building industry and one member at large from the public. A board member shall not act in a case in which he has a personal or financial interest.~~

~~112.4.1.2 Terms. The terms of office of the board members are three years and shall be staggered so no more than 1/3 of the board is appointed or replaced in any 12-month period. The two alternates, if appointed, shall serve one-year terms. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Continued absence of any member from required meetings of the board shall, at the discretion of the applicable governing body, render any such member subject to immediate removal from office. A member whose term is expired may continue to serve until such time a replacement has been appointed.~~

~~112.4.1.3 Quorum and voting. A simple majority of the board shall constitute a quorum. In varying any provision of this code, the affirmative votes of the majority present, but not less than three affirmative votes, shall be required. In modifying a decision of the building official, not less than three affirmative votes, but not less than a majority of the board, shall be required. In the event that regular members are unable to attend a meeting, the alternate members, if appointed, shall vote.~~

~~112.4.1.4 Secretary of board. The building official shall act as secretary of the board and shall make a detailed record of all of its proceedings, which shall set forth the reasons for its decision, the vote of each member, the absence of a member and any failure of a member to vote.~~

~~112.5 Powers. The Construction Board of Adjustment and Appeals shall have the power, as further defined in 112.6 to hear appeals of decisions and interpretations of the building official and consider variances of the technical codes.~~

~~112.6 Appeals.~~

~~112.6.1 Decision of the building official. The owner of a building, structure or service system, or his duly authorized agent, may appeal a decision of the building official to the Construction Board of Adjustment and Appeals whenever any one of the following conditions are claimed to exist:~~

- ~~1. The building official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.~~
- ~~2. The provisions of this code do not apply to this specific case.~~
- ~~3. That an equally good or more desirable form of installation can be employed in any specific case.~~
- ~~4. The true intent and meaning of this code or any of the regulations thereunder have been misconstrued or incorrectly interpreted.~~

~~112.6.2 Variances. The Construction Board of Adjustments and Appeals, when so appealed to and after a hearing, may vary the application of any provision of this code to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this or the technical codes or public interest, and also finds all of the following:~~

- ~~1. That special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others.~~
- ~~2. That the special conditions and circumstances do not result from the action or inaction of the applicant.~~
- ~~3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this code to other buildings, structures or service system.~~
- ~~4. That the variance granted is the minimum variance that will make possible the reasonable use of the building, structure or service system.~~
- ~~5. That the grant of the variance will be in harmony with the general intent and purpose of this code and will not be detrimental to the public health, safety and general welfare.~~

~~112.6.2.1 Conditions of the variance. In granting the variance, the board may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed or both. In addition, the board may prescribe appropriate conditions and safeguards in conformity with this code. Violation of the conditions of a variance shall be deemed a violation of this code.~~

~~112.6.3 Notice of appeal. Notice of appeal shall be in writing and filed within 10 calendar days after the decision is rendered by the building official. Appeals shall be in a form acceptable to the building official.~~

~~112.6.4 Unsafe or dangerous buildings or service systems. In the case of a building, structure or service system which, in the opinion of the building official, is unsafe, unsanitary or dangerous, the building official may, in his order, limit the time for such appeals to a shorter period.~~

~~112.7 Procedures of the Board.~~

~~112.7.1 Rules and regulations.~~ The board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this code. The board shall meet on call of the chairman. The board shall meet within 30 calendar days after notice of appeal has been received.

~~112.7.2. Decisions.~~ The Construction Board of Adjustment and Appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the board shall also include the reasons for the decision. If a decision of the board reverses or modifies a refusal, order, or disallowance of the building official or varies the application or of any provision of this code, the building official shall promptly take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the building official and shall be open to public inspection. A certified copy of the decision shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the building official for two weeks after filing. Every decision of the board shall be final, subject however to such remedy as any aggrieved party might have at law or in equity.

(9) ~~Chapter V, Section 503,~~ is hereby amended to add the following:

~~Section 503.2 Residential Open-Sided Buildings.~~ Open-sided buildings of up to five hundred fifty (550) square feet may be erected on residential building lots with a horizontal separation from a common property line of six (6) feet or more. These buildings may be of any type construction.

~~Section 503.2.1 Residential Storage Buildings.~~ Type IV buildings used for residential storage, and not exceeding five hundred fifty (550) square feet may be erected on residential building lots with a horizontal separation from a common property line of five (5) feet or more. The walls of these buildings will not require a one-hour protection.

~~Section 101.1.~~ Insert: City of Sherman, Texas.

~~Section 1612.3.~~ Insert: City of Sherman, Texas.

~~Section 1612.3.~~ Insert: July 17, 1995.

~~Section 3410.2.~~ Insert: January 5, 1981.

(c) ~~Fire prevention code.~~ The 2018 edition of the International Fire Code, published by the International Code Council, being chapters 1 through 67 together with appendices A through J and N, is hereby adopted in its entirety, as if fully set forth herein, as the fire prevention code of the city. The latest edition of NFPA standards shall be adopted and will be referred to when referenced in the 2018 International Fire Code. The following additions, amendments, and/or deletions to the 2018 International Fire Code are hereby adopted:

(1) ~~Section 102~~ is hereby amended to add section 102.1.1 to read as follows:

~~Section 102.1.1.~~ The latest edition of NFPA standards shall be adopted and will be referred to when referenced in the 2018 International Fire Code.

(2) ~~Section 103.2~~ is hereby amended to read as follows:

~~Section 103.2 Appointment.~~ The fire code official (fire marshal) shall be appointed by the fire chief.

(3) ~~Section 202~~ is hereby amended to add the following definitions:

~~Emergency access easement. An access road or fire lane located on private property dedicated by the owner(s) of the property to provide fire apparatus access.~~

~~Self-service storage facility. Real property designated and used for the purpose of renting or leasing individual spaces to customers for the purpose of storing and removing personal property on a self-service basis.~~

~~Standby personnel. Qualified fire service personnel, approved by the fire chief. When utilized, the number required shall be as directed by the fire chief. Charges for utilization shall be as normally calculated by the jurisdiction.~~

~~Fire code official. The fire chief, fire marshal, or member of the fire department charged with the duties of administration and enforcement of this code, or a duly authorized representative.~~

~~City. The City of Sherman, Texas.~~

(4) ~~Section 307.2 is hereby amended to read as follows:~~

~~307.2 Permit required. A permit shall be obtained from the fire code official in accordance with section 105.6.3.2 prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, or a bonfire. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled.~~

~~Exceptions:~~

~~1. Fires which meet all of the following requirements:~~

~~a. The pile size is 10 feet (3048 mm) or less in diameter and 5 feet (1524 mm) or less in height.~~

~~b. Atmospheric humidity is 40 percent or greater and maximum wind speed is 15 miles per hour or less.~~

~~c. No more than one pile burning at any one time.~~

~~d. Prior notification given to the Sherman Fire Department.~~

~~e. Conducted in accordance with all Texas Commission on Environmental Quality conditions.~~

(5) ~~Section 307.4 is hereby amended to read as follows:~~

~~307.4 Location. The location for open burning shall not be less than 100 feet (30 480 mm) from any structure or the property boundary, and provisions shall be made to prevent the fire from spreading to within 100 feet (30 480 mm) of any structure or the property boundary. The location for open burning shall not be less than 300 feet (91 440 mm) from any sensitive receptor as defined by Texas Commission on Environmental Quality 30 TAC 111.203(7), unless written permission is obtained from the owner of the sensitive receptor, including any occupied buildings.~~

~~Exceptions:~~

~~1. Fires in approved containers that are not less than 15 feet (4572 mm) from a structure.~~

~~2. The minimum required distance from a structure shall be 25 feet (7620~~

mm) where the pile size is 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height.

- (6) — Section 307.4.1 is hereby amended to read as follows:

307.4.1 Bonfires. Bonfires are prohibited.

- (7) — Section 307.4.2 is hereby amended to read as follows:

307.4.2 Recreational fires. Recreational fires shall not be conducted within 100 feet (30 480 mm) of a structure or combustible material. Conditions which could cause a fire to spread to within 100 feet (30 480 mm) of a structure shall be eliminated prior to ignition.

- (8) — Section 503.2.1 is hereby amended to read as follows:

503.2.1 Dimensions. Fire apparatus access roads and security gate openings shall have an unobstructed width of not less than 24 feet (7315 mm), except for approved security gates in accordance with section 503.6, and an unobstructed vertical clearance of not less than 14 feet (4267 mm).

- (9) — Section 503.2.2 is hereby amended to read as follows:

503.2.2 Authority. The fire code official shall have the authority to require an increase in the minimum access widths and vertical clearances where they are inadequate for fire or rescue operations.

- (10) — Section 503.3 is hereby amended to add section 503.3.1 to read as follows:

503.3.1 Fire lane marking.

- (1) — Striping. Fire apparatus access roads shall be marked by painted lines of red traffic paint six inches (6") in width to show the boundaries of the lane. The words "NO PARKING FIRE LANE" or "FIRE LANE NO PARKING" shall appear in four-inch (4") white letters at 15-foot intervals on the red border markings along both sides of the fire lanes. Where a curb is available, the striping shall be on the vertical face of the curb.

- (2) — When required by the fire code official, fire lane striping shall include an enlarged box that is eighteen inches (18") in length and twelve inches (12") in width to show the boundaries of the box. The words "BUILDING [APPROPRIATE BUILDING DESIGNATION]" shall appear in ten-inch (10") white letters on the red box and will appear directly in front of the appropriate structure.

- (3) — Signs. Signs shall read "NO PARKING FIRE LANE" or "FIRE LANE NO PARKING" and shall be twelve inches (12") wide and eighteen inches (18") high. Signs shall be painted on a white background with letters and borders in red, using not less than two-inch (2") lettering. Signs shall be permanently affixed to a stationary post and the bottom of the sign shall be six feet, six inches (6'6") above finished grade. Signs shall be spaced not more than fifty feet (50') apart. Signs may be installed on permanent buildings or walls or as approved by the fire code official.

- (11) — Section 503.4 is hereby amended to read as follows:

503.4 Obstruction of fire apparatus access roads. Fire apparatus access roads

shall not be, obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in section 503.2.1 and any area marked as a fire lane as described in section 503.3 shall be maintained at all times. The operator of a premises shall maintain, free of obstruction, all fire lanes on his premises. No person may mark, post or otherwise identify a non-fire lane private vehicular passageway as a fire lane or in such a manner as tends to create confusion as to whether the passageway is a fire lane.

(12) ~~Section 901.4 is hereby amended to read as follows:~~

~~901.4 Installation. Fire protection systems shall be maintained in accordance with the original installation standards for that system. Required systems shall be extended, altered, or augmented as necessary to maintain and continue protection whenever the building is altered, remodeled or added to. Alterations to fire protection systems shall be done in accordance with applicable standards. Any alteration to the fire protection system must be approved and a permit issued by the fire code official. Hydrostatic testing of the system may be required prior to the acceptance of any system alteration.~~

(13) ~~Section 901.7 is hereby amended to read as follows:~~

~~901.7 Systems out of service. Where a required fire protection system is out of service or in the event of an excessive number of activations, the fire department and the fire code official shall be notified immediately and, where required by the fire code official, the building shall either be evacuated or an approved fire watch shall be provided for all occupants left unprotected by the shut down until the fire protection system has been returned to service.~~

(14) ~~Section 903.2.9 #6 is hereby added to read as follows:~~

~~6. Self-service storage facility. An automatic sprinkler system shall be installed throughout all self-service storage facilities.~~

~~Exception: One-story self-service storage facilities that have no interior corridors, with a one-hour fire barrier separation wall installed between every storage compartment.~~

(15) ~~Section 903.3.1.1.2 is hereby amended to read as follows:~~

~~903.3.1.1.2 Bathrooms. Sprinklers shall be required in all bathrooms regardless of size.~~

(16) ~~Section 903.3.1.2 is hereby amended to read as follows:~~

~~903.3.1.2 NFPA 13R sprinkler system. Where allowed in buildings of group R, up to and including four stories in height, automatic sprinkler systems shall be installed in accordance with NFPA 13R.~~

~~Exception:~~

~~1. Mixed use buildings. In buildings that include or may include multiple types of occupancies, the code official may designate the type of system and number of standpipes required.~~

(17) ~~Section 903.3.1.2.3 is hereby amended to read as follows:~~

~~Section 903.3.1.2.3 Attics and attached garages. Sprinkler protection is required in attached garages and in the following attic spaces.~~

~~1. Attics that are used or intended for living purposes or storage shall be~~

~~protected by an automatic sprinkler system.~~

- ~~2. Where fuel fired equipment is installed in an attic.~~
- ~~3. Attic spaces of buildings that are two or more stories in height above grade plane or above the lowest level of fire department vehicle access.~~
- ~~4. Group R-4, Condition 2 occupancy attics not required by item 1 or 3 to have sprinklers shall comply with one of the following:~~
 - ~~a. Provide automatic sprinkler system protection.~~
 - ~~b. Provide a heat detection system throughout the attic that is arranged to activate the building fire alarm system.~~
 - ~~c. Construct the attic using noncombustible materials.~~
 - ~~d. Construct the attic using fire-retardant treated wood complying with section 2303.2 of the International Building Code.~~
 - ~~e. Fill the attic with noncombustible insulation.~~

~~(18) Section 903.4 is hereby amended to read as follows:~~

~~903.4 Sprinkler system monitoring and alarms. All valves controlling the water supply for automatic sprinkler systems, pumps, tanks, water levels and temperatures, critical air pressures, and water-flow switches on all sprinkler systems shall be electrically supervised. Sprinkler and standpipe system water-flow detectors shall be provided for each floor tap to the sprinkler system and shall cause an alarm upon detection of water flow for more than 45 seconds. All control valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a supervisory signal at the central station upon tampering.~~

~~Exceptions:~~

- ~~1. Automatic sprinkler systems protecting one and two-family dwellings.~~
- ~~2. Automatic sprinkler systems installed in accordance with NFPA 13R where a common supply main is used to supply both domestic water and the automatic sprinkler system, and a separate shutoff valve for the automatic sprinkler system is not provided.~~
- ~~3. Jockey pumps control valves that are sealed or locked in the open position.~~
- ~~4. Control valves to commercial kitchen hoods, paint spray booths or dip tanks that are sealed or locked in the open position. Valves controlling the fuel supply to fire pump engines that are sealed or locked in the open position.~~
- ~~5. Valves controlling the fuel supply to the fire pump engines that are sealed or locked in the open position.~~
- ~~6. Trim valves to pressure switches in dry, pre-action and deluge sprinkler systems that are sealed or locked in the open position.~~

~~(19) Section 905.2 is hereby amended to read as follows:~~

~~905.2 Installation standards. Standpipe systems shall be installed in accordance with this section and NFPA 14. Manual dry standpipe systems shall be supervised with a minimum of 10 psig and a maximum of 40 psig air pressure~~

~~with a high/low alarm. In addition to this section, the fire code official may require the installation of standpipe systems in buildings where because of type of occupancy, access or use requires additional fire protection. The fire code official may designate the type and location of standpipes within this system.~~

(20) ~~Section 905.3.9 is hereby added to read as follows:~~

~~905.3.9 Buildings Exceeding 10,000 sq. ft. In buildings exceeding 10,000 square feet in area per story and where any portion of the building's interior are is more than 200 feet (60960mm) of travel, vertically and horizontally, from the nearest point of fire department vehicle access, Class 1 automatic wet or manual wet standpipes shall be provided.~~

~~Exceptions:~~

- ~~1. Automatic dry, semi-automatic dry, and manual dry standpipes are allowed as provided for in NFPA 14 where approved by the fire code official.~~
- ~~2. R-2 occupancies of four stories or less in height having no interior corridors.~~

(21) ~~Section 907.1.4 is hereby added to read as follows:~~

~~907.1.4 Design standards. All alarm systems new or replacement shall be analog intelligent addressable fire detection systems.~~

~~Exception: Existing systems need not comply unless the total building remodel or expansion initiated after the effective date of this code, as adopted, exceeds 30% of the building. When cumulative building remodel or expansion exceeds 50% of the building must comply within 18 months of permit application.~~

(22) ~~Section 907.2.3 is hereby amended to read as follows:~~

~~907.2.3 Group E. A manual fire alarm system that activates the occupant notification system in accordance with section 907.6 shall be installed in group E occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system. An approved smoke detection system shall be installed in group E day care occupancies. Unless separated by a minimum of 100' open space, all buildings, whether portable buildings or the main building, will be considered one building for alarm occupant load consideration and interconnection of alarm systems.~~

~~Exceptions:~~

- ~~1. Group E occupancies with an occupant load of less than 50 when provided with an approved automatic sprinkler system.
Residential in-home day care with not more than 12 children may use interconnected single station detectors in all habitable rooms. (For care of more than five children 2 1/2 or less years of age, see section 907.2.6.)~~
- ~~2. Manual fire alarm boxes are not required in group E occupancies where all the following apply:
 - ~~2.1. Interior corridors are protected by smoke detectors with alarm verification.~~
 - ~~2.2. Auditoriums, cafeterias, gymnasiums and the like are protected by heat~~~~

~~detectors or other approved detection devices.~~

~~2.3. Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.~~

~~2.4. Off premises monitoring is provided.~~

~~2.5. The capability to activate the evacuation signal from a central point is provided.~~

~~2.6. In buildings where normally occupied spaces are provided with a two-way communication system between such spaces and a constantly attended receiving station from where a general evacuation alarm can be sounded, except in locations specifically designated by the fire code official.~~

~~(23) Section 907.2.8.4 is hereby added to read as follows:~~

~~907.2.8.4 Carbon monoxide detectors. An approved carbon monoxide detection system shall be installed and maintained in all buildings that include an underground garage or vehicle storage area and in buildings that provide parking as part of the structure. The detection system shall be monitored and shall signal an alarm as part of the fire alarm panel.~~

~~Exception:~~

~~1. Group R division 3.~~

~~(24) Section 907.4 is hereby amended to read as follows:~~

~~907.4 Manual fire alarm boxes. Where a manual fire alarm system is required by another section of this code, it shall be activated by fire alarm boxes installed in accordance with sections 907.4.2.1 through 907.4.2.6 Manual alarm actuating devices shall be an approved double action type.~~

~~(25) Section 907.4.6 is hereby added to read as follows:~~

~~Section 907.4.6. Where any fire alarm system is installed without a supervised sprinkler system is installed; manual fire alarm boxes shall be installed at all exits. Audio-visual notification devices shall be installed to provide complete coverage as required by the fire code official.~~

~~(26) Section 907.6 is hereby added to read as follows:~~

~~907.6 Installation. All fire alarm systems shall be installed in such a manner that the failure of any single alarm-actuating or alarm-indicating device will not interfere with the normal operation of any other such devices. All systems shall be Class "A" wired with a minimum of six feet separation between supply and return loops. IDC Class "A" style D SLC Class "A" Style 6 notification Class "B" Style Y.~~

~~(27) Section 907.6.3.2 is hereby added to read as follows:~~

~~907.6.3.2 Point addressable systems. When a fire alarm system is required by this section or by the fire code official, the system shall be "point addressable"; providing the type and location of the alarm. The alarm type and location must display on the alarm panel and provide type and location information to the Sherman Fire Department dispatch.~~

~~(28) Section 913.2 is hereby amended to read as follows:~~

~~913.2 Protection against interruption of service. The fire pump, driver, and controller shall be protected in accordance with NFPA 20 against possible interruption of service through damage caused by explosion, fire, flood, earthquake, rodents, insects, windstorm, freezing, vandalism and other adverse conditions. The fire code official may require a stand alone power source, or secondary source of power where a fire pump is installed to maintain the required fire flow in assembly occupancies, high-rise structures or any structure with greater than one hundred thousand (100,000) square feet.~~

~~(29) Section 913.2.2 #4 is hereby added to read as follows:~~

~~4. Fire pump system shall be supervised for “loss of power,” “phase reversal” and “pump running” conditions by supervisory signal on distinct circuits.~~

~~(30) Section 914.3.1.1.1.1 is hereby added to read as follows:~~

~~Section 914.3.1.1.1.1 Exterior access to sprinkler control rooms. The fire code official may require an exterior access door directly into the sprinkler control room.~~

~~(31) Section 3202.1 Definition “high piled combustible storage” is hereby amended to read as follows:~~

~~*High piled combustible storage.* Any building exceeding 6,000 sq. ft. that has a clear height in excess of 12 feet, making it possible to be used for storage in excess of 12 feet, shall be considered to be high piled storage and shall comply with the provisions of this section. When a specific product cannot be identified, a fire protection system shall be installed as for class IV commodities, to the maximum pile height.~~

~~(32) Section 5601.1.3 is hereby amended to read as follows:~~

~~5601.1.3 Fireworks. The possession, manufacture, storage, sale, handling and use of fireworks are prohibited within the city limits or within five thousand (5,000) feet of the city limits.~~

~~*Exceptions:*~~

~~1. Only when approved for fireworks displays, storage and handling of fireworks as provided in section 3304 and 3308.~~

~~2. The use of fireworks for approved display as permitted in section 3308.~~

~~(33) Section 5703.6.12 is hereby added to read as follows:~~

~~5703.6.12 Dry sumps. Approved sampling tubes of a minimum 6 inches in diameter shall be installed in the backfill material of each underground flammable or combustible liquid storage tank the tubes shall extend from a point 12 inches below the average grade of the excavation to ground level and shall be provided with suitable surface access caps. Each tank site shall provide a sampling sump at the corners of the excavation with a minimum of 4 sumps. Sampling tubes shall be placed in the product line excavation within 10 feet of the tank excavation and one every 50 feet routed along product lines towards the dispensers, a minimum of two are required.~~

~~(34) Section 6104.2 is hereby amended to read as follows:~~

~~6104.2 Maximum capacity within established limits. Within the limits established by law restricting the storage of liquefied petroleum gas for the~~

protection of heavily populated or congested areas, the aggregate capacity of any one installation shall not exceed a water capacity of 2,000 gallons (7570 L).

Exceptions:

1. In particular installations, this capacity limit shall be determined by the fire code official, after consideration of special features such as topographical conditions, nature of occupancy, and proximity to buildings, capacity of proposed containers, degree of fire protection to be provided and capabilities of the local fire department.
2. Except as permitted in City Ordinance 5331, section 5.04.005 LP-gas containers are not permitted in residential areas.

(35) Appendix D, section D103 figure D103.1 is hereby amended to read as follows:

D.103.1 Access road width. Where a road is used for fire department access, the minimum road width shall be 24 feet, exclusive of shoulder, unless otherwise approved by fire code official.

(36) Appendix D, section D103.3 is hereby amended to read as follows:

D103.3 Turning radius. The minimum turning radius shall be at least 25 feet radius unless roadway or fire lane exceeds minimum requirement of 24 feet or approved by fire code official.

(37) Appendix D, section D103.4 table D103.4 is hereby amended as follows:

REQUIREMENTS FOR DEAD-END FIRE

APPARATUS ACCESS ROADS

Length (feet)	Width (feet)	Turnarounds Required
0-150	24	None required
150-700	24	100' diameter cul-de-sac or 120' hammerhead
Over 700	-	Special approval required

(38) Appendix D, section D103.5 is hereby amended to read as follows:

D103.5 Fire apparatus access road gates. Gates securing the fire apparatus access roads shall comply with all of the following criteria:

1. The minimum gate width shall be 24 feet. (7315m²).

Sec. 3.02.003 — Penalty

Any person who shall violate any of the provisions of this article shall be punished as provided in section 1.01.009.

ARTICLE 3.03 ELECTRICAL CODE

Division 1. Generally

Sec. 3.03.001 — Short title

~~The title of this article shall be the “Electrical Code of the City of Sherman, Texas,” and may be cited as such.~~

~~Sec. 3.03.002 — Purpose~~

~~The purpose of this article is the practical safeguarding of persons and of buildings and their contents from electrical hazards arising from the use of electricity for light, heat, power, radio, signaling and for other purposes.~~

~~Sec. 3.03.003 — Scope~~

- ~~(a) — The provisions of this article shall apply to all installations of and work done on electrical conductors, fittings, devices, motors, appliances, fixture, signs and gaseous tubing, hereinafter referred to as “electrical equipment,” within or on public and private buildings and premises, with exception as provided herein.~~
- ~~(b) — On all installations of electrical conductors or equipment made and all existing installations which are altered, all work shall be done in a manner that will conform with the requirements for a sufficient and safe electrical system. Repair and maintenance work shall be such that if any electrical conductors or equipment are removed and later replaced, they shall be replaced in a manner which conforms with this article.~~

~~Sec. 3.03.004 — Penalty~~

~~Any person who shall violate any of the provisions of this article shall be punished as provided in section 1.01.009.~~

~~Sec. 3.03.005 — Duty of power company~~

~~The local power company, its agents or employees, shall make all connections from the power lines to the electric service installations. It shall be unlawful for any person to do so.~~

~~Sec. 3.03.006 — Inspection of circuses, carnivals and road shows~~

~~All circuses, carnivals and road shows using portable electrical equipment within the city shall be subject to inspection and regulation from this article.~~

~~Sec. 3.03.007 — Approval of materials, etc.~~

~~It shall be unlawful for any person to sell, expose for sale, offer to sell, dispose as a premium or offer for rent, and repair any electrical material, conductors, equipment, apparatus or appliance within the city which is not approved and bears an approved seal.~~

~~Secs. 3.03.008 – 3.03.040 — Reserved~~

~~Division 2. Administration and Enforcement~~

~~Sec. 3.03.041 — Electrical inspector Appointment~~

~~The director of the department shall cause to be appointed such personnel as are needed to be code enforcement inspectors. Code enforcement inspectors shall possess the basic qualifications of an electrical inspector and such other qualifications as may be required by the position.~~

~~Sec. 3.03.042 — Same Authority~~

~~The electrical inspector shall have the right during reasonable hours to enter any building or premises in the discharge of his official duties for the purpose of making inspection, reinspection or test of electrical equipment or installations thereat or therein. When any electrical equipment is found by an inspector to be dangerous to persons or property because it~~

is defective or improperly installed, the person owning the electrical equipment shall be notified in writing and shall have any changes or repairs made as required by the electrical inspector, which will place such equipment in safe condition. If such work is not completed within the period specified by the inspector in the notice, the inspector shall have the authority to disconnect or order the disconnection of electric service to the dangerous electrical equipment. In cases of emergency, when necessary for safety to persons or property, or when electrical equipment may interfere with the work of the fire department, the senior officer of the fire department at the site shall also have authority to immediately cause the disconnection of any electrical equipment.

Sec. 3.03.043 — Special permission for modification or waiver of regulations

The electrical regulations of this article may be modified or waived by special permission in particular cases where such modification or waiver is reasonable, does not differ from the intent of this article, and does not create an injustice. Such permission shall in all cases be obtained from the electrical inspector in writing prior to starting the work, and a copy of the permission shall be filed in the office of director of the department.

Sec. 3.03.044 — Responsibility for safe work

This article shall not be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling or installing any electrical equipment for damages to persons or property caused by a defect herein, nor shall the city be held as assuming any such liability, by reason of the inspection or reinspection authorized herein, or the certificate of approval or disapproval of any equipment authorized herein.

Sec. 3.03.045 — Condemnation

- (a) — If in the judgment of the electrical inspector or his authorized representative, after inspection, any electrical installation is unsafe or dangerous to person or property, the electrical inspector or his representative shall have the power to cause such electrical installation to be disconnected from the source of electrical energy supplying the same. Thereafter, it shall be unlawful for any person to cause or permit electric current to be supplied to such electrical installation until the same shall have been made safe and an inspector shall have issued a certificate of approval to that effect.
- (b) — When an electrical inspector condemns all or any part of any electrical installation, the owner or electrical contractor may, with five (5) days after receiving written notice thereof, file a petition in writing for review of such action of the electrical inspector by the electrical board, such petition to be filed with director of the department, and upon receipt of such petition, the director of the department shall arrange for a meeting of such board and such board shall make a decision in accordance with its findings with ten (10) days after the filing of such petition, which decision shall be final. There shall be a fee in the amount established by resolution paid by the person desiring the review at the time the review request is submitted.

Secs. 3.03.046 – 3.03.070 — Reserved

Division 3. Permits, Inspections, Etc.

Sec. 3.03.071 — Permit required, exemptions

- (a) — It shall be unlawful for any person to install, alter or make addition to any electrical wiring, devices or equipment subject to the provisions of this article, without first

~~securing a permit therefore from the department of code enforcement. Applications for such permits shall state the location of the work to be done, a description of the work and whether it will consist of a new installation or addition thereto, or repair or alteration of an old installation, and the name of the owner or occupant of the building or premises, and the permit, when issued, shall be to such applicant.~~

- ~~(b) — The permit, when issued, shall be for such installation as described in the application, and no deviation shall be made from the installation so described.~~
- ~~(c) — No permit shall be required for the installation of electrical wiring, devices and equipment installed by or for a utility company operating under a franchise from the city to transmit and sell electrical energy, provided such electrical wiring, devices and equipment are for the use of such utility company in its operation as a public utility as provided for in its franchise.~~
- ~~(d) — No permit shall be required for the installation of wiring devices and equipment for railroads on their own property.~~
- ~~(e) — No permit shall be required for the installation of communication wiring, devices and equipment, for companies engaged in the business of supplying communication service and operating under a franchise from the city.~~
- ~~(f) — No permit shall be required for the installation of fire alarm systems, security alarm systems or sound systems.~~
- ~~(g) — Permits will not be required for maintenance work done by any person through an employee regularly employed to do such maintenance work solely on or within the premises of property owned or controlled by such person; provided, however, such maintenance work shall not include the installation of any new work or additions to existing installations.~~

Sec. 3.03.072 — Fees

- ~~(a) — Before any permit is granted for the installation, alteration or repair of any electrical wiring, devices or equipment, the person making application for such permit shall pay to the city a fee in the amount so specified. The fee is for new work or addition to old work. Permit, inspection and other fees may be established by ordinance or resolution.~~
- ~~(b) — All permit fees prescribed and paid pursuant to the provisions of this article shall be paid to the building department of the city, and the accumulated daily amounts thereof shall be paid over to the finance department of the city.~~

Sec. 3.03.073 — Temporary permits

- ~~(a) — Upon application thereof the director of the department or his authorized representative may, at his discretion, issue a temporary permit authorizing the connection of service to any building or electrical installation for a period not to exceed ninety (90) days in cases where the immediate connection of such service is by him considered necessary, desirable and reasonably safe, provided that it appears that applicant for such temporary permit can and will qualify for a regular permit under the provisions of this article within a reasonable length of time.~~
- ~~(b) — All temporary construction service shall be inspected and approved by the electrical inspector after installation, and so such temporary construction service shall be connected to the electrical distribution system without this approval.~~

Sec. 3.03.074 — Completion and inspection of electrical work

- ~~(a) — Upon the completion of the installation of any electrical wiring, device or equipment,~~

~~it shall be the duty of the person installing same to notify the code enforcement department and an inspector shall inspect the installation with twenty-four (24) hours after notice is given.~~

- ~~(b) If, upon inspection, it is found that any part of the installation does not comply with the provisions of this article, the inspector shall give written notice of the violation to the person to whom the permit is issued by attaching a (red) tag to the equipment.~~
- ~~(c) When an installation, upon completion, is found to comply with all the requirements of this article, the inspector shall attach a certificate of approval (green tag) to the equipment and notify the local electrical power company. Such certificate shall authorize the connection of the installation to the electric service and the use of the installation.~~

Secs. 3.03.075–3.03.100—Reserved

Division 4. Electricians

Sec. 3.03.101—Licensing requirements

~~License requirements for all electricians operating in the city are governed by V.T.C.A., Occupations Code, chapter 1305. (Ordinance adopting Code) and the Texas Department of Licensing and Regulation (T.D.L.R.)~~

Sec. 3.03.102—Residential electrician

- ~~(a) Definition. The term “residential electrician” as used in this article is defined to mean and include any person engaged in the business of, or holding themselves out to the public as being, engaged in the business of installing and repairing, or contracting to install or repair, any electrical wiring, conduits, fixtures, devices, apparatus and equipment for carrying, using or consuming electrical energy for which a permit is required by the provisions of this article for residential applications, and in all cases shall include a person with a current residential electrician’s license issued by the city.~~
- ~~(b) License required. Before any person shall engage in the business of residential electrician as defined herein, application shall be made to the director of the department for a residential electrician’s license.~~
- ~~(c) Examination. The applicant shall be required to be examined as provided in V.T.C.A., Occupations Code, chapter 1305, before being entitled to receive a license.~~
- ~~(d) Fee. Before a license shall be granted to an applicant as a residential electrician, a fee in the amount established by resolution for license shall be paid to the city for the first years’ license or any portion of a year’s license.~~
- ~~(e) License duration, renewal. All licenses granted hereunder shall expire at midnight of December thirty-first following the date of issuance of the license, and thereafter each year on December thirty-first, as long as such license is in force and effect. Such license shall expire at 12:00 midnight of the next succeeding December thirty-first after issuance, unless sooner revoked as herein provided, and annually thereafter the same may be renewed and extended for an additional period of one (1) year by such license upon payment to the city of an annual renewal fee in the amount established by resolution at any time within thirty (30) days after the expiration date.~~
- ~~(f) Bond. Each residential electrician operating as an electrical contractor shall execute and deliver to the city clerk for approval a bond in the sum of two thousand dollars~~

~~(\$2,000.00), having as surety thereon a recognized surety company authorized to do business in this state, such bond to be conditioned for the faithful work for all work entered upon or contracted for in strict accordance with the terms and requirements of this article or insurance as required by the state.~~

- ~~(g) — Authority granted by license. Such license when issued shall entitle the holder thereof to engage in the business of residential electrician for the period of time from the date of issuance to the next January first thereafter, providing the surety bond herein required remains and continues in full force and effect.~~
- ~~(h) — License nontransferable. No license issued in accordance with the provisions of this section shall be transferable. Any holder of a license, who shall permit or allow same to be used by any other party to obtain a permit to do electrical work as specified in this article, shall be subject to having such license revoked by the electrical board.~~

Sec. 3.03.103 — Electrical contractor, master license

- ~~(a) — Definition. The term “electrical contractor” as used in this article is defined to mean and include any person engaged in the business of, or holding themselves out to the public as being engaged in the business of installing and repairing, or contracting to install or repair any electrical wiring, conduits, fixtures, devices, apparatus and equipment for carrying, using or consuming electrical energy for which a permit is required by the provisions of this article, and in all cases shall include a person with a current master/contractor electrician’s license issued by the city.~~
- ~~(b) — License required. Before any person shall engage in the business of electrical contractor as defined herein, application shall be made to the director of the department for a master/contractor electrician’s license.~~
- ~~(c) — Examination. The applicant shall be required to be examined as provided in V.T.C.A., Occupations Code, chapter 1305, before being entitled to receive a license.~~
- ~~(d) — License fee. Before a license shall be granted to an applicant as a master electrician, a fee in the amount established by resolution for license shall be paid to the city for the first year’s license, or any portion of a year’s license.~~
- ~~(e) — License duration, renewal. All licenses granted hereunder shall expire at midnight of December thirty first following the date of issuance of the license, and thereafter each year on December thirty first, as long as such license is in force and effect. Such license shall expire at 12:00 midnight of the next succeeding December thirty first after issuance, unless sooner revoked as herein provided, and annually thereafter the same may be renewed and extended for an additional period of one (1) year by such license upon payment to the city of an annual renewal fee in the amount established by resolution at any time within thirty (30) days after the expiration date.~~
- ~~(f) — Bond. Each master electrician operating as an electrical contractor shall execute and deliver to the city clerk for approval a bond in the sum of two thousand dollars (\$2,000.00), having a surety thereon a recognized surety company authorized to do business in this state, such bond to be conditioned for the faithful work for all work entered upon or contracted for in strict accordance with the terms and requirements of this article or insurance as required by the state.~~
- ~~(g) — Authority granted by license. Such license when issued shall entitle the holder thereof to engage in the business of electrical contractor for the period of time from the date of issuance to the next January first thereafter, providing the surety bond herein required remains and continues in full force and effect.~~

- (h) ~~License nontransferable.~~ No license issued in accordance with the provisions of this section shall be transferable. Any holder of a license, who shall permit or allow same to be used by any other party to obtain a permit to do electrical work as specified in this article, shall be subject to having such license revoked by the electrical board.

Sec. 3.03.104 — Journeyman electrician

- (a) ~~Definition.~~ The term “journeyman electrician” as used in this article is defined to mean and include any person who works for or under the supervision of a master/contractor electrician in installing or repairing electrical wiring, devices and equipment.
- (b) ~~Registration required.~~ All journeyman electricians before being permitted to do any electrical work in the city shall make application in the office of code enforcement for registration as journeyman electrician.
- (c) ~~Examination.~~ An applicant for journeyman registration, to qualify, must be licensed by the state as provided in V.T.C.A., Occupations Code chapter 1305.
- (d) ~~Registration fee.~~ The building department shall issue to every applicant that passes the state examination a certificate of registration as a journeyman electrician upon payment of a registration fee in the amount established by resolution.
- (e) ~~Registration duration, renewal.~~ Such certificate of registration, when issued shall entitle the holder thereof to do electrical work in the city as a journeyman electrician from the date of the issuance of the same to 12:00 midnight of the next succeeding December thirty first, unless sooner revoked as herein provided, and annually thereafter the same may be renewed and extended for an additional period of one (1) year by such license upon payment to the city of an annual renewal fee in the amount established by resolution at any time within thirty (30) days after the expiration date.
- (f) ~~Apprentices, helpers.~~ Nothing in this section shall be construed to prohibit the employment of apprentices or helpers working under the supervision of licensed electricians. A licensed electrician must be on the job site at all times while apprentices or helpers are working.

Sec. 3.03.105 — Existing licenses and certificates of registration

~~Any current licenses held by an electrical contractor or certificate of registration held by a journeyman electrician under the provisions of existing ordinances shall remain valid until the expiration of the same under such existing ordinance, but any application for renewal or renewal thereof shall be subject to all terms and provisions of this article.~~

Sec. 3.03.106 — Suspension of registration and license

~~Upon presentation to the director of the department of charges that the holder of any license or certificate of registration issued under this article has willfully or consistently violated any provision of this article or is incompetent to comply with such provisions, or that such holder has been found guilty of violating this article, the director of the department shall fix a time and place of a meeting of the construction appeals board to consider such charges and shall notify such holder of such certificate or license to be present at such meeting. Such notification shall be in writing and shall be delivered to such holder at least five (5) days prior to such meeting. Upon hearing such charges are justified, and in the event of an affirmative finding the certificate of registration or license of such holder, as the case may be, shall by the board be revoked or suspended for a period of not less than thirty (30) days and not more than two (2) years.~~

Sec. 3.03.107 — Lapse of license or certificate of registration

~~In the event that any holder of a certificate of registration or license issued pursuant to this article allows the same to lapse for a period of more than thirty (30) days for any cause, any attempted renewal of such license shall require the applicant for renewal to pay for all periods not already paid for plus an additional late fee in the amount established by resolution.~~

~~Sec. 3.03.108 — Reciprocal licensing agreements~~

~~The electrical board may negotiate and authorize a written reciprocal electrical licensing agreement with any city in this state, provided that such agreement shall be signed by the chairman or president of each consenting electrical board and a copy shall be filed in the office of the director of the department of the city. There shall be collected by the city a reciprocal licensing fee from a journeyman applicant in the amount established by resolution and a reciprocal licensing fee from a master/contractor applicant in the amount established by resolution plus, and in addition to, the regular fees required by the city for electrical licenses. A fee in the amount established by resolution shall be collected from any electrician for a reciprocal letter to another city.~~

~~Sec. 3.03.109 — Homeowner's rights~~

- ~~(a) — Nothing contained in this article shall prohibit any bona fide homeowner from personally installing electrical conductors or equipment within his own home provided that the owner shall file with the office of code enforcement approved plans and specifications; satisfy the electrical inspector as to his ability to install electrical wiring; apply for and secure a permit; pay required fee; do work in accordance with this article; apply for an inspection; and receive certificate of approval.~~
- ~~(b) — Personal installation by an owner under these homeowners' rights shall be by himself, for himself, on his own homestead premises in which he resides.~~

~~Secs. 3.03.110 – 3.03.140 — Reserved~~

Division 5. Technical Standards

~~Sec. 3.03.141 — Electrical code~~

~~The 2017 [2020] National Electrical Code is adopted with the following limitations and exceptions:~~

- ~~(1) — Aluminum conductors or copper-clad aluminum conductors are not permitted to be used except for service drop or service lateral.~~
- ~~(2) — No person shall hereafter install for residential purposes any service entrance conductors with a rating of less than one hundred (100) amps.~~
- ~~(3) — No person shall install any electrical wiring of a smaller size wire than no. 12.~~
- ~~(4) — No person shall install any electrical wiring on the outside surface of any building within the city, including a private residence, without placing such wiring in an approved and properly grounded metallic conduit. P.V.C. may be used only on temporary power pole installations on the load side.~~
- ~~(5) — No person shall install any service entrance switches or any service equipment switches or any service equipment within a bathroom, heating closet, cabinets or kitchens.~~
- ~~(6) — No person shall leave any unused electrical equipment within or upon public or private buildings or premises, if, in the opinion of the electrical inspector, the same constitutes a hazard or danger to life or property, including unused electric range installations and~~

~~unused contractor meter loops.~~

- ~~(7) — No person shall cover up any electrical conduit or wiring in the process of construction without inspection by an electrical inspector of the city.~~
- ~~(8) — All service entrance conductors from the meter base to the panel shall be installed in either of the following three (3) ways:
 - ~~(A) — The disconnect shall be located back of meter or under the meter with a metallic conduit nipple.~~
 - ~~(B) — If the service entrance conductors are placed in metallic conduit from the meter socket to the main panel, no main disconnect shall be required at the meter, except in apartment complexes.~~
 - ~~(C) — A service disconnect shall be provided at the meter except in back to back installations.~~~~
- ~~(9) — The minimum size of service disconnects shall be sixty (60) amps.
 - ~~(A) — Service panel breakers: All service panel breakers, known as piggyback, tandems, twins, thins, or any other of this type disconnect above thirty-amp capacity, are hereby prohibited on new installations.~~~~
- ~~(10) — Section 110-14(b) of the NEC is hereby amended; electricians tape alone will not be permitted as the sole insulation equivalent on splices and joints.~~
- ~~(11) — All electrical circuits shall have an equipment grounding conductor.~~
- ~~(12) — All condensing units of air conditioning and refrigeration shall be connected to the final switch or disconnect with liquid-tight flexible conduit approved for outside use.~~

~~Sec. 3.03.142 — Wiring to be encased in conduit~~

~~All electrical wiring for light, heat, power or other purposes installed in the city, as respectively described in the following subsections hereof, shall in all cases be contained and encased in approved conduit:~~

- ~~(1) — All electrical wiring in buildings situated in the inner fire limits of the city.~~
- ~~(2) — All commercial buildings, industrial buildings, educational and church buildings.~~
- ~~(3) — All electrical wiring through metal studs.~~
- ~~(4) — All service entrance installations from entrance to meter sockets shall be in metallic conduit. All meter sockets shall be grounded in an approved manner. All meter sockets shall be located in accordance with requirements of local power companies, and shall be located four (4) to six (6) feet from the center of meter to grade level, except meters located on pad transformers.~~
- ~~(5) — All supply wiring for electrical and neon signs when attached to a building.~~
- ~~(6) — All wiring installed underground, under buildings or in concrete slabs or other masonry.~~
- ~~(7) — Armored cable, known to the electrical trade as BX or AC cable, will not be approved for use as metallic conduit.~~

~~Sec. 3.03.143 — Number of outlets and branch circuits~~

~~Not more than ten (10) outlets shall be installed on any one (1) circuit in a residence. Commercial buildings in the fire zone shall have not more than six (6) wall outlets or six (6) fluorescent light fixtures, but not more than four (4) bulb-type light fixtures, per circuit.~~

Sec. 3.03.144—Services

- (a) ~~Overhead service/raceways shall be in approved metallic conduit. Underground service/raceways between meter base and ground must be in approved schedule 80 PVC conduit. No residential service conductor shall be smaller than no. 4 copper or no. 2 aluminum. Except by special permission of an electrical inspector, service entrance shall not be less than twelve and one-half (12-1/2) feet or more than twenty-five (25) feet from the ground level.~~
- (b) ~~Where one (1) service is installed to supply several installations or customers within the same building, the main service panel and disconnect must be accessible at all times to each of the occupants or customers supplied from such service.~~
- (c) ~~Whenever the service to any commercial building is disconnected, the service shall not again be connected to such building until the electrical system has been approved by an electrical inspector and conforms to the provisions of this article, and the metering requirements of the local electrical power company. Any building regardless of occupancy, not having the service conductors in approved metallic conduit, once disconnected, shall not again be connected to the source of supply until service and meter loop shall have been replaced and made to conform to the standards of this article, and the metering requirements of the local electrical power company. A disconnect shall be provided at the meter except in back-to-back installations.~~

Sec. 3.03.145—Electrical signs

- (a) ~~All classes of electrical signs, whether of the gas tube, sign receptacle or reflector type, including gas tube window signs and outside building outlining shall be considered electric signs within the meaning of this article. Portable inside displays or small signs using self-contained transformers with current consumption not to exceed two hundred (200) watts may be connected by attachment plug to present circuits providing all other requirements of this article are complied with.~~
- (b) ~~All signs must be on separate circuits in conduit from the distributing panel and not more than one thousand three hundred twenty (1,320) watts will be allowed on each circuit. All signs except portable signs must be grounded directly to the conduit service.~~
- (c) ~~When an electric sign is to be hung over the sidewalk there must be a clearance of nine (9) feet from the sidewalk to the lowest point of the sign and no sign shall extend to within two (2) feet of the curblin of sidewalk, except by special permission of the director of the department or his representative.~~

ARTICLE 3.04 GAS CODE

Sec. 3.04.001—Amendments

The following additions, amendments, and/or deletions to the 2018 International Fuel Gas Code are hereby adopted:

- (1) ~~Chapter 1, section 1064, is hereby amended to add the following:~~
 - ~~1064.7 Plumbing contractor bond. All contractors engaged in the business of plumbing in the city shall have current insurance as required by the state plumbing board.~~
- (2) ~~Chapter 4 is hereby amended with the following additions:~~
 - ~~403.6.3.1 Plastic piping. All plastic pipe approved for use with natural gas shall bear the manufacturer's name or trademark, pipe size, plastic pipe material designation code,~~

standard dimension ratio number, the ASTM specifications to which the pipe conforms, ASTM D 2513, ASTM D 2517, and the production code number to indicate resins used in manufacturing. See 314 for outside use. Polyvinyl Chloride (PVC) Commercial Standards (CS256-63) shall not be used for consumer's gas piping.

404 Piping System Installation.

404.17.3 Tracer.

404.17.3.1 Tracer wire size and installation instruction. Where polyethylene (plastic) piping is installed as a carrier of natural gas, an electrically conductive wire, not smaller than #12-600V solid plastic covered conductor shall be installed in the same ditch, at the same depth as the gas pipe for the entire length of the pipe and shall exit the ground with the pipe with approximately twelve (12) inches of free wire, so as to form a tracer circuit for the plastic pipe.

- (3) ~~Section 109 Means of Appeal shall be deleted and be replaced with Article IV, Division 2 Board of Plumbing and Mechanical Contractors, Sections 6-191 through 6-202, City of Sherman Code of Ordinances.~~

ARTICLE 3.05 HEATING AND AIR-CONDITIONING CODE

Division 1. Generally

Sec. 3.05.001 — Short title

~~This article shall be known as the Heating and Air-Conditioning Code and may be cited as such.~~

Sec. 3.05.002 — Penalty for violations

~~Violations of this article are punishable as provided in section 1.01.009.~~

Sec. 3.05.003 — Mechanical code amendments

~~The following additions, amendments and/or deletions to the 2018 edition of the International Mechanical Code are hereby adopted:~~

- (1) ~~Chapter 1, section 108.4, is hereby deleted and amended by adding the following section:~~

~~108.4 Violations and penalties. Any person, firm, corporation, or agent who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, or who shall install, construct, alter, repair, replace or move any mechanical system, or has installed, altered, repaired, moved or replaced a mechanical system in violation of a detailed statement or drawing submitted and permitted thereunder, shall be punished as provided in section 1.01.009 of the Code of Ordinances.~~

- (2) ~~Section 109, Means of Appeal. Shall be deleted and shall be replaced with Article IV, Division 2, Board of Plumbing and Mechanical Contractors, Sections 6-191 through 6-202, City of Sherman Code of Ordinances [sic].~~

Sec. 3.05.004 — Permit issuance restricted

~~Permits shall be issued only to a person holding a current air-conditioning contractor license issued by the state department of labor and standards or a current air-conditioning contractor license issued by the city.~~

Division 2. Contractors

~~Sec. 3.05.031—Insurance requirements~~

- ~~(a) — Each class A license holder shall have in force commercial general liability insurance in an amount as required by section 75.40(a) of The Rules and Regulations Concerning the Practice and Licensing of Air-Conditioning and Refrigeration Contractors for the state in the Texas Administrative Code.~~
- ~~(b) — Each class B license holder shall have in force commercial general liability insurance in an amount as required by section 75.40(b) of The Rules and Regulations Concerning the Practice and Licensing of Air-Conditioning and Refrigeration Contractors for the state in the Texas Administrative Code.~~
- ~~(c) — Each city air-conditioning contractor shall have in force a current heating, air-conditioning and appliance dealer's bond in the amount of five thousand dollars (\$5,000.00) or commercial general liability insurance in an amount as required by section 75.40(a) of The Rules and Regulations Concerning the Practice and Licensing of Air-Conditioning and Refrigeration Contractors for the state in the Texas Administrative Code on file in the office of the city clerk as required by the city.~~

~~Sec. 3.05.032—License required~~

~~No person shall engage in the business of environmental air conditioning, air conditioning maintenance or installation unless that corporation or person shall have a current air-conditioning license, class A or class B, issued by the department of licensing and regulation, boiler division, air conditioning and refrigeration licensing section, or a current air-conditioning contractor license issued by the city.~~

~~Sec. 3.05.033—License issuance and renewal~~

- ~~(a) — The state department of licensing and regulation, boiler division, air conditioning and refrigeration licensing section, shall control the issuance and renewal of air-conditioning contractor licenses issued by that department.~~
- ~~(b) — The code enforcement department of the city shall renew air-conditioning contractor licenses issued by the city in this manner:~~
 - ~~(1) — Annual renewal fees shall be paid on or before the last day of each calendar year or the license expires.~~
 - ~~(2) — Licenses not renewed by February first of the year following the expiration date shall be considered delinquent. Delinquent licenses may be renewed by paying the renewal fee for each year the license is delinquent and a delinquent fee. If a license is lapse for a period of two (2) years, it is not renewable.~~
 - ~~(3) — The renewal fee for an air-conditioning contractor license is as established by resolution. The fee for being delinquent is as established by resolution.~~

~~Sec. 3.05.034—License revocation or suspension~~

- ~~(a) — The construction board of adjustments and appeals may revoke or suspend an air-conditioning contractor license for any of the following reasons:~~
 - ~~(1) — Misrepresentation of a material fact in obtaining such air-conditioning contractor license or the renewal thereof;~~

- ~~(2) — Use of an air-conditioning contractor license in obtaining a permit for another;~~
- ~~(3) — Failure to secure the permits, inspections and approvals as required by ordinances;~~
- ~~(4) — Workmanship or work not in conformity with the mechanical code or not in conformity with the permit issued therefor;~~
- ~~(5) — Repeated violations of the code, or failure or refusal to promptly correct an installation or part thereof made in an incompetent or improper manner or in violation of any provision of the mechanical code;~~
- ~~(6) — Conviction of a felony involving the moral character of the registrant provided such revocation is deemed necessary in the public interest.~~
- ~~(b) — It shall be the duty of an inspector to report such violations to the board.~~
- ~~(c) — When an air-conditioning contractor has been suspended three (3) times, any subsequent action because of any of the reasons listed under this section shall include revocation of such license.~~
- ~~(d) — No license shall be revoked until a hearing has been held by the board, at which hearing the license holder may appear in person or be represented by counsel.~~
- ~~(e) — An air-conditioning contractor license may be suspended for a prescribed period, not to exceed six (6) months, and the notice of suspension may require the person whose license is suspended to correct work improperly installed or to correct any other conditions because of which such license was suspended before such license is reinstated.~~

Sec. 3.05.035 — Unauthorized use of sign or title indicating license

~~No person shall display any sign or use any title or designation such as “licensed” which would indicate that such person has been licensed by the city, and no person in the city shall display any sign or use any title or designation indicating that such person is engaged in the business of installing any work which, in the city, may, under the provisions of this article, be installed only by licensed installers unless such person has been licensed under the applicable provisions of this article, and such license has not lapsed or been revoked.~~

Sec. 3.05.036 — Identification of vehicles

~~Each city air-conditioning contractor license holder shall display their city license number in letters not less than two (2) inches high on both sides of all vehicles used in conjunction with air-conditioning contracting. These numbers shall have a prefix “SAC” before the number.~~

ARTICLE 3.06 HOUSING CODE

Division 1. Generally

Sec. 3.06.001 — Penalty for violations

~~Violations of this division are punishable as provided in section 1.01.009.~~

Sec. 3.06.002 — Adopted

- ~~(a) — The Standard Housing Code, 1997 edition is adopted by reference.~~
- ~~(b) — It shall be unlawful for the owner, occupant, manager or person in control of real property to occupy or cause or permit the human occupancy of a building, structure or~~

portion thereof without having running water and sanitary sewer services.

~~Secs. 3.06.003 – 3.06.009 – Reserved~~

~~Division 2. Dangerous Buildings~~

~~Sec. 3.06.010 – Definitions~~

~~The words and phrases contained herein shall have the following meaning ascribed to them unless the context states otherwise:~~

~~*Building.* Includes, but is not limited to, any building, fence, awning, canopy, sign, shed, garage, house, tent, trailer or other structure whatsoever.~~

~~*Dangerous building.* Any building that does not comply with the minimum standards, as defined herein.~~

~~*Minimum standard.* The minimum standards for continued use and occupancy of a building as set forth in section 3.06.013 herein.~~

~~*Municipal court of record.* The municipal court of record of Sherman, Texas.~~

~~*Occupancy.* The purpose for which a building, structure, or portion thereof is utilized or occupied.~~

~~*Owner of record.* Any person, agent, firm, corporation or governmental agency shown to be the owner or owners of a building in:~~

- ~~(1) The real property, assumed name, or appraisal district record of the county;~~
- ~~(2) The tax or utility records of the city; or~~
- ~~(3) The records of the secretary of state.~~

~~*Public nuisance.*~~

- ~~(1) Whatever is dangerous to human life or health; whatever renders the ground, water, air or food hazardous to human life, or health, or that is offensive to the senses; or that is or threatens to become detrimental to the public health; or~~
- ~~(2) Any building that creates a hazard to health, safety, comfort or welfare is a public nuisance.~~

~~Sec. 3.06.011 – Reserved~~

~~Sec. 3.06.012 – Abatement of substandard structures~~

- ~~(a) It shall be unlawful for any owner or other person in control of a building to allow that building to be in a condition that does not conform to the minimum standards.~~
- ~~(b) Any building that does not conform to the minimum standards is hereby declared to be a public nuisance and shall be subject to abatement by repair, demolition, or removal as necessary upon the issuance of an order to abate issued by the municipal court of record in accordance with the procedures specified in this article.~~

~~Sec. 3.06.013 – Minimum standards~~

~~A building is considered not to meet the minimum standards of the city regardless of its date of construction, under any of the following conditions:~~

- ~~(1) Any building that is dilapidated, substandard, or unfit for human habitation and a hazard to public health, safety and welfare; including, but not limited to:~~

- (A) — ~~Any building with roof, ceiling, floors, walls, sills, windows, or foundation or any combination thereof rotted or decayed, and falling apart; or that is uninhabitable due to obsolescence and deterioration caused by neglect, vandalism, fire damage, or the elements;~~
- (B) — ~~Any structure or building that is in a state of dilapidation, deterioration or decay, faulty construction, open, vacant or abandoned, damaged by fire to the extent as not to provide shelter in danger of collapse or failure and dangerous to anyone on or near the premises;~~
- (C) — ~~Any building that is a fire hazard because it is in a dilapidated condition, as described in subsections (A) and (B) above or that is likely to become a fire hazard or be set on fire;~~
- (D) — ~~Any building that is in an unsanitary condition and is likely to create disease because of the presence of insects, rodents or vermin;~~
- (E) — ~~Any building that is damp and in an unsanitary condition and is likely to create disease and sickness because of being in the condition in subsections (A), (B), (C) or (D) above, or for other reasons;~~
- (F) — ~~Any building that because of any physical condition, use or occupancy of any premises or its appurtenances would be considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations, swimming pools and unsafe fences or structures;~~
- (G) — ~~Any building that because of the state of disrepair is such that it could reasonably cause injury, damage, or harm to a considerable portion of the community in the use and enjoyment of property, materially interfering with the proper use or comfort and enjoyment of surrounding property, taking into consideration the nature and use of the properties in the area and the character of the community in which they are situated, which condition would be substantially offensive and annoying to persons of ordinary sensibilities living in the community.~~
- (2) — ~~Any building that is not occupied by its owners, lessees or other invitees and is not secure from unauthorized entry so that it could be entered or used by vagrants, other uninvited persons or children regardless of its structural condition.~~
- (3) — ~~Any building that is boarded up, fenced or secured if:~~
 - (A) — ~~The building constitutes a danger to the public even though secured from entry;~~
~~or~~
 - (B) — ~~The means used to secure the building are inadequate to prevent unauthorized entry or use of the building.~~

Sec. 3.06.014 — Inspection and notice of abatement

- (a) — ~~The city manager shall designate an appropriate official (“inspecting official”) of the city to inspect or cause to be inspected any building that he has probable cause to believe does not meet the minimum standards. If the inspecting official is unable to obtain permission to search the building from the owner or a person in control of the premises, the city shall apply for an administrative search warrant pursuant to Texas Code of Criminal Procedure section 18.05, as amended, unless an exception to the warrant requirement exists.~~
- (b) — ~~After completing the inspection, the inspecting official shall determine if the building~~

is a substandard structure.

- (c) ~~After an initial determination that a building is a substandard structure, the inspecting official will notify the owner of record of the building, by certified mail, return receipt requested, of the nature of the violation(s) of the minimum standards.~~
- (d) ~~The inspecting official shall also notify the owner of record of the building, by certified mail, return receipt requested, that the building is a substandard structure and that the owner must repair, demolish, or remove the building for the good of the public health, safety and welfare.~~
- (e) ~~The inspecting official shall also notify the owner of record of the building, by certified mail, return receipt requested, that if said violations have not been cured after a period of thirty (30) days the inspection official may cause a hearing to be held before the municipal court of record in accordance with this article.~~
- (f) ~~A notice shall be posted on the dangerous building as follows:~~

~~“THIS BUILDING IS A SUBSTANDARD STRUCTURE ACCORDING TO THE
MINIMUM STANDARDS SET FORTH IN THE OFFICIAL CODE OF THE CITY
OF SHERMAN, CHAPTER 3, ARTICLE 3.06 AND THE OWNER MUST REPAIR,
DEMOLISH OR REMOVE IT.~~

~~CONTACT _____ AT _____ FURTHER INFORMATION.~~

~~DATE _____”~~

Sec. 3.06.015 — Order to abate

- (a) ~~**General.** Whenever the inspecting official has inspected or caused to be inspected any structure or lot and has found and determined that such structure or lot is substandard, he may commence proceedings to cause repair, rehabilitation, or demolition of the structure or lot.~~
- (b) ~~**Notice and administrative order to abate.** The inspecting official shall issue a notice and administrative order to abate a substandard structure or lot. The notice and administrative order shall contain:~~
 - (1) ~~The street address and a legal description sufficient for identification of the premises upon which the structure is located.~~
 - (2) ~~A statement that the inspecting official has found the structure or lot to be substandard with a brief and concise description of the conditions found to render the structure or lot substandard under the provisions of this chapter.~~
 - (3) ~~A statement of the action recommended to be taken as determined by the inspecting official.~~
 - (4) ~~A statement advising that a notice of hearing is forthcoming and a description of the hearing. The hearing shall provide the municipal court of record the means to consider or determine whether a structure or lot complies with the standards set forth herein and to consider or determine whether a structure or lot must be repaired or demolished, as recommended by the inspecting official in the notice and administrative order.~~
 - (5) ~~Statements advising that if the owner or owners of record are in full agreement with a demolition order, and that if the owner or owners of record are financially unable to abate such nuisance, then the owner or owners of record may grant the city written permission to abate said nuisance, and, in doing so shall grant~~

the city a lien against the real property as described in this article.

- (c) ~~Notice of hearing.~~ The inspecting official shall give notice of a public hearing to all known owners; lienholders, or mortgagees for the municipal court of record to consider or determine whether a structure or lot complies with this code and to consider or determine whether a structure or lot must be repaired, secured or demolished. The notice shall be mailed and posted as provided herein, and published in the official newspaper of the city on one occasion, on or before the tenth (10th) day before the date of the hearing. The notice of hearing shall contain:
- (1) ~~The name and address of the owner of the affected property, if known;~~
 - (2) ~~A legal description of the property, as well as the physical address;~~
 - (3) ~~A description of the hearing;~~
 - (4) ~~The date, time, and place of the public hearing. This date shall be established not less than ten (10) days from the date of the administrative order;~~
 - (5) ~~Statement that the owner; lienholder; or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with this article and the time it will take to reasonably perform the work.~~
- (d) ~~Service of notice and administrative order to abate and notice of hearing.~~ The notice of the administrative order to abate, the notice of hearing and any supplemental notices or orders shall be served upon the owner; lessor, lienholder; and mortgagees of record and occupant, if different than the owner of the structure or lot. Service of these notices and orders shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice by certified mail, return receipt requested, and an optional second copy by regular mail, to each such person at his address as it appears on the county tax rolls, or as discovered by due diligence, as defined by subsections (d)(1) - (d)(6) of this section, and the notice shall be posted on the front door of each improvement situated on the affected property or as close to the front door as practical. The following of these procedures shall be prima facie evidence of notification. If a certified notice is returned as refused or unclaimed, the validity of the notice is not affected, and the notice shall be deemed delivered. The city has satisfied the requirements of this section to make a diligent effort to determine the identity and address of an owner, a lienholder, or a mortgagee if the city searches the following records:
- (1) ~~County real property records of the county in which the building is located;~~
 - (2) ~~Appraisal district records of the appraisal district in which the building is located;~~
 - (3) ~~Records of the secretary of state;~~
 - (4) ~~Assumed name records of the county in which the building is located;~~
 - (5) ~~City tax records; and~~
 - (6) ~~City utility records.~~
- (e) ~~Filing of notice and administrative order at the county.~~ A copy of the notice and any administrative orders, or such orders as may be issued pursuant to these provisions, shall be filed with the county deed records in the county where the property is located. The notice must contain the name and address of the owner of the affected property if that information can be determined from a reasonable search of the instruments on file in the office of the county clerk, or upon a due diligence search as set forth herein, a legal description of the affected property, and a description of the proceeding. The filing

~~of said notice and any said orders, is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of said notice or any said orders, and constitutes notice of said hearing and notice of any said orders, on any subsequent recipient of any interest in the property who acquires such interest after the filing of said notice or filing of any said orders.~~

~~(f) — Public hearing.~~

~~(1) — During an officially noticed hearing, the municipal court of record shall hold a public hearing on each case and shall hear such testimony as may be presented by any department of the city, the housing inspector, or the owner, occupant, mortgagee or any other person having an interest in such building to determine whether a building complies with the standards of this code. The owner, lienholder, or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with this code and the time it will take to perform the work. After all testimony has been received, the public hearing shall be closed and the municipal court of record shall render its decision.~~

~~(2) — If a building is found in violation of the standards set forth herein, the municipal court of record may order that the building be secured, repaired, removed, or demolished by the owner within a reasonable time in accordance with state law and city ordinances.~~

~~(g) — Post meeting procedure. The city attorney shall, within ten (10) days after the date the order is issued:~~

~~(1) — File a copy of the order in the office of the city clerk;~~

~~(2) — Publish in a newspaper of general circulation in the city a notice containing:~~

~~(A) — The street address or legal description of the property;~~

~~(B) — The date of the hearing;~~

~~(C) — A brief statement indicating the results of the order; and~~

~~(D) — Instructions stating where a complete copy of the order may be obtained; and~~

~~(3) — Shall promptly mail by certified mail, return receipt requested, and an optional second copy by regular mail, a copy of the order to the owner; any lienholder, and any mortgagee of the building, as determined by due diligence, as defined herein.~~

~~Sec. 3.06.016 — Enforcement~~

~~(a) — Criminal.~~

~~(1) — A person who violates a provision of this code, or who fails to perform an act required of him by this code, or who, fails to adhere to an order issued by the municipal court of record under this code, commits a class C misdemeanor offense. A person commits a separate offense each day or portion of a day during which a violation is committed, permitted, or continued.~~

~~(2) — An offense under this code is punishable by a fine of \$500.00 per day per violation.~~

~~(3) — Allegation and evidence of a culpable mental state is not required for the commission of an offense under this code.~~

~~(b) — Civil.~~

- ~~(1) — The city may, in accordance with sections 54.012 et seq. of the Texas Local Government Code, as amended, bring a civil action against a person violating a provision of this code relating to dangerously damaged or deteriorated structures or improvements or for conditions caused by accumulations of trash, garbage, refuse, vegetation, or other matter that creates breeding and living places for insects and rodents.~~
 - ~~(2) — The civil action may include, but is not limited to, a suit to recover a civil penalty not to exceed \$1,000.00 for each day or portion of a day during which the violation is committed, continued, or permitted by the owner or occupant of the property, as provided below.~~
 - ~~(3) — The city, by resolution of the City Council, may assess and recover a civil penalty against a property owner, if the owner fails to take the requisite action as ordered by the municipal court of record, after an administrative hearing on the matter. The civil penalty may not exceed \$1,000.00 a day for each violation if the city proves:~~
 - ~~(A) — The property owner was notified of the requirements of this code and the owner's need to comply with the requirements; and~~
 - ~~(B) — After notification, the property owner committed an act in violation of this code or failed to take an action necessary, for compliance with this code.~~
 - ~~(4) — A determination by the City Council which involves the establishment of an amount and duration of a civil penalty shall be final and binding and constitute prima facie evidence of the penalty in any court of competent jurisdiction in a civil suit brought by the city for final judgment in accordance with the established penalty.~~
 - ~~(5) — To enforce any civil penalty under this section, the city must file in the district clerk's office in which the municipality and property is located, a certified copy of the resolution of the City Council establishing the amount and duration of the penalty. No other proof is required for a district court to enter final judgment on the penalty.~~
- ~~(c) — Other available remedies. The city shall have all other available remedies at law and in equity to enforce the provisions of this article.~~

Sec. 3.06.017 — Authority to secure unoccupied, unsecured, substandard, open buildings and structures

- ~~(a) — Purpose. The owner or person in control of an unoccupied structure shall ensure that the building is in such condition that an unauthorized person cannot enter the structure through missing or unlocked doors or windows or through other openings into the building. The city may secure unoccupied, unsecured structures, or structures occupied by persons who do not have the right of possession to the building. A lien may be filed on real property to ensure the cost of securing the structure as set forth in this article.~~
- ~~(b) — Definitions.~~

~~*Unoccupied structure.* Any structure or building that appears vacant or abandoned as evidenced by: no active utility accounts, absence of personalty, general conditions of neglect and any other substantiated evidence of vacancy or abandonment that may be~~

presented by the inspecting official.

Unsecured structure. Any structure or building that currently has no occupant with the right of possession of the building and which has missing or unlocked doors or windows, or other unsecured openings into the building through which unauthorized persons can enter. Any unoccupied, unsecured structure or building is hereby declared to be a danger to public health and safety and is hereby declared to be a public nuisance.

~~(c) — City may secure.~~

~~(1) — The inspecting official may secure a building that:~~

~~(A) — Violates the standards of this code; and~~

~~(B) — Is an unsecured structure.~~

~~(2) — This authority is in addition to that regarding substandard structures.~~

~~(d) — Notice.~~

~~(1) — Before the eleventh (11th) day after the date the building is secured, the inspecting official shall give notice to the owner of record by:~~

~~(A) — Personally serving the owner with written notice;~~

~~(B) — Sending a copy of the notice certified mail, return receipt requested, and an optional copy by regular mail, at the owner's post office or physical address;~~

~~(C) — Publishing the notice at least twice within a ten (10) day period in the city's official newspaper if personal service cannot be obtained and the owner's post office or physical address is unknown; or~~

~~(D) — Posting the notice on or near the front door of the building if personal service cannot be obtained or the owner's post office or physical address is unknown.~~

~~(2) — The notice must contain the following:~~

~~(A) — An identification, which is not required to be a legal description, of the building and the property on which it is located;~~

~~(B) — A description of the violation of this code that is present at the building;~~

~~(C) — A statement that the city will secure or has secured, as the case may be, the building; and~~

~~(D) — A statement that the owner may request a hearing about any matter related to the city's securing of the building, and that if such a hearing is requested, it shall be held pursuant to Texas Local Government Code section 214.0011(e), as amended.~~

~~(3) — The city shall conduct a hearing before the municipal court of record at which the owner may testify or present witnesses or written information about any matter relating to the city's securing of the building if within thirty (30) days after the date the city secures the building, the owner files with the city secretary, a written request for the hearing. The city shall conduct the hearing within thirty (30) days after the date the request is filed.~~

Sec. 3.06.018 — Appeals

Any owner, lienholder or mortgagee of record of a property jointly or severally aggrieved by

~~an order under this article shall be entitled to judicial review of said order pursuant to Texas Local Government Code section 214.0012, as amended.~~

Sec. 3.06.019 — Abatement by city and liens

- (a) ~~If an owner or other interested party does not take the action required by an order issued pursuant to this article within the time specified and has not filed a timely appeal in accordance with this article and the Texas Local Government Code section 214.0012 the city may take the appropriate action at its expense at the direction of the City Council in accordance with the laws of the state.~~
- (b) ~~Any expenses incurred by the city pursuant to subsection (a) of this section will be assessed against the property on which the building stands or stood. The city will have a privileged lien upon filing same in the official public records of the county clerk subordinate only to tax liens against the property unless it is a homestead as protected by the Texas Constitution. The lien will be extinguished if the property owner or other interested party reimburses the city for all expenses and penalties.~~

Sec. 3.06.020 — Receiver

~~The city may bring an action in district court against an owner of residential property that is not in substantial compliance with the minimum standards and request the appointment of a receiver for proposes of rehabilitating the property in accordance with Texas Local Government Code section 214.003, as amended.~~

ARTICLE 3.07 PLUMBING CODE

Sec. 3.07.001 — Short title

~~This article shall be known as the Sherman Plumbing Code and may be so cited.~~

Sec. 3.07.002 — Penalty for violation

~~Any person who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction therefor, shall be punished as provided in section 1.01.009.~~

Secs. 3.07.003 – 3.07.004 — Reserved

Sec. 3.07.005 — Amendments

- (a) ~~The International Plumbing Code adopted in this article is revised or amended in the following respects:~~
- (1) ~~Chapter 1, section 101 is hereby amended to add the following section:~~
- ~~101.1.1 Building and zoning department. The building and zoning department of the city shall administer and enforce the plumbing code.~~
- ~~101.1.2 Plumbing inspector. Inspectors with a current plumbing inspector license issued by the state will be used as plumbing inspectors.~~
- (2) ~~Chapter 1, Section 106 is hereby amended with the following:~~
- ~~106.1.2 Plumbing license and bond. Each plumbing contractor doing business in the city shall have a full-time person employed who has a current master plumbing license, issued by the state, and must have a current valid surety bond made to the city, in the amount of two thousand dollars (\$2,000.00) and on a form supplied by the city, or insurance required by the state plumbing board.~~
- (3) ~~Chapter 1, section 108.4, violations and penalties, is hereby added.~~

~~108.4 Violation penalties. Any person, firm, corporation or agent who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, repair, or replace any plumbing installation or has erected, constructed, altered, repaired, or replaced a plumbing installation in violation of detailed statement or drawing submitted and permitted thereunder, shall be punished as provided in section 1.01.009 of the Code of Ordinances.~~

- (4) ~~Chapter 7, section 701.2, is hereby deleted and replaced with the following:~~

~~A separate sewer service shall be provided for each building, structure, apartment complex, shopping mall, or factory complex.~~

- (5) ~~Chapter 6, tables 605.4 3, 605.4, and 605.5 are hereby amended to allow only those approved materials from subsection (a)(1) above, as amended by this section.~~

- (6) ~~Chapter 7, tables 702.1, 702.2, 702.3, and 702.4 are hereby amended to allow only those approved materials from subsection (a)(1) above, as amended by this section.~~

- (7) ~~Chapter 11 is hereby deleted.~~

- (8) ~~The 2018 edition of the International Plumbing Code is hereby amended by adding:~~

~~Appendix E1 Private Sewage Systems. E1.1. Private sewage systems shall be regulated by the Texoma Council of Governments and/or the Grayson County Health Department in accordance with their regulations and the laws covering this subject of the state.~~

- (9) ~~Section 109 Means of Appeal shall be deleted and shall be replaced with Article IV, Division 2 Board of Plumbing and Mechanical Contractors, Section 6-191 through 6-202, City of Sherman Code of Ordinances [sic].~~

- (10) ~~Section 608.14.2 Protection of backflow preventers shall be amended to read as follows:~~

~~Backflow preventers shall not be located in areas subject to freezing except where protected from freezing by heat, insulation or both.~~

- (11) ~~Section 1103 Traps shall be deleted.~~

- (12) ~~Section 1108 Combined sanitary and storm system shall be deleted.~~

- (13) ~~Cellular core piping is not allowed to be used in underground applications.~~

- (14) ~~Any new building shall have new water and sewer service unless approved by the building official.~~

Sec. 3.07.006 — Backflow prevention

- (a) ~~Customer service inspection. A customer service inspection certification shall be completed prior to providing continuous water service to new construction, on any existing service when the city has reason to believe that cross connections or other unacceptable plumbing practices exist, or after any material improvement, correction, or addition to the private plumbing facilities. The existence of a serious threat to the integrity of the public water supply shall be considered sufficient grounds for immediate termination of water service.~~

~~(b) — Backflow assembly testing.~~

- ~~(1) — All backflow prevention assemblies shall be tested upon installation by a recognized backflow prevention assembly tester and certified to be operating within specifications. Backflow prevention assemblies which are installed to provide protection against high health hazards must also be tested and certified to be operating within specifications at least annually by a recognized backflow prevention device tester.~~
- ~~(2) — It shall be the duty of the customer at any premises where backflow prevention assemblies are installed to have a certified inspection and operational tests conducted annually. In those instances where the city deems the hazard to be deleterious to human health, customer service inspection certifications may be required semiannually. Inspections and tests shall be at the expense of the customer or customer representative and shall be performed by a certified backflow technician.~~
- ~~(3) — Assemblies shall be repaired, overhauled, or replaced at the expense of the customer whenever said assemblies are found to be defective. Records of such tests, repairs and overhaul shall be kept and submitted to the city within five (5) days of the test, repairs or overhaul of each backflow prevention assembly.~~
- ~~(4) — No device or assembly shall be removed from use, relocated, or other device or assembly substituted without the approval of the city. Whenever the existing assembly is moved from the present location, requires more than minimum maintenance, or when the city finds that the maintenance constitutes a hazard to health, the unit shall be replaced by a backflow prevention assembly complying with requirements of this section and the current plumbing code of the city.~~
- ~~(5) — A test report must be completed by the recognized backflow prevention assembly tester for each assembly tested. The signed and dated original must be submitted to the city building and zoning regulation department within five (5) days of the test.~~
- ~~(6) — A recognized backflow prevention assembly tester must have completed a state commission on environmental quality (TCEQ) approved course on cross connection control and backflow prevention and pass an examination administered by the TCEQ or its designated agent.~~

Sec. 3.07.007 — Minimum standards for installation of irrigation systems

- ~~(a) — Definitions. The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise.~~
- ~~(1) — Air gap. A complete physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel.~~
 - ~~(2) — Atmospheric vacuum breaker. An assembly containing an air inlet valve, a check seat, and an air inlet port. The flow of water into the body causes the air inlet valve to close the air inlet port. When the flow of water stops the air inlet valve falls and forms a check against backsiphonage. At the same time it opens the air inlet port allowing air to enter and satisfy the vacuum. Also known as an atmospheric vacuum breaker backsiphonage prevention assembly.~~
 - ~~(3) — Backflow prevention. The mechanical prevention of reverse flow, or backsiphonage, of nonpotable water from an irrigation system into the potable water source.~~

- (4) ~~*Backflow prevention assembly.* Any assembly used to prevent backflow into a potable water system. The type of assembly used is based on the existing or potential degree of health hazard and backflow condition.~~
- (5) ~~*Completion of irrigation system installation.* When the landscape irrigation system has been installed, all minimum standards met, all tests performed, and the irrigator is satisfied that the system is operating correctly.~~
- (6) ~~*Consulting.* The act of providing advice, guidance, review or recommendations related to landscape irrigation systems.~~
- (7) ~~*Cross connection.* An actual or potential connection between a potable water source and an irrigation system that may contain contaminants or pollutants or any source of water that has been treated to a lesser degree in the treatment process.~~
- (8) ~~*Design.* The act of determining the various elements of a landscape irrigation system that will include, but not be limited to, elements such as collecting site specific information, defining the scope of the project, defining plant watering needs, selecting and laying out emission devices, locating system components, conducting hydraulics calculations, identifying any local regulatory requirements, or scheduling irrigation work at a site. Completion of the various components will result in an irrigation plan.~~
- (9) ~~*Design pressure.* The pressure that is required for an emission device to operate properly. Design pressure is calculated by adding the operating pressure necessary at an emission device to the total of all pressure losses accumulated from an emission device to the water source.~~
- (10) ~~*Double check valve.* An assembly that is composed of two independently acting, approved check valves, including tightly closed resilient seated shutoff valves attached at each end of the assembly and fitted with properly located resilient seated test cocks. Also known as a double check valve backflow prevention assembly.~~
- (11) ~~*Emission device.* Any device that is contained within an irrigation system and that is used to apply water. Common emission devices in an irrigation system include, but are not limited to, spray and rotary sprinkler heads, and drip irrigation emitters.~~
- (12) ~~*Employed.* Engaged or hired to provide consulting services or perform any activity relating to the sale, design, installation, maintenance, alteration, repair, or service to irrigation systems. A person is employed if that person is in an employer-employee relationship as defined by Internal Revenue Code, 26 United States Code Service, section 3212(d) based on the behavioral control, financial control, and the type of relationship involved in performing employment related tasks.~~
- (13) ~~*Head to head spacing.* The spacing of spray or rotary heads equal to the manufacturer's published radius of the head.~~
- (14) ~~*Health hazard.* A cross-connection or potential cross-connection with an irrigation system that involves any substance that may, if introduced into the potable water supply, cause death or illness, spread disease, or have a high probability of causing such effects.~~
- (15) ~~*Hydraulics.* The science of dynamic and static water; the mathematical~~

~~computation of determining pressure losses and pressure requirements of an irrigation system.~~

- ~~(16) *Inspector*. A licensed plumbing inspector, water district operator, other governmental entity, or irrigation inspector who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor.~~
- ~~(17) *Installer*. A person who actually connects an irrigation system to a private or public raw or potable water supply system or any water supply, who is licensed according to title 30, Texas Administrative Code, chapter 30 (relating to occupational licenses and registrations).~~
- ~~(18) *Irrigation inspector*. A person who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor and is required to be licensed under title 30, Texas Administrative Code, chapter 30 (relating to occupational licenses and registrations).~~
- ~~(19) *Irrigation plan*. A sealed drawing of a landscape irrigation system which lists required information, the scope of the project, and represents the changes made in the installation of the irrigation system.~~
- ~~(20) *Irrigation services*. Selling, designing, installing, maintaining, altering, repairing, servicing, permitting, providing consulting services regarding, or connecting an irrigation system to a water supply.~~
- ~~(21) *Irrigation system*. An assembly of component parts that is permanently installed for the controlled distribution and conservation of water to irrigate any type of landscape vegetation in any location, and/or to reduce dust or control erosion. This term does not include a system that is used on or by an agricultural operation as defined by Texas Agricultural Code, section 251.002.~~
- ~~(22) *Irrigation technician*. A person who works under the supervision of a licensed irrigator to install, maintain, alter, repair, service or supervise installation of an irrigation system, including the connection of such system in or to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under title 30, Texas Administrative Code, chapter 30 (relating to occupational licenses and registrations).~~
- ~~(23) *Irrigation zone*. A subdivision of an irrigation system with a matched precipitation rate based on plant material type (such as turf, shrubs, or trees); microclimate factors (such as sun/shade ratio), topographic features (such as slope) and soil conditions (such as sand, loam, clay, or combination) or for hydrological control.~~
- ~~(24) *Irrigator*. A person who sells, designs, offers consultations regarding, installs, maintains, alters, repairs, services or supervises the installation of an irrigation system, including the connection of such system to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under title 30, Texas Administrative Code, chapter 30.~~
- ~~(25) *Irrigator in charge*. The irrigator responsible for all irrigation work performed by an exempt business owner, including, but not limited to obtaining permits, developing design plans, supervising the work of other irrigators or irrigation technicians, and installing, selling, maintaining, altering, repairing, or servicing~~

a landscape irrigation system.

- (26) ~~Landscape irrigation. The science of applying the necessary amount of water to promote or sustain healthy growth of plant material or turf.~~
- (27) ~~License. An occupational license that is issued by the Texas Commission on Environmental Quality under title 30, Texas Administrative Code, chapter 30 to an individual that authorizes the individual to engage in an activity that is covered by title 30, Texas Administrative Code, chapter 30.~~
- (28) ~~Mainline. A pipe within an irrigation system that delivers water from the water source to the individual zone valves.~~
- (29) ~~Maintenance checklist. A document made available to the irrigation system's owner or owner's representative that contains information regarding the operation and maintenance of the irrigation system, including, but not limited to: checking and repairing the irrigation system, setting the automatic controller, checking the rain or moisture sensor, cleaning filters, pruning grass and plants away from irrigation emitters, using and operating the irrigation system, the precipitation rates of each irrigation zone within the system, any water conservation measures currently in effect from the water purveyor, the name of the water purveyor, a suggested seasonal or monthly watering schedule based on current evapotranspiration data for the geographic region, and the minimum water requirements for the plant material in each zone based on the soil type and plant material where the system is installed.~~
- (30) ~~Major maintenance, alteration, repair, or service. Any activity that involves opening to the atmosphere the irrigation mainline at any point prior to the discharge side of any irrigation zone control valve. This includes, but is not limited to, repairing or connecting into a main supply pipe, replacing a zone control valve, or repairing a zone control valve in a manner that opens the system to the atmosphere.~~
- (31) ~~Master valve. A remote control valve located after the backflow prevention device that controls the flow of water to the irrigation system mainline.~~
- (32) ~~Matched precipitation rate. The condition in which all sprinkler heads within an irrigation zone apply water at the same rate.~~
- (33) ~~New installation. An irrigation system installed at a location where one did not previously exist.~~
- (34) ~~Pass-through contract. A written contract between a contractor or builder and a licensed irrigator or exempt business owner to perform part or all of the irrigation services relating to an irrigation system.~~
- (35) ~~Potable water. Water that is suitable for human consumption.~~
- (36) ~~Pressure vacuum breaker. An assembly containing an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. Also known as a pressure vacuum breaker backsiphonage prevention assembly.~~
- (37) ~~Reclaimed water. Domestic or municipal wastewater which has been treated to a quality suitable for beneficial use, such as landscape irrigation.~~
- (38) ~~Records of landscape irrigation activities. The irrigation plans, contracts, warranty information, invoices, copies of permits, and other documents that~~

relate to the installation, maintenance, alteration, repair, or service of a landscape irrigation system.

- (39) ~~Reduced pressure principle backflow prevention assembly.~~ An assembly containing two independently acting approved check valves together with a hydraulically operating mechanically independent pressure differential relief valve located between the two check valves and below the first check valve.
- (40) ~~Static water pressure.~~ The pressure of water when it is not moving.
- (41) ~~Supervision.~~ The on-the-job oversight and direction by a licensed irrigator who is fulfilling his or her professional responsibility to the client and/or employer in compliance with local or state requirements. Also a licensed installer working under the direction of a licensed irrigator or beginning January 1, 2009, an irrigation technician who is working under the direction of a licensed irrigator to install, maintain, alter, repair or service an irrigation system.
- (42) ~~Water conservation.~~ The design, installation, service, and operation of an irrigation system in a manner that prevents the waste of water, promotes the most efficient use of water, and applies the least amount of water that is required to maintain healthy individual plant material or turf, reduce dust, and control erosion.
- (43) ~~Zone flow.~~ A measurement, in gallons per minute or gallons per hour, of the actual flow of water through a zone valve, calculated by individually opening each zone valve and obtaining a valid reading after the pressure has stabilized. For design purposes, the zone flow is the total flow of all nozzles in the zone at a specific pressure.
- (44) ~~Zone valve.~~ An automatic valve that controls a single zone of a landscape irrigation system.
- (b) ~~Valid license required.~~ Any person who connects an irrigation system to the water supply within the city or the city's extraterritorial jurisdiction, commonly referred to as the ETJ, must hold a valid license, as defined by title 30, Texas Administrative Code, chapter 30 and required by chapter 1903 of the Texas Occupations Code, or as defined by chapter 365, title 22 of the Texas Administrative Code and required by chapter 1301 of the Texas Occupations Code.

~~Exemptions.~~ A property owner is not required to be licensed in accordance with Texas Occupations Code, title 12, section 1903.002(c)(1) if he or she is performing irrigation work in a building or on a premises owned or occupied by the person as the person's home. A home or property owner who installs an irrigation system must meet the standards contained in title 30, Texas Administrative Code, chapter 344 regarding spacing, water pressure, spraying water over impervious materials, rain or moisture shut-off devices or other technology, backflow prevention and isolation valves. See Texas Occupations Code section 1903.002 for other exemptions to the licensing requirement.

- (c) ~~Permit required.~~ Any person installing an irrigation system within the territorial limits or extraterritorial jurisdiction of the city is required to obtain a permit from the city. Any plan approved for a permit must be in compliance with the requirements of this chapter.

~~Exemptions.~~

- (1) ~~An irrigation system that is that an on-site sewage disposal system, as defined~~

- by section 355.002, Health and Safety Code; or
- (2) ~~An irrigation system used on or by an agricultural operation as defined by section 251.002, Agriculture Code; or~~
 - (3) ~~An irrigation system connected to a groundwater well used by the property owner for domestic use.~~
- (d) ~~Backflow prevention methods and devices.~~
- (1) ~~Any irrigation system that is connected to the potable water supply must be connected through a backflow prevention method approved by the Texas Commission on Environmental Quality (TCEQ). The backflow prevention device must comply with the International Plumbing Code® and/or the Uniform Plumbing Code® and must be certified by the American Society of Sanitary Engineers (ASSE); or the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California; or International Code Council Evaluation Service (ICC-ES); or the International Association of Plumbing and Mechanical Officials Research and Testing (IAPMO R&T); or any other certifying agencies that have equivalent capabilities for both the laboratory and field evaluation of backflow prevention assemblies. The backflow prevention device must be installed in accordance with the laboratory approval standards or, if the approval does not include specific installation information, the manufacturer's current published recommendations.~~
 - (2) ~~If conditions that present a health hazard exist, one of the following methods must be used to prevent backflow;~~
 - (A) ~~An air gap may be used if:~~
 - (i) ~~There is an unobstructed physical separation; and~~
 - (ii) ~~The distance from the lowest point of the water supply outlet to the flood rim of the fixture or assembly into which the outlet discharges is at least one inch or twice the diameter of the water supply outlet, whichever is greater.~~
 - (B) ~~Reduced pressure principle backflow prevention assemblies may be used if:~~
 - (i) ~~The device is installed at a minimum of 12 inches above ground in a location that will ensure that the assembly will not be submerged; and~~
 - (ii) ~~Drainage is provided for any water that may be discharged through the assembly relief valve.~~
 - (C) ~~Pressure vacuum breakers may be used if:~~
 - (i) ~~No back-pressure condition will occur; and~~
 - (ii) ~~The device is installed at a minimum of 12 inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler.~~
 - (D) ~~Atmospheric vacuum breakers may be used if:~~
 - (i) ~~No back-pressure will be present;~~

- (ii) ~~There are no shutoff valves downstream from the atmospheric vacuum breaker;~~
 - (iii) ~~The device is installed at a minimum of six inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler;~~
 - (iv) ~~There is no continuous pressure on the supply side of the atmospheric vacuum breaker for more than 12 hours in any 24-hour period; and~~
 - (v) ~~A separate atmospheric vacuum breaker is installed on the discharge side of each irrigation control valve, between the valve and all the emission devices that the valve controls.~~
- (3) ~~Backflow prevention devices used in applications designated as health hazards must be tested upon installation and annually thereafter.~~
- (4) ~~If an existing irrigation system without a backflow prevention assembly requires major maintenance, alteration, repair, or service, the system must be connected to the potable water supply through an approved, properly installed backflow prevention method before any major maintenance, alteration, repair, or service is performed.~~
- (5) ~~The irrigator shall ensure the backflow prevention device is tested by a licensed backflow prevention assembly tester prior to being placed in service and the test results provided to the local water purveyor and the irrigation system's owner or owner's representative within ten business days of testing of the backflow prevention device.~~
- (e) ~~Specific conditions and cross-connection control.~~
 - (1) ~~Before any chemical is added to an irrigation system connected to the potable water supply, the irrigation system must be connected through a reduced pressure principle backflow prevention assembly or air gap.~~
 - (2) ~~Connection of any additional water source to an irrigation system that is connected to the potable water supply can only be done if the irrigation system is connected to the potable water supply through a reduced-pressure principle backflow prevention assembly or an air gap.~~
 - (3) ~~Irrigation system components with chemical additives induced by aspiration, injection, or emission system connected to any potable water supply must be connected through a reduced pressure principle backflow device.~~
 - (4) ~~If an irrigation system is designed or installed on a property that is served by an on-site sewage facility, as defined in title 30, Texas Administrative Code, chapter 285, then:~~
 - (A) ~~All irrigation piping and valves must meet the separation distances from the on-site sewage facilities system as required for a private water line in title 30, Texas Administrative Code, section 285.91(10);~~
 - (B) ~~Any connections using a private or public potable water source that is not the city's potable water system must be connected to the water source through a reduced pressure principle backflow prevention assembly as defined in title 30, Texas Administrative Code, section~~

344.50; and

- (C) ~~Any water from the irrigation system that is applied to the surface of the area utilized by the on-site sewage facility system must be controlled on a separate irrigation zone or zones so as to allow complete control of any irrigation to that area so that there will not be excess water that would prevent the on-site sewage facilities system from operating effectively.~~
- (f) ~~Water conservation. All irrigation systems shall be designed, installed, maintained, altered, repaired, serviced, and operated in a manner that will promote water conservation as defined in the definitions subsection of this section.~~
- (g) ~~Irrigation plan design: minimum standards.~~

 - (1) ~~An irrigator shall prepare an irrigation plan for each site where a new irrigation system will be installed. A paper or electronic copy of the irrigation plan must be on the job site at all times during the installation of the irrigation system. A drawing showing the actual installation of the system is due to each irrigation system owner after all new irrigation system installations. During the installation of the irrigation system, variances from the original plan may be authorized by the licensed irrigator if the variance from the plan does not:~~

 - (A) ~~Diminish the operational integrity of the irrigation system;~~
 - (B) ~~Violate any requirements of this section; and~~
 - (C) ~~Go unnoted in red on the irrigation plan.~~
 - (2) ~~The irrigation plan must include complete coverage of the area to be irrigated. If a system does not provide complete coverage of the area to be irrigated, it must be noted on the irrigation plan.~~
 - (3) ~~All irrigation plans used for construction must be drawn to scale. The plan must include, at a minimum, the following information:~~

 - (A) ~~The irrigator's seal, signature, and date of signing;~~
 - (B) ~~All major physical features and the boundaries of the areas to be watered;~~
 - (C) ~~A north arrow;~~
 - (D) ~~A legend;~~
 - (E) ~~The zone flow measurement for each zone;~~
 - (F) ~~Location and type of each:~~

 - (i) ~~Controller; and~~
 - (ii) ~~Sensor (for example, but not limited to, rain, moisture, wind, flow, or freeze);~~
 - (G) ~~Location, type, and size of each:~~

 - (i) ~~Water source, such as, but not limited to, a water meter and point(s) of connection;~~
 - (ii) ~~Backflow prevention device;~~
 - (iii) ~~Water emission device, including, but not limited to, spray heads, rotary sprinkler heads, quick-couplers, bubblers, drip, or micro-sprays;~~

- (iv) ~~Valve, including but not limited to, zone valves, master valves, and isolation valves;~~
 - (v) ~~Pressure regulation component; and~~
 - (vi) ~~Mainline and lateral piping.~~
- (H) ~~The scale used; and~~
- (I) ~~The design pressure.~~
- (h) ~~Design and installation: minimum requirements.~~
 - (1) ~~No irrigation design or installation shall require the use of any component, including the water meter, in a way which exceeds the manufacturer's published performance limitations for the component.~~
 - (2) ~~Spacing.~~
 - (A) ~~The maximum spacing between emission devices must not exceed the manufacturer's published radius or spacing of the device(s). The radius or spacing is determined by referring to the manufacturer's published specifications for a specific emission device at a specific operating pressure.~~
 - (B) ~~New irrigation systems shall not utilize above-ground spray emission devices in landscapes that are less than 48 inches not including the impervious surfaces in either length or width and which contain impervious pedestrian or vehicular traffic surfaces along two or more perimeters. If pop-up sprays or rotary sprinkler heads are used in a new irrigation system, the sprinkler heads must direct flow away from any adjacent surface and shall not be installed closer than four inches from a hardscape, such as, but not limited to, a building foundation, fence, concrete, asphalt, pavers, or stones set with mortar.~~
 - (C) ~~Narrow paved walkways, jogging paths, golf cart paths or other small areas located in cemeteries, parks, golf courses or other public areas may be exempted from this requirement if the runoff drains into a landscaped area.~~
 - (3) ~~Water pressure. Emission devices must be installed to operate at the minimum and not above the maximum sprinkler head pressure as published by the manufacturer for the nozzle and head spacing that is used. Methods to achieve the water pressure requirements include, but are not limited to, flow control valves, a pressure regulator, or pressure compensating spray heads.~~
 - (4) ~~Piping. Piping in irrigation systems must be designed and installed so that the flow of water in the pipe will not exceed a velocity of five feet per second for polyvinyl chloride (PVC) pipe.~~
 - (5) ~~Irrigation zones. Irrigation systems shall have separate zones based on plant material type, microclimate factors, topographic features, soil conditions, and hydrological requirements.~~
 - (6) ~~Matched precipitation rate. Zones must be designed and installed so that all of the emission devices in that zone irrigate at the same precipitation rate.~~
 - (7) ~~Irrigation systems shall not spray water over surfaces made of concrete, asphalt, brick, wood, stones set with mortar, or any other impervious material, such as,~~

but not limited to, walls, fences, sidewalks, streets, etc.

- (8) ~~Master valve.~~ When provided, a master valve shall be installed on the discharge side of the backflow prevention device on all new installations.
- (9) ~~PVC pipe primer solvent.~~ All new irrigation systems that are installed using PVC pipe and fittings shall be primed with a colored primer prior to applying the PVC cement in accordance with the Uniform Plumbing Code (section 316) or the International Plumbing Code (section 605).
- (10) ~~Rain or moisture shut-off devices or other technology.~~ All new automatically controlled irrigation systems must include sensors or other technology designed to inhibit or interrupt operation of the irrigation system during periods of moisture or rainfall. Rain or moisture shut-off technology must be installed according to the manufacturer's published recommendations. Repairs to existing automatic irrigation systems that require replacement of an existing controller must include a sensor or other technology designed to inhibit or interrupt operation of the irrigation system during periods of moisture or rainfall.
- (11) ~~Isolation valve.~~ All new irrigation systems must include an isolation valve between the water meter and the backflow prevention device.
- (12) ~~Depth coverage of piping.~~ Piping in all irrigation systems must be installed according to the manufacturer's published specifications for depth coverage of piping.
 - (A) ~~If the manufacturer has not published specifications for depth coverage of piping, the piping must be installed to provide minimum depth coverage of six inches of select backfill, between the top of the pipe and the natural grade of the topsoil. All portions of the irrigation system that fail to meet this standard must be noted on the irrigation plan. If the area being irrigated has rock at a depth of six inches or less, select backfill may be mounded over the pipe. Mounding must be noted on the irrigation plan and discussed with the irrigation system owner or owner's representative to address any safety issues.~~
 - (B) ~~If a utility, manmade structure, or roots create an unavoidable obstacle, which makes the six-inch depth coverage requirement impractical, the piping shall be installed to provide a minimum of two inches of select backfill between the top of the pipe and the natural grade of the topsoil.~~
 - (C) ~~All trenches and holes created during installation of an irrigation system must be backfilled and compacted to the original grade.~~
- (13) ~~Wiring irrigation systems.~~
 - (A) ~~Underground electrical wiring used to connect an automatic controller to any electrical component of the irrigation system must be listed by Underwriters Laboratories as acceptable for burial underground.~~
 - (B) ~~Electrical wiring that connects any electrical components of an irrigation system must be sized according to the manufacturer's recommendation.~~
 - (C) ~~Electrical wire splices which may be exposed to moisture must be waterproof as certified by the wire splice manufacturer.~~
 - (D) ~~Underground electrical wiring that connects an automatic controller to~~

any electrical component of the irrigation system must be buried with a minimum of six inches of select backfill.

- (14) ~~Water contained within the piping of an irrigation system is deemed to be nonpotable. No drinking or domestic water usage, such as, but not limited to, filling swimming pools or decorative fountains, shall be connected to an irrigation system. If a hose bib (an outdoor water faucet that has hose threads on the spout) is connected to an irrigation system for the purpose of providing supplemental water to an area, the hose bib must be installed using a quick coupler key on a quick coupler installed in a covered purple valve box and the hose bib and any hoses connected to the bib must be labeled "nonpotable, not safe for drinking." An isolation valve must be installed upstream of a quick coupler connecting a hose bib to an irrigation system.~~
- (15) ~~Beginning January 1, 2010, either a licensed irrigator or a licensed irrigation technician shall be on site at all times while the landscape irrigation system is being installed. When an irrigator is not on site, the irrigator shall be responsible for ensuring that a licensed irrigation technician is on site to supervise the installation of the irrigation system.~~
- (i) ~~Completion of irrigation system installation. Upon completion of the irrigation system, the irrigator or irrigation technician who provided supervision for the on-site installation shall be required to complete four items:~~

 - (1) ~~A final walk through with the irrigation system's owner or the owner's representative to explain the operation of the system;~~
 - (2) ~~The maintenance checklist on which the irrigator or irrigation technician shall obtain the signature of the irrigation system's owner or owner's representative and shall sign, date, and seal the checklist. If the irrigation system's owner or owner's representative is unwilling or unable to sign the maintenance checklist, the irrigator shall note the time and date of the refusal on the irrigation system's owner or owner's representative's signature line. The irrigation system owner or owner's representative will be given the original maintenance checklist and a duplicate copy of the maintenance checklist shall be maintained by the irrigator. The items on the maintenance checklist shall include but are not limited to:~~

 - (A) ~~The manufacturer's manual for the automatic controller, if the system is automatic;~~
 - (B) ~~A seasonal (spring, summer, fall, winter) watering schedule based on either current/real time evapotranspiration or monthly historical reference evapotranspiration (historical ET) data, monthly effective rainfall estimates, plant landscape coefficient factors, and site factors;~~
 - (C) ~~A list of components, such as the nozzle, or pump filters, and other such components; that require maintenance and the recommended frequency for the service; and~~
 - (D) ~~The statement, "This irrigation system has been installed in accordance with all applicable state and local laws, ordinances, rules, regulations or orders. I have tested the system and determined that it has been installed according to the irrigation plan and is properly adjusted for the most efficient application of water at this time."~~

- (3) — ~~A permanent sticker which contains the irrigator's name, license number, company name, telephone number and the dates of the warranty period shall be affixed to each automatic controller installed by the irrigator or irrigation technician. If the irrigation system is manual, the sticker shall be affixed to the original maintenance checklist. The information contained on the sticker must be printed with waterproof ink and include [sic]:~~
- (4) — ~~The irrigation plan indicating the actual installation of the system must be provided to the irrigation system's owner or owner representative.~~
- (j) — Maintenance, alteration, repair, or service of irrigation systems.
 - (1) — ~~The licensed irrigator is responsible for all work that the irrigator performed during the maintenance, alteration, repair, or service of an irrigation system during the warranty period. The irrigator or business owner is not responsible for the professional negligence of any other irrigator who subsequently conducts any irrigation service on the same irrigation system.~~
 - (2) — ~~All trenches and holes created during the maintenance, alteration, repair, or service of an irrigation system must be returned to the original grade with compacted select backfill.~~
 - (3) — ~~Colored PVC pipe primer solvent must be used on all pipes and fittings used in the maintenance, alteration, repair, or service of an irrigation system in accordance with the Uniform Plumbing Code (section 316) or the International Plumbing Code (section 605).~~
 - (4) — ~~When maintenance, alteration, repair or service of an irrigation system involves excavation work at the water meter or backflow prevention device, an isolation valve shall be installed, if an isolation valve is not present.~~
- (k) — Advertisement requirements.
 - (1) — ~~All vehicles used in the performance of irrigation installation, maintenance, alteration, repair, or service must display the irrigator's license number in the form of "LI _____" in a contrasting color of block letters at least two inches high, on both sides of the vehicle.~~
 - (2) — ~~All forms of written and electronic advertisements for irrigation services must display the irrigator's license number in the form of "LI _____." Any form of advertisement, including business cards, and estimates which displays an entity's or individual's name other than that of the licensed irrigator must also display the name of the licensed irrigator and the licensed irrigator's license number. Trailers that advertise irrigation services must display the irrigator's license number.~~
 - (3) — ~~The name, mailing address, and telephone number of the commission must be prominently displayed on a legible sign and displayed in plain view for the purpose of addressing complaints at the permanent structure where irrigation business is primarily conducted and irrigation records are kept.~~
- (l) — Contracts.
 - (1) — ~~All contracts to install an irrigation system must be in writing and signed by each party and must specify the irrigator's name, license number, business address, current business telephone numbers, the date that each party signed the agreement, the total agreed price, and must contain the statement, "Irrigation in~~

~~Texas is regulated by the Texas Commission on Environmental Quality (TCEQ), MC 178, P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's website is: www.tceq.state.tx.us." All contracts must include the irrigator's seal, signature, and date.~~

~~(2) All written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system(s) must include the irrigator's name, license number, business address, current business telephone number(s), and the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ) (MC 178), P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's web site is: www.tceq.state.tx.us."~~

~~(3) An individual who agrees by contract to provide irrigation services as defined in title 30, Texas Administrative Code, section 344.30 (relating to license required) shall hold an irrigator license issued under title 30, Texas Administrative Code, chapter 30 (relating to occupational licenses and registrations) unless the contract is a pass-through contract as defined in title 30, Texas Administrative Code, section 344.1(36) (relating to definitions). If a pass-through contract includes irrigation services, then the irrigation portion of the contract can only be performed by a licensed irrigator. If an irrigator installs a system pursuant to a pass-through contract, the irrigator shall still be responsible for providing the irrigation system's owner or owner's representative a copy of the warranty and all other documents required under this chapter. A pass-through contract must identify by name and license number the irrigator that will perform the work and must provide a mechanism for contacting the irrigator for irrigation system warranty work.~~

~~(4) The contract must include the dates that the warranty is valid.~~

~~(m) Warranties for systems:~~

~~(1) On all installations of new irrigation systems, an irrigator shall present the irrigation system's owner or owner's representative with a written warranty covering materials and labor furnished in the new installation of the irrigation system. The irrigator shall be responsible for adhering to terms of the warranty. If the irrigator's warranty is less than the manufacturer's warranty for the system components, then the irrigator shall provide the irrigation system's owner or the owner's representative with applicable information regarding the manufacturer's warranty period. The warranty must include the irrigator's seal, signature, and date. If the warranty is part of an irrigator's contract, a separate warranty document is not required.~~

~~(2) An irrigator's written warranty on new irrigation systems must specify the irrigator's name, business address, and business telephone number(s), must contain the signature of the irrigation system's owner or owner's representative confirming receipt of the warranty and must include the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ), MC 178, P.O. Box 130897, Austin, Texas 78711-3087. TCEQ's website is: www.tceq.state.tx.us."~~

~~(3) On all maintenance, alterations, repairs, or service to existing irrigation systems, an irrigator shall present the irrigation system's owner or owner's representative a written document that identifies the materials furnished in the maintenance, alteration, repair, or service. If a warranty is provided, the irrigator shall abide~~

by the terms. The warranty document must include the irrigator's name and business contact information.

- (n) ~~Duties and responsibilities of city irrigation inspectors.~~ A licensed irrigation inspector shall enforce the ordinance of the city, and shall be responsible for:
- (1) ~~Verifying that the appropriate permits have been obtained for an irrigation system and that the irrigator and installer or irrigation technician, if applicable, are licensed;~~
 - (2) ~~Inspecting the irrigation system;~~
 - (3) ~~Determining that the irrigation system complies with the requirements of this chapter;~~
 - (4) ~~Determining that the appropriate backflow prevention device was installed, tested, and test results provided to the city;~~
 - (5) ~~Investigating complaints related to irrigation system installation, maintenance, alteration, repairs, or service of an irrigation system and advertisement of irrigation services; and~~
 - (6) ~~Maintaining records according to this chapter.~~
- (o) ~~Items not covered by this section.~~ Any item not covered by their ordinance and required by law shall be governed by the Texas Occupations Code, the Texas Water Code, title 30 of the Texas Administrative Code, and any other applicable state statute or Texas Commission on Environmental Quality rule.
- (p) ~~Fees.~~ The City Council may create a schedule of fees for obtaining and renewing an irrigation permit. These fees will be in amounts sufficient to cover the city's costs in issuing and renewing the permits, including, but not limited to, staff time and other overhead costs. This schedule will be kept at the city offices.
- (q) ~~Enforcement.~~
- (1) ~~The city shall have the power to administer and enforce the provisions of this chapter as may be required by governing law. Any person, firm, corporation or agent who shall violate a provision of this code, or fails to comply therewith, or with any of the requirements thereof, is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of the ordinance codified in this chapter is declared to be a nuisance.~~
 - (2) ~~Any person violating any provision of chapter shall, upon conviction, be fined a sum not exceeding \$2,000.00. Each day that a provision of this chapter is violated shall constitute a separate offense. An offense under this chapter is a class C misdemeanor, punishable by a fine of up to \$2,000.00.~~
 - (3) ~~Nothing in this chapter shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law, including, but not limited to the following:~~
 - (A) ~~Injunctive relief to prevent specific conduct that violates the ordinance or to require specific conduct that is necessary for compliance with the ordinance; and~~
 - (B) ~~Other available relief.~~

ARTICLE 3.08 TRAILER STORAGE

Sec. 3.08.001—Penalty for violations

Violations of this article are punishable as provided in section 1.01.009.

Sec. 3.08.002—Definition

~~For the purposes of this article, the term “inspecting authority” shall mean the building inspector, plumbing inspector, electrical inspector, fire marshal and health officer, and such persons as are appointed and authorized as assistants or agents of such authority as may be necessary to carry out the provisions of this article.~~

Sec. 3.08.003—Administration and enforcement

~~The administration and enforcement of this article shall be the duty of the inspecting authority.~~

Sec. 3.08.004—Dead storage parking of trailers

(a) ~~On lots of less than one (1) acre, all trailers classified under dead storage shall be housed in a building except small travel trailers that meet the following requirements may be stored in the rear yard of an occupied dwelling:~~

- ~~(1) There will be no connections made for water supply, sanitary sewer service, gas or electrical service of any kind.~~
- ~~(2) All liquid petroleum gas supply tanks shall be turned off in a manner so as not to be accidentally turned on.~~
- ~~(3) No travel trailer classified under dead storage shall be occupied for any purpose.~~
- ~~(4) All travel trailers shall be kept in a clean and sanitary condition subject to all ordinances governing same.~~

(b) ~~A travel trailer shall be defined as a vehicular portable structure built on a chassis designed to be used as a temporary dwelling, to be towed behind a motor vehicle, being of not more than an overall length of twenty-eight (28) feet and not exceeding eight (8) feet in width. The code enforcement officer shall determine if such structures are travel trailers including those that exceed twenty-eight (28) feet in length by the following criteria:~~

- ~~(1) The vehicular structure is designed for a greater degree of travel than a mobile home, being streamlined to reduce wind resistance.~~
- ~~(2) The structure is designed for a fifth wheel connection to the towing vehicle.~~
- ~~(3) Those mobile structures of a rectangular form designed for occasional travel shall be classified as a mobile home and shall not be stored on a lot of an occupied dwelling regardless of length.~~

(c) ~~Tent trailers shall be excluded from the provisions of this section.~~

Sec. 3.08.005—Right of entry

~~Any member of the inspecting authority or their authorized representatives shall have the right of entry to any trailer coach, trailer court or premises for the purpose of inspection at such times as may be reasonably necessary to protect the public health, welfare and safety.~~

ARTICLE 3.09 MANUFACTURED HOUSING, MOBILE HOMES AND TRAVEL TRAILERS

Division 1. Generally

Sec. 3.09.001—Trailers used as temporary office or shelter

A trailer may be used as a temporary office or shelter (for a period of up to eighteen (18) months) incidental to construction on or a development of the premises on which the trailer is located. The applicant must maintain an active building permit for the site while the trailer is in use. If it is determined that the building permit for the site is no longer valid, the trailer shall be removed from the site within thirty (30) days. An application for special permit may be submitted pursuant to the requirements contained herein for extension of the eighteen-month time period.

Sec. 3.09.002—Definitions

For the purpose of this article, certain terms, words and phrases shall have the meanings hereinafter described:

Agent. Any person authorized by the licensee of a mobile home or trailer park to operate or maintain such park under the provisions of this article.

Building official. The legally designated inspection authority of the building and zoning department of the city or his authorized representative.

Driveway. A minor private way used by vehicles and pedestrians on a mobile home or travel trailer stand or used for common access to a small group of stands or facilities.

HUD-code manufactured home. A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 C.F.R. section 3282.8(g).

License. A written license issued by the building official allowing a person to operate and maintain a mobile home park or travel trailer park under the provisions of this article and regulations issued hereunder.

Licensee. Any person licensed to operate and maintain a mobile home or trailer park under the provisions of this article.

Manufactured home subdivision. A unified development of manufactured home sites on lots platted for such purpose, which lots may be sold to the owners of mobile homes situated thereon, meeting the area and yard requirements of the general zoning ordinance and designed to accommodate manufactured homes on a permanent basis.

Manufactured housing or manufactured home. A HUD-code manufactured home or a mobile home and collectively means and refers to both.

Mobile home. A structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems.

Mobile home park. A unified development of local home spaces arranged on a large tract or site under single ownership, meeting all requirements of this article, and designed to accommodate mobile homes for a more or less permanent duration.

~~*Permit.* A written permit or certification issued by the building official permitting the construction, alteration and extension of a mobile home or travel trailer park under the provisions of this article and regulations issued hereunder.~~

~~*Person.* Any natural individual, firm, trust, partnership, association or corporation.~~

~~*Pickup coach.* A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation uses.~~

~~*Service building.* A structure housing toilet, lavatory and such other facilities as may be required by this article.~~

~~*Sewer connection.* The connection consisting of all pipes, fittings and appurtenances from the drain outlet of a mobile home or travel trailer to the inlet of the corresponding riser pipe of the sewer system serving the mobile home or travel trailer park.~~

~~*Sewer riser pipe.* That portion of a sewer lateral which extends vertically to the ground elevation, and terminates at a mobile home or travel trailer space.~~

~~*Space.* A plot of ground within a mobile home or travel trailer park designed for the accommodation of one mobile home or travel trailer unit. This term shall also include the terms "lot," "stand," and "stall."~~

~~*Travel trailer.* A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling, and to be towed behind a motor vehicle, being either of a gross weight of not more than twenty-five thousand (25,000) pounds or an overall length of not more than forty-two (42) feet.~~

~~*Travel trailer park.* Any premises on which one or more pickup coaches or travel trailers are parked or situated and used for the purpose of supplying to the public a parking space for one or more such coaches or trailers.~~

~~*Water connection.* The connection consisting of all pipes, fittings, and appurtenances from the water riser pipe to the water inlet pipe of the distribution system within a mobile home or travel trailer.~~

~~*Water riser pipe.* That portion of the water supply system serving a mobile home or travel trailer park which extends vertically to the ground elevation and terminates at a designated point at a mobile home or travel trailer space.~~

~~*Zoning ordinance.* The general zoning ordinance of the city.~~

Sec. 3.09.003 — Placement of mobile home in city limits prohibited

~~The placement of any mobile home, as defined in this article, within the city limits, is prohibited. (Ordinance adopting Code)~~

Secs. 3.09.004 3.09.030 — Reserved

Division 2. Permit

Sec. 3.09.031 — Required

~~It shall be unlawful for any person to construct, alter or extend any mobile or travel trailer park within the limits of the city unless he holds a valid permit issued by the building official in the name of such person for the specific construction, alteration or extension proposed.~~

Sec. 3.09.032 — Application contents

All applications for permits shall contain the following:

- (1) — Name and address of applicant.
- (2) — Location and legal description of the mobile home or travel trailer park.
- (3) — A site plan, as hereinafter described

Sec. 3.09.033 — Issuance

~~When, upon review of the application by the planning and zoning board, the building official is satisfied that the proposed plan meets the requirements of this and other applicable articles, a permit shall be issued.~~

Secs. 3.09.034 – 3.09.070 — Reserved

Division 3. Certificate of Occupancy

Sec. 3.09.071 — Required

~~It shall be unlawful for any person to operate any mobile home or travel trailer park within the limits of the city unless he holds a valid certificate of occupancy issued by the building official in the name of such person for the specific park. All applications for licenses shall be made to the building official, who shall issue a license upon compliance by the applicant with provisions of this article.~~

Secs. 3.09.072 – 3.09.090 — Reserved

Division 4. Inspections

Sec. 3.09.091 — Required

~~The building official is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this article.~~

Sec. 3.09.092 — Entry on premises

- (a) — ~~The building official shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this article. It shall be the duty of the licensee or his agent to give the building official free access to all lots at reasonable times for the purposes of inspections.~~
- (b) — ~~Whenever necessary to make an inspection to enforce any of the provisions of this article or whenever the building official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the building official or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this article. If such building or premises be occupied he shall first present proper credentials and request entry, and if such building or premises be unoccupied he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused or if no owner or other person having charge or control of the building or premises can be located, the building official or his authorized representative shall~~

~~have recourse to every remedy provided by law to secure entry.~~

Sec. 3.09.093 — Inspection of register

~~The building official shall have the power to inspect the register containing a record of all residents of the mobile home or travel trailer park.~~

Secs. 3.09.094 — 3.09.120 — Reserved

Division 5. Notices, Hearings, and Orders

Secs. 3.09.121 — Notice of violation

~~Whenever the building official determines that there are grounds to believe that there has been a violation of any provision of this article, the building official shall give notice of such alleged violation to the licensee or agent, as hereinafter provided. Such notice shall:~~

- ~~(1) — Be in writing;~~
- ~~(2) — Include a statement of the reasons for its issuance;~~
- ~~(3) — Allow a reasonable time for the performance of any act it requires;~~
- ~~(4) — Be served upon the owner or his agent as the case may require, provided that such notice or order shall be deemed to have been properly served upon such licensee or agent when a copy thereof has been sent by registered mail to his last known address, or when he has been served with such notice by any method authorized or required by the laws of this state; and~~
- ~~(5) — Contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this article.~~

Sec. 3.09.122 — Appeal from notice

~~Any person affected by any notice which has been issued in connection with the enforcement of any provision of this article may request and shall be granted a hearing on the matter before the building official, provided that such person shall file in the office of the building official a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten (10) days after the day the notice was served. The filing of the request for a hearing shall operate as a stay of the notice and of the suspension, except in the case of an order issued under section 3.09.125. Upon receipt of such petition, the building official shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than ten (10) days after the day on which the petition was filed, provided that, upon application of the petitioner, the building official may postpone the date of the hearing for a reasonable time beyond such ten-day period when, in his judgment, the petitioner has submitted good and sufficient reasons for such postponement.~~

Sec. 3.09.123 — Hearing; order

~~After such hearing, the building official shall make findings as to compliance with the provisions of this article and shall issue an order in writing sustaining, modifying or withdrawing the notice, which order shall be served as provided in section 3.09.121(4). Upon failure to comply with any order sustaining or modifying a notice, the certificate of occupancy of the park affected by the order shall be revoked.~~

Sec. 3.09.124 — Hearing records; judicial review

The proceedings at such a hearing, including the findings and decision of the building official, together with a copy of every notice and order related thereto, shall be entered as a matter of public record in the office of the building official, but the transcript of the proceedings need not be transcribed unless judicial review of the decision is sought as provided by this section. Any person aggrieved by the decision of the building official may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this state.

~~Sec. 3.09.125 — Order without notice in emergency~~

~~Whenever the building official finds that an emergency exists which requires immediate action to protect the public health, he may without notice or hearing issue an order reciting the existence of such an emergency and requiring that such action be taken as he may deem necessary to meet the emergency, including the suspension of the permit or license. Notwithstanding any other provisions of this article, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the building official shall be afforded a hearing as soon as possible. The provisions of sections 3.09.123 and 3.09.124 shall be applicable to such hearing and the order issued thereafter.~~

~~Secs. 3.09.126 — 3.09.150 — Reserved~~

~~Division 6. Manufactured Home Subdivisions~~

~~Sec. 3.09.151 — Compliance with zoning and subdivision ordinances~~

~~Any development of manufactured homes as a manufactured home subdivision shall be governed by the provisions of the zoning and subdivision ordinances of the city.~~

~~Secs. 3.09.152 — 3.09.180 — Reserved~~

~~Division 7. Mobile Home Parks~~

~~Sec. 3.09.181 — Site requirements~~

~~Any development, redevelopment, alteration, or expansion of a mobile home park in the city shall be done in compliance with the following site requirements:~~

- ~~(1) — Location. A mobile home park shall be located only where such use is permissible under the terms and provisions of the general zoning ordinance.~~
- ~~(2) — Site plan. A site plan, as required by the general zoning ordinance, shall be filed with the city engineer, showing the following:~~
 - ~~(A) — The area and dimensions of the tract of land;~~
 - ~~(B) — The number, location and size of all mobile home spaces;~~
 - ~~(C) — The location, width, and specifications of roadways and walkways;~~
 - ~~(D) — The location and specifications of water and sewer lines and riser pipes;~~
 - ~~(E) — The location and details of lighting and electrical systems;~~
 - ~~(F) — The location and specifications of all buildings constructed or to be constructed within the park;~~
 - ~~(G) — Such other information as municipal reviewing officials may reasonably~~

require.

- (3) ~~Soil and ground cover.~~ Exposed ground surfaces in all parts of every mobile home park shall be paved, covered with stone screenings or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating dust.
- (4) ~~Drainage.~~ The ground surface in all parts of a park shall be graded and equipped to drain all surface water in a safe, efficient manner. The adequacy of drainage facilities shall be verified by a competent professional engineer and approved by the city.
- (5) ~~Area, setback and screening requirements.~~ The minimum areas, setbacks, spacing and screening shall be as prescribed in the general zoning ordinance.
- (6) ~~Open space.~~ Open space recreation areas shall be provided in compliance with the terms of the general zoning ordinance. Such areas shall be located so as to be free of traffic hazards, easily accessible to all park residents, and centrally located near the entrance of the park.

Sec. 3.09.182 — Access and traffic circulation

All mobile home parks shall provide access and means of motor vehicle and pedestrian traffic circulation as follows:

- (1) ~~Access.~~ Motor vehicle entrances and exits shall be designed for safe and convenient traffic movement from adjacent public streets and onto internal streets.
- (2) ~~Internal streets.~~ Internal streets shall be privately owned, built and maintained and shall be designed for safe and convenient access to all spaces and to facilities for common use of park residents.
 - (A) ~~On all internal streets, roads or driveways designed or intended to provide access to two or more spaces, there shall be twenty (20) feet of pavement width unobstructed for vehicular access at all times.~~
 - (B) ~~In the event such streets, roads or driveways are intended to be used also for vehicle parking, a parallel parking space shall be deemed to have a minimum width of nine (9) feet, and no such parking space shall occupy or encroach upon the minimum unobstructed access hereinabove prescribed.~~
 - (C) ~~Dead-end streets shall be limited in length to one thousand (1000) feet, and shall be provided at the closed end with a turnaround having a radius of not less than thirty-eight (38) feet.~~
- (3) ~~Street specifications.~~ Internal streets shall be constructed of all-weather surfacing to specifications approved by the city engineer, and shall be maintained free of cracks, holes and other hazards. Roadways shall be lighted at night pursuant to the residential street lighting policy of the city.
- (4) ~~Parking.~~ Vehicular parking shall be provided in compliance with section 7(10) of the general zoning ordinance.

Sec. 3.09.183 — Mobile home spaces

~~The area of the mobile home space shall be improved to provide adequate support for the placement of the mobile home, thereby securing the superstructure against uplift, sliding, rotation, and overturning due to frost action, inadequate drainage, vibration or other forces acting on the structure.~~

Sec. 3.09.184 — Water supply

- (a) ~~General requirements.~~ An accessible, adequate, safe and potable supply of water shall be provided in each mobile home park. Where a public supply of water of satisfactory quantity, quality, and pressure is available at the park site or within one hundred (100) feet thereof, connection shall be made thereto and its supply used exclusively. When public water supply is not available, a private water supply system may be developed and used after approval by the county health department and the department of state health services.
- (b) ~~Source of supply.~~
- (1) ~~The water source shall be capable of supplying a minimum of one hundred fifty (150) gallons per day per mobile home.~~
 - (2) ~~Every well or suction line of the water supply system shall be located and constructed in such a manner that neither underground nor surface contamination will reach the water supply from any source.~~
 - (3) ~~No well casings, pumping machinery or suction pipes shall be placed in any pit, room or space extending below ground level nor in any room or space above ground which is walled in or otherwise enclosed unless such rooms, whether above or below ground, have free drainage by gravity to the surface of the ground.~~
 - (4) ~~The treatment of a private water supply shall be in accordance with applicable state and local laws and regulations.~~
- (c) ~~Water storage facilities.~~ All water storage reservoirs shall be covered, watertight, and constructed of impervious material. Overflows and vents of such reservoirs shall be effectively screened. Manholes shall be constructed with overlapping covers, to prevent the entrance of contaminating material. Reservoir overflow pipes shall discharge through an acceptable air gap.
- (d) ~~Water distribution system.~~
- (1) ~~The water supply system of the mobile home patio shall be connected by pipes to all mobile homes, buildings, and other facilities requiring water.~~
 - (2) ~~All water piping, fixtures and other equipment shall be constructed and maintained in accordance with state and local regulations and requirements and shall be of a type and in locations approved by the building official.~~
 - (3) ~~The water piping system shall not be connected with nonpotable or questionable water supplies and shall be protected against the hazards of backflow or back siphonage.~~
 - (4) ~~The system shall be so designed and maintained as to provide a pressure of not less than twenty (20) pounds per square inch, under normal operating conditions, at service buildings and other locations requiring potable water supply.~~
- (e) ~~Individual water riser pipes and connections.~~
- (1) ~~Individual water riser pipes shall be located within the confined area of the mobile home space at a point where the water connection will approximate a vertical position.~~
 - (2) ~~Water riser pipes shall extend at least four (4) inches above ground elevation. The pipe shall be at least three-quarter (3/4) inch. The water outlet shall be capped when a mobile home does not occupy the space.~~

- (3) — Adequate provisions shall be made to prevent freezing of service lines, valves and riser pipes and to protect risers from heaving and thawing actions of ground during freezing weather. Surface drainage shall be diverted from the location of the riser pipe.

Sec. 3.09.185 — Sewage disposal

- (a) — General requirements. An adequate and safe sewer system shall be provided in all mobile home parks for conveying and disposing of all sewage. Such system shall be designed, constructed and maintained in accordance with state and local laws.
- (b) — Sewer lines. All sewer lines shall be located in trenches of sufficient depth to be free from breakage from traffic or other movements and shall be separated from the park water supply system at a safe distance. Sewers shall be at a grade which will insure a velocity of two (2) feet per second when flowing full. All sewer lines shall be constructed of materials approved by the building official, shall be adequately vented and shall have watertight joints.
- (c) — Individual sewer connections.
- (1) — Each mobile home stand shall be provided with at least a four-inch-diameter sewer riser pipe. The sewer riser pipe shall be so located on each stand that the sewer connection to the mobile home drain outlet will approximate a vertical position.
- (2) — The sewer connection shall have a nominal inside diameter of at least three (3) inches, and the slope of any portion thereof shall be at least one-quarter (1/4) inch per foot. The sewer connection shall consist of one pipeline only without any branch fittings. All joints shall be watertight.
- (3) — All materials used for sewer connections shall be semirigid, corrosion-resistant, nonabsorbent and durable. The inner surface shall be smooth.
- (4) — The sewer riser pipe shall be plugged when a mobile home does not occupy the lot. Surface drainage shall be diverted away from the riser. The rim of the riser pipe shall extend at least four (4) inches above ground elevation.
- (d) — Sewage treatment and/or discharge. Where the sewer lines of the mobile home park are not connected to a public sewer, all proposed sewage disposal facilities shall be approved by the county health department prior to construction except that the use of a septic tank for the disposal of sewage shall not be approved. Effluents from sewage treatment facilities shall not be discharged into any waters of the state except with prior approval of the city director of utilities and engineering and the appropriate regulatory agency of the state.

Sec. 3.09.186 — Electrical distribution system

- (a) — General requirements. Every park shall contain an electrical wiring system consisting of wiring, fixtures, equipment and appurtenances which shall be installed and maintained in accordance with applicable codes and regulations governing such systems.
- (b) — Power distribution lines.
- (1) — Main power lines located above ground shall be suspended at least eighteen (18) feet above ground level. There shall be a minimum horizontal clearance of three (3) feet between overhead wiring and any mobile home, service building or other structure.

- (2) — All direct burial conductors or cable shall be buried at least eighteen (18) inches below the ground surface and shall be insulated and designated for the purpose. Such conductors shall be located not less than one (1) foot radial distance from water, sewer, gas or communication lines.
- (c) — Individual electrical connections.
 - (1) — Each mobile home lot shall be provided with an approved disconnecting device and overcurrent protective equipment. The minimum service per outlet shall be 120/240 volts AC, fifty (50) amperes.
 - (2) — Outlets (receptacles or pressure connectors) shall be housed in a weatherproof outlet box, and shall be located not more than twenty five (25) feet from the overcurrent protective device in the mobile home. A three-pole, four-wire grounding type shall be used.
 - (3) — Receptacles, if provided, shall be in accordance with American Standard outlet receptacle C-73.1.
 - (4) — Connectors, if not substituted by more than one receptacle, shall be provided where the calculated load of the mobile home is more than fifty (50) amperes.
 - (5) — The mobile home shall be connected to the outlet box by an approved type of flexible supply cord with a male attachment plug or with pressure connectors.
- (d) — Required grounding. All exposed noncurrent-carrying metal parts of mobile homes and all other equipment shall be grounded by means of an approved grounding conductor with branch circuit conductors or other approved method of grounded metallic wiring. The neutral conductor shall not be used as an equipment ground for mobile homes or other equipment.

Sec. 3.09.187 — Service buildings and other community service facilities

- (a) — Applicability. The requirements of this section shall apply to service buildings, recreation buildings and other community service facilities, such as management offices, maintenance and storage areas, and sanitary or laundry facilities.
- (b) — Required community sanitary facilities. Every park shall be provided with emergency sanitary facilities consisting of not less than one (1) flush toilet and one (1) lavatory per sex for each 100 mobile home lots, or fractional part thereof, which shall be accessible to all mobile homes.
- (c) — Barbecue pits, fireplaces, stoves and incinerators. Cooking shelters, barbecue pits, fireplaces, wood-burning stoves and incinerators shall be so located, constructed, maintained and used so as to minimize fire hazards and smoke nuisance. No open fire shall be permitted except in approved facilities. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors.

Sec. 3.09.188 — Refuse handling

- (a) — The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.
- (b) — All refuse shall be stored in flytight, watertight, rodentproof containers, which shall be located not more than three hundred (300) feet from any space. Containers shall be provided in sufficient number and capacity to properly store all refuse and shall be screened.

- ~~(c) — Refuse collection stands shall be provided for all refuse containers. Such container stands shall be so designed as to prevent containers from being tipped to minimize spillage and container deterioration, and to facilitate cleaning around them.~~
- ~~(d) — All refuse containing garbage shall be collected at least twice weekly. All refuse shall be collected and transported in covered vehicles or covered containers.~~

Sec. 3.09.189 — Insect and rodent control

- ~~(a) — Grounds, buildings and structures shall be maintained free of insect and rodent runs, harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the county health department.~~
- ~~(b) — Parks shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.~~
- ~~(c) — The growth of brush, weeds and grass shall be controlled to prevent harborage of noxious insects or other pests. Parks shall be so maintained as to prevent the growth of noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.~~

Sec. 3.09.190 — Natural gas system

- ~~(a) — Natural gas piping systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.~~
- ~~(b) — Each space provided with piped gas shall have an approved manual shutoff valve installed upstream of the gas outlet. The outlet shall be equipped with an approved cap to prevent accidental discharge of gas when the outlet is not in use.~~

Sec. 3.09.191 — Fire protection

- ~~(a) — Mobile home parks shall be kept free of litter, rubbish, and other flammable materials.~~
- ~~(b) — Portable fire extinguishers rated for classes B and C fires shall be kept in service buildings and shall be maintained in good operating condition. Their capacity shall not be less than five (5) pounds.~~
- ~~(c) — Fire hydrants shall be installed, if the park water supply system is capable to serve them, in accordance with the following requirements:
 - ~~(1) — The water supply system shall permit the operation of a minimum two (2) one-and-one-half inch hose streams.~~
 - ~~(2) — Each of two (2) nozzles, held four (4) feet above the ground, shall deliver at least seventy-five (75) gallons of water per minute at a flowing pressure of at least thirty (30) pounds per square inch at the highest elevation point of the park.~~~~
- ~~(d) — Fire hydrants, if provided, shall be located within five hundred (500) feet of any mobile home, service building or other structure in the park, such distance to be measured along the street.~~

Sec. 3.09.192 — Miscellaneous requirements

- ~~(a) — Responsibilities of park management.
 - ~~(1) — The licensee or his agent shall operate the park in compliance with this article and other applicable ordinances and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.~~
 - ~~(2) — The licensee or agent shall notify park occupants of all applicable provisions of~~~~

~~this article and inform them of their duties and responsibilities under this article.~~

~~(3) — The licensee or agent shall supervise the placement of each mobile home on its mobile home stand and the installing of all utility connections.~~

~~(4) — The licensee or agent shall maintain a register of park occupancy which shall contain the following information:~~

~~(A) — Name and address of park residents.~~

~~(B) — Mobile home registration data, including make, length, width, year of manufacture and identification number.~~

~~(C) — Location of each mobile home within the park by space or lot number.~~

~~(D) — Dates of arrival and departure.~~

~~— A new register shall be initiated on January 1 of each year, and the old register may thereafter be retired but shall be retained on the premises for at least three (3) years following its retirement. Registers shall be available for inspection at all reasonable times by any official of the city whose duties may necessitate access to the information contained therein.~~

~~(5) — The licensee or agent shall furnish to the assessor and collector of taxes for the city, within ten (10) days after the first day of January of each year, a list of all mobile homes resident in the park on the first day of January, showing the owner's name and address; the make, length, width, year of manufacture, and identification number of the mobile home; and the address or location description of said mobile home within the park. Said lists shall be prepared using forms provided by the assessor and collector of taxes of the city.~~

~~(b) — Responsibilities of park occupants.~~

~~(1) — The park occupant shall comply with all requirements of this article and shall maintain his mobile home space, its facilities and equipment in good repair and in a clean and sanitary condition.~~

~~(2) — The park occupant shall be responsible for proper placement of his mobile home on its mobile home stand and proper installation of all utility connections in accordance with the instructions of the park management.~~

~~(3) — Skirtings, porches, awnings, and other additions, when installed, shall be maintained in good repair. The use of space immediately underneath a mobile home for storage shall be permitted only under the following conditions:~~

~~(A) — The storage area shall have a base of impervious material.~~

~~(B) — Stored items shall not interfere with the underneath inspection of the mobile home.~~

~~(C) — The storage area shall be enclosed by skirting.~~

~~Secs. 3.09.193–3.09.220 — Reserved~~

~~Division 8. Travel Trailer Parks~~

~~Sec. 3.09.221 — Site requirements~~

Any development, redevelopment, alteration, or expansion of a travel trailer park in the city shall be done in compliance with the following site requirements:

- (1) ~~Location.~~ A travel trailer park shall be located only where such use is permissible under the terms and provisions of the general zoning ordinance as an S.U.P. in an MH or a C district.
- (2) ~~Site plan.~~ A site plan, as required by the general zoning ordinance, shall be filed with the city engineer, showing the following:
 - (A) ~~The area and dimensions of the tract of land;~~
 - (B) ~~The number and location of all travel trailer spaces;~~
 - (C) ~~The location and dimensions of mobile home spaces in the park, if any;~~
 - (D) ~~The location and width of roadways and walkways;~~
 - (E) ~~The location and specifications of water and sewer lines and riser pipes;~~
 - (F) ~~The location and details of lighting and electrical systems;~~
 - (G) ~~The location and specifications of all buildings constructed or to be constructed within the park;~~
 - (H) ~~Such other information as municipal reviewing officials may reasonably require.~~
- (3) ~~Soil and ground cover.~~ Exposed ground surfaces in all parts of every travel trailer park shall be paved, covered with stone screenings or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating dust.
- (4) ~~Drainage.~~ The ground surface in all parts of a park shall be graded and equipped to drain all surface water in a safe, efficient manner. The adequacy of drainage facilities shall be verified by a competent professional engineer.
- (5) ~~Area, setback and screening requirements.~~ The minimum areas, setbacks, spacing and screening shall be as prescribed in the general zoning ordinance.
- (6) ~~Open space.~~ Recreation areas are encouraged as a part of any travel trailer park. Such areas shall be located so as to be free of traffic hazards, easily accessible to all park residents, and centrally located where topography permits.

Sec. 3.09.222 — Access and traffic circulation

All travel trailer parks shall provide access and means of motor vehicle and pedestrian traffic circulation as follows:

- (1) ~~Access.~~ Motor vehicle entrances and exits shall be designed for safe and convenient traffic movement from adjacent public streets and onto internal streets leading to each space. No entrance or exit from a trailer park shall be through a residentially zoned district, nor require movement of traffic from the park through a residentially zoned district.
- (2) ~~Internal streets.~~ Internal streets shall be privately owned, built and maintained, and shall be designed for safe and convenient access to all spaces and facilities for common use of park occupants. Where any portions of parks are intended for overnight occupancy only, it is preferred that internal streets be arranged to accommodate drive-through spaces. Internal streets shall comply with the following minimum requirements:
 - (A) ~~Minor streets.~~ Streets less than five hundred (500) feet in length and serving:

- (i) ~~With drive-through spaces, fifty (50) or less if street is one-way or one hundred (100) or less if two-way; or~~
- (ii) ~~Where it is necessary to back into or out of spaces, twenty-five (25) spaces or less if street is one-way or fifty (50) or less if two-way; shall have minimum widths as follows:~~

One-way, no parking	10 feet
One-way, parking one side only	18 feet
One-way, parking both sides	26 feet
Two-way, no parking	20 feet
Two-way, parking one side only	28 feet
Two-way, parking both sides	36 feet

- (B) ~~Collector streets. Streets other than minor streets serving up to two hundred (200) spaces, without limitation on length, shall have minimum widths as follows:~~

One or two-way, no parking	24 feet
One or two-way, parking one side only	29 feet
One or two-way, parking both sides	36 feet

- (C) ~~Arterial streets. Streets serving more than two hundred (200) spaces, without limitation on length, shall have the same minimum width as collector streets, provided that sidewalks shall be provided as necessary to eliminate use of arterial roadway surface for pedestrian movement.~~

- (D) ~~Dead-end streets. Dead-end streets shall be limited in length to one thousand (1,000) feet, and shall be provided at the closed end with a turnaround having a radius of not less than thirty-eight (38) feet.~~

(3) ~~Street specifications. Internal streets shall be constructed of all-weather surfacing and shall be maintained free of cracks, holes and other hazards.~~

(4) ~~Parking. Vehicular parking shall be provided in a park in compliance with section 7(10) of the general zoning ordinance.~~

Sec. 3.09.223 — Use of spaces for occupaney

- (a) ~~Spaces in travel trailer parks may be used for mobile homes only within the limitations prescribed in the general zoning ordinance. Spaces used or intended to be used for mobile homes shall be designated on the site plan, and all facilities serving such spaces shall comply with the area, setback, spacing and parking requirements for mobile homes as contained in the general zoning ordinance and with the provisions of division~~

~~7 of this article. No space not designated as a mobile home space shall be occupied by a mobile home.~~

- ~~(b) — Spaces in travel trailer parks may be used by travel trailers, equivalent facilities constructed in or on automobile vehicles, tents, or other short-term housing or shelter arrangements or devices. Spaces shall be rented by the day or week only, and an occupant of any space shall remain in the same travel trailer park not more than ninety (90) days.~~

Sec. 3.09.224 — Water supply

- ~~(a) — General requirements. An accessible, adequate, safe and potable supply of water shall be provided in each travel trailer park. Where a public supply of water of satisfactory quantity, quality, and pressure is available at the park site or within one hundred (100) feet thereof, connection shall be made thereto and its supply used exclusively. When a public water supply is not available, a private water supply system may be developed and used as approved by the county health department and the department of state health services.~~
- ~~(b) — Source of supply.~~
- ~~(1) — The water supply shall be capable of providing water necessary to meet the ordinary demands of park occupants when the park is occupied at its maximum designed capacity.~~
- ~~(2) — The treatment of a private water supply shall be in accordance with applicable state and local laws and regulations.~~
- ~~(c) — Water storage facilities. All water storage reservoirs shall be covered, watertight, and constructed of impervious material. Overflows and vents of such reservoirs shall be effectively screened. Manholes shall be constructed with overlapping covers, so as to prevent the entrance of contaminated material. Reservoir overflow pipes shall discharge through an acceptable air gap.~~
- ~~(d) — Water distribution system.~~
- ~~(1) — The water supply system of the park shall be connected by pipes to all buildings, water service outlets, and other facilities requiring water.~~
- ~~(2) — All water piping, fixtures and other equipment shall be constructed and maintained in accordance with state and local regulations and requirements and shall be of a type and in locations approved by the building official.~~
- ~~(3) — The system shall be so designed and maintained as to provide a pressure of not less than twenty (20) pounds per square inch, under normal operating conditions, at service buildings and other locations requiring potable water supply.~~
- ~~(e) — Individual water riser pipes and connections. Individual water riser pipes shall extend at least four (4) inches above ground elevation. The pipe shall be at least three-quarter (3/4) inch. The water outlet shall be capped when not in use. Adequate provision shall be made to protect service lines, valves and riser pipes from freezing.~~

Sec. 3.09.225 — Sewage disposal

- ~~(a) — General requirements. An adequate and safe sewer system shall be provided in all travel trailer parks for conveying and disposing of all sewage. Such system shall be designed, constructed, and maintained in accordance with state and local laws.~~

- (b) ~~Sewer lines.~~ All sewer lines shall be located in trenches of sufficient depth to be free of breakage from traffic or other movements and shall be separated from the park water supply system at a safe distance. Sewers shall be at a grade which will insure a velocity of two (2) feet per second when flowing full. All sewer lines shall be constructed of materials approved by the building official, shall be adequately vented and shall have watertight joints.
- (c) ~~Individual sewer connections.~~
- (1) ~~If individual sewer connections are provided they shall consist of at least a four-inch diameter sewer riser pipe. The sewer riser pipe shall be so located at each space that the sewer connection to the unit drain outlet will approximate a vertical position.~~
 - (2) ~~The sewer connection shall have a nominal inside diameter of at least three (3) inches, and the slope of any portion thereof shall be at least one-quarter (1/4) inch per foot. The sewer connection shall consist of one (1) pipeline only without any branch fittings. All joints shall be watertight.~~
 - (3) ~~All materials used for sewer connections shall be semirigid, corrosion-resistant, nonabsorbent and durable. The inner surface shall be smooth.~~
 - (4) ~~The sewer riser pipe shall be plugged when a trailer does not occupy the space. Surface drainage shall be diverted away from the riser. The rim of the riser pipe shall extend at least four (4) inches above ground elevation.~~
- (d) ~~Sewage treatment and/or discharge.~~ Where the sewer lines of the park are not connected to a public sewer, all proposed sewage disposal facilities shall be approved by the county health department prior to construction except that the use of a septic tank for the disposal of sewage shall not be approved. Effluents from sewage treatment facilities shall not be discharged into any waters of the state except with prior approval of the city director of utilities and engineering and the appropriate regulatory agency of the state.

Sec. 3.09.226 — Electrical distribution system

- (a) ~~General requirements.~~ Every park shall contain an electrical wiring system consisting of wiring, fixtures, equipment and appurtenances which shall be installed and maintained in accordance with applicable codes and regulations governing such systems.
- (b) ~~Power distribution lines.~~
- (1) ~~Main power lines located above ground shall be suspended at least eighteen (18) feet above ground level. There shall be a minimum horizontal clearance of three (3) feet between overhead wiring and any trailer, service building or other structure.~~
 - (2) ~~All direct burial conductors or cable shall be buried at least eighteen (18) inches below the ground surface and shall be insulated and specially designed for the purpose. Such conductors shall be located not less than one (1) foot radial distance from water, sewer, gas or communication lines.~~
- (c) ~~Individual electrical connections.~~
- (1) ~~Where individual electrical connections are provided at trailer spaces, they shall include an approved disconnecting device and overcurrent protective equipment. The minimum service per outlet shall be one hundred twenty (120)~~

volts AC, fifty (50) amperes.

- (2) ~~Outlets (receptacles or pressure connectors) shall be housed in a weatherproof outlet box, and shall be located not more than twenty-five (25) feet from the overcurrent protective device in the trailer. A three-pole, four-wire grounding type shall be used.~~
- (3) ~~Receptacles, if provided, shall be in accordance with American Standard outlet receptacle C-73.1.~~
- (4) ~~Connectors, if not substituted by more than one receptacle, shall be provided where the calculated load of the trailer is more than fifty (50) amperes.~~
- (5) ~~The trailer shall be connected to the outlet box by an approved type of flexible supply cord with a male attachment plug or with pressure connectors.~~
- (d) ~~Required grounding. All exposed noncurrent-carrying metal parts of travel trailers and all other equipment shall be grounded by means of an approved grounding conductor with branch circuit conductors or other approved method of grounding metallic wiring. The neutral conductor shall not be used as an equipment ground for travel trailers or other equipment.~~

Sec. 3.09.227 — Service and auxiliary buildings

- (a) ~~Applicability. The requirements of this section shall apply to service buildings, recreation buildings, and other auxiliary facilities, such as management offices, repair shops and storage areas, sanitary and laundry facilities, and commercial uses supplying essential goods or services for the exclusive use of park occupants.~~
- (b) ~~Location and maintenance. All service buildings shall be convenient to the units which they serve, and shall be maintained in a clean condition.~~
- (c) ~~Construction. All service buildings shall be of permanent construction built in compliance with applicable ordinances of the city.~~
- (d) ~~Sanitary facilities. Every park shall contain one or more service buildings of permanent construction, containing the following minimum sanitary fixtures:~~

-	Toilets		Urinals	Lavatories		Showers	
Trailer Spaces	Men	Women	Men	Men	Women	Men	Women
1-15	1	1	1	1	1	1	1
16-45	1	2	1	2	2	1	1
46-100	2	3	2	3	3	2	2

~~For parks having more than one hundred (100) spaces, there shall be provided one (1) additional toilet and lavatory for each sex for each thirty (30) spaces, one additional shower for each additional forty (40) spaces, and one additional men's urinal for each additional one hundred (100) spaces. At least one slop sink shall be provided.~~

- (e) ~~Interior finish. The interior finish of a service building shall be moisture resistant which~~

~~will withstand frequent washing and cleaning. The floors shall be constructed of material impervious to water, easily cleanable and sloped to floor drains connected to the sewer system.~~

- ~~(f) — Separation and marking of toilet rooms. Separate men's and women's toilet rooms shall be provided and distinctly marked and isolated by a sound-resistant wall. The rooms shall be screened by means of a vestibule or wall to prevent direct view of the interior when the exterior doors are open.~~
- ~~(g) — Water closets. Water closets shall be located in separate compartments equipped with self-closing doors.~~
- ~~(h) — Hot water facilities. A continuous supply of hot water shall be available in each service building.~~
- ~~(i) — Shower facilities. Shower facilities shall be provided for both sexes. The shower stalls shall be of the individual type and screened from view. Dressing compartments shall be provided for women which are screened from view and each equipped with a stool or bench. A shower stall of approximately three by three (3 x 3) feet in area is suggested, with the dressing compartment of the same dimensions for women.~~
- ~~(j) — Heating facilities. Service buildings shall be maintained at the temperature required by local authorities. In the absence of such requirements, service buildings shall be maintained at a temperature of at least 70 degrees Fahrenheit during use.~~
- ~~(k) — Window areas and ventilation. Window areas in service buildings shall be equal to at least ten (10) percent of the floor area. Windows shall be located as high as practicable. All rooms of service buildings shall be well ventilated and all exterior openings shall be covered with 16-mesh screen.~~
- ~~(l) — Lighting. Service building rooms shall be well lighted at all times. The following illumination levels are suggested:
 - ~~(1) — General seeing tasks: 5 footcandles;~~
 - ~~(2) — Laundry room work area: 40 footcandles;~~
 - ~~(3) — Toilet room, in front of mirrors: 40 footcandles.~~~~
- ~~(m) — Eating places. Park buildings, including restaurants and dining rooms used for the preparation of food and drink, shall be constructed and operated in accordance with the laws and regulations of this state, as well as local requirements, applicable to public places offering food and drink for sale to the public.~~
- ~~(n) — Auxiliary buildings. Auxiliary buildings or other buildings not specifically covered in this article shall be constructed in accordance with local requirements.~~
- ~~(o) — Sanitary stations.
 - ~~(1) — Sufficient facilities shall be provided at sanitary stations for the sole purpose of removing and disposing of wastes from all holding tanks in a clean, efficient and convenient manner.~~
 - ~~(2) — Each sanitary station shall consist of a drainage basin constructed of impervious material, containing a disposal hatch and self-closing cover, and related washing facilities. Such units shall be provided on the basis of one for every one hundred (100) self-contained units or fractional part thereof.~~
 - ~~(3) — Sanitary stations shall be located not less than fifty (50) feet from any space. Such facilities shall be screened from other activities by visual barriers such as~~~~

~~fences, walls or natural growth.~~

~~(4) The disposal hatch of sanitary station units shall be connected to the park sewage disposal system. Related facilities required to wash holding tanks and the general area of the sanitary station shall be connected to the park water supply system.~~

~~(5) Sanitary stations shall be approved by the county health department.~~

Sec. 3.09.228 — Barbecue pits; fireplaces; stoves; incinerators

~~Cooking shelters, barbecue pits, fireplaces, wood burning stoves and incinerators shall be so located, constructed, maintained and used so as to minimize fire hazards and smoke nuisance. No open fire shall be permitted except in approved facilities. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors.~~

Sec. 3.09.229 — Refuse handling

~~(a) The storage, collection and disposal of refuse in a travel trailer park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.~~

~~(b) All refuse shall be stored in flytight, watertight, rodentproof containers, which shall be located at every trailer space. Containers shall be provided in sufficient number and capacity to properly store all refuse and shall be screened~~

~~(c) Refuse collection stands shall be provided for all refuse containers. Such container stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them.~~

~~(d) All refuse containing garbage shall be collected at least twice weekly. All refuse shall be collected and transported in covered vehicles or covered containers.~~

~~(e) The licensee or agent shall insure that containers at trailer spaces are emptied regularly and maintained in a usable, sanitary condition.~~

Sec. 3.09.230 — Insect and rodent control

~~(a) Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the county health department.~~

~~(b) Parks shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.~~

Sec. 3.09.231 — Fuel supply and storage

~~(a) Natural gas system.~~

~~(1) Natural gas piping systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.~~

~~(2) Each travel trailer space provided with piped gas shall have an approved manual shutoff valve installed upstream of the gas outlet. The outlet shall be equipped with an approved cap to prevent accidental discharge of gas when the outlet is not in use.~~

~~(b) Liquefied petroleum gas systems. Liquefied petroleum gas systems for trailer units shall be maintained in accordance with applicable city codes governing such systems and regulations of the state railroad commission pertaining thereto.~~

Sec. 3.09.232 — Fire protection

- (a) — ~~Travel trailer parks shall be kept free of litter, rubbish, and other flammable materials.~~
- (b) — ~~Portable fire extinguishers rated for classes B and C fires shall be kept in service buildings and at other locations conveniently and readily accessible for use by all occupants and shall be maintained in good operating condition. Their capacity shall not be less than five (5) pounds.~~
- (c) — ~~Fire hydrants shall be installed, if the park water supply system is capable to serve them, in accordance with the following requirements:~~
 - (1) — ~~The water supply system shall permit the operation of a minimum two (2) one-and-one-half-inch hose streams.~~
 - (2) — ~~Each of two (2) nozzles, held four (4) feet above the ground, shall deliver at least seventy-five (75) gallons of water per minute at a flowing pressure of at least thirty (30) pounds per square inch at the highest elevation point of the park.~~
- (d) — ~~Fire hydrants, if provided, shall be located within five hundred (500) feet of any service building or other structure in the park, such distance to be measured along the street.~~

Sec. 3.09.233 — Responsibilities of park management

- (a) — ~~The licensee or his agent shall operate the park in compliance with this article and other applicable ordinances and shall provide adequate supervision to maintain the park, its facilities, and equipment in good repair and in a clean and sanitary condition.~~
- (b) — ~~The licensee or agent shall notify park occupants of all applicable provisions of this article and inform them of their duties and responsibilities under this article.~~
- (c) — ~~The licensee or agent shall maintain a register of park occupancy which shall contain the following information:~~
 - (1) — ~~Name and address of park residents.~~
 - (2) — ~~Registration of the towing vehicle.~~
 - (3) — ~~Dates of arrival and departure.~~

~~A new register shall be initiated on January 1 of each year, and the old register may thereafter be retired but shall be retained on the premises for at least three (3) years following its retirement. Registers shall be available for inspection at all reasonable times by any official of the city whose duties may necessitate access to the information contained therein.~~

Secs. 3.09.234 3.09.270 — Reserved

Division 9. Violations

Sec. 3.09.271 — Penalty for violation

~~Any person who violates any of the provisions of this article shall be guilty of a misdemeanor, and each day the violation continues shall be a separate offense. Each offense shall be punishable by a fine in accordance with the general penalty provision set forth in section 1.01.009 of this code.~~

ARTICLE 3.10 STREETS AND SIDEWALKS*

Division 1. Generally

Sec. 3.10.001 — Penalty for violations

Violations of this article are punishable as provided in section 1.01.009.

Sec. 3.10.002 — Obstructions generally

- (a) — It shall be unlawful for any person, acting either for himself or as the agent or employee of another, to obstruct any sidewalk, alley, street or highway of the city in any manner, by means of any fence, by tying any animal of any kind thereon or across the same, by placing or leaving any vehicle or machine or any animate or inanimate object thereon which is sufficient to interfere with the travel of pedestrians or vehicles, or by congregating or causing others to congregate thereon in such manner as to prevent free passage along and upon same or any part thereof. Nothing in this section shall prevent persons from placing packages of goods which they may be receiving or shipping on any sidewalk if same do not occupy more than four (4) feet of the sidewalk and do not remain there more than two (2) hours.
- (b) — It is an exception to the application of this section that the obstruction is in compliance with Section 3.10.0021 of this Code.

Sec. 3.10.0021. — Use of Public Way in the Central Business District.

- (a) — Definitions. For the purposes of this Section, the following terms, words, phrases and the derivations thereof shall have the meaning given herein.
- (1) — Central Business District shall be defined as the area designated on the official zoning map being: Montgomery Street from the Railroad Tracks south to Jones Street, Jones Street west to U.S. Highway 75, U.S. Highway 75 north to the Railroad Tracks, Railroad Tracks east to Montgomery Street.
- (2) — Merchandise means any tangible or intangible property offered for display or sale and shall include but not be limited to goods, wares, tickets, publications, services or examples of goods or wares, or likenesses of items offered for sale within the adjoining businesses. The term does not include the sale of food and beverages.
- (3) — Potted plants and benches means potted plants and benches placed for public convenience and decoration and shall not contain advertising or represent an example of merchandise for sale within the district.
- (4) — Public way means all sidewalk areas held or controlled by the city or other public entity legally open to public use.
- (5) — Sign means any advertising signs for the tenants or property owners of the building immediately adjacent to the public way and shall not exceed three feet in width and five feet in height.
- (6) — Special event means any occasion including but not limited to fairs, shows, exhibitions, city wide celebrations, festivals, and the like within a specifically defined area of the city for a time period not to exceed the period of the event.
- (7) — Unobstructed pedestrian area means an area that is equal to one half the sidewalk width between the curb and the property line that is completely unobstructed, even with posts, and must include the sidewalk area. The property owner shall be the person or entity which determines the method of calculating

the unobstructed pedestrian area for the area adjacent to his/her/its property.

- (b) ~~It shall be unlawful for any person to place or deposit any merchandise, food, signs, potted plants, benches, tables, or chairs within the unobstructed pedestrian area of the public way in the Central Business District provided that the same, in total, shall not obstruct the sidewalk, create a hazard, or deny access from any on-street parking space to the unobstructed pedestrian area, and provided that the merchandise, signs, planters, tables, or chairs shall be placed only directly in front of the premises of the person or entity placing the same.~~
- (c) ~~No merchandise may be sold from the public way and shall be governed by all rules, regulations and requirements of the zoning district in which such property is situated, as set out in the City of Sherman zoning ordinances.~~
- (d) ~~Any tables or chairs placed in the public right of way shall be of sturdy, non-rusty and non-splintering construction and appropriate in color and style to the area in which they are placed. All signs in the public right of way must meet the definition in this Section.~~
- (e) ~~All potted plants and benches in the public way may be anchored so as to deter theft or vandalism, but must remain removable with minimal damage, which is easily repairable, to the sidewalk. Pots must be planted, and all plants (alive or artificial) must be non-hazardous, trimmed and maintained.~~
- (f) ~~It is a defense to prosecution under this article to the application of the foregoing prohibitions if a person:~~
 - (1) ~~Is a participant in a special event, and is vending on the premises designated for the special event;~~
 - (2) ~~Is vending in connection with the transaction of official government business;~~
~~or~~
 - (3) ~~Is the grantee of a contract with the city to operate a concession on designated areas of public property.~~

Sec. 3.10.003 — Erection of poles, pedestals, columns or other structures

- (a) ~~The erection of poles, pedestals, columns, piers or other structures for any purpose on any street, alley, sidewalk or sidewalk parkway in the city is hereby prohibited; provided, however, that telephone, telegraph, power and light companies shall have the right to erect poles for the support of their wires, cables, etc., in such sections of the city as may be covered by their franchises.~~
- (b) ~~All poles placed on the streets of the city for telegraph, telephone or other purposes of like nature shall be placed twelve (12) inches inside the curblines of such street, and all poles shall be placed under the direction of the city engineer. It shall be unlawful to erect any wooden pole within the fire limits.~~

Sec. 3.10.004 — Deposit of gravel or hard granular substance on paved street

- (a) ~~If any person shall by any means whatsoever place, drop, leave or cause to remain upon any paved street within the city any gravel or hard granular substance of any kind, he shall be guilty of a misdemeanor.~~
- (b) ~~The provisions of this section shall not apply to or prevent depositing or placing temporarily upon paved streets quantities of material for use in the construction of improvements upon public or private property contiguous thereto.~~

Sec. 3.10.005 — Mixing or placing mortar, concrete, etc., on paved street

~~No person shall mix, place or permit to be mixed or placed upon any paved street within the city any mortar, concrete or similar substance.~~

Sec. 3.10.006 — Gates swinging over street or sidewalk

~~It shall be unlawful for any person to permit a gate, on premises owned, occupied or controlled by him, to swing over the sidewalk or street or any part of a sidewalk or street in this city.~~

Sec. 3.10.007 — Signs or advertisements on sidewalks

~~It shall be unlawful for any person to write, stencil, paint or paste any sign or advertisement on any sidewalk in this city.~~

Sec. 3.10.008 — Signs over sidewalks

- ~~(a) — It shall be unlawful for any person to hang, place, locate or maintain any sign over, upon or across any sidewalk within the city, except electric signs substantially constructed, and such signs as may be written or printed upon rigid material of either wood or metal. Such signs shall be securely fastened to a permanent building in such manner as they will not sway back and forth. Such signs must be placed not less than seven and one-half (7 1/2) feet above the level of the sidewalk. It shall be unlawful for the end of such sign to protrude or extend beyond the curb of the sidewalk.~~
- ~~(b) — It shall be unlawful for any person to hang, place or locate any electric sign over, upon or across any sidewalk unless the same is done under the superintendence and with the consent of the city manager.~~

Sec. 3.10.009 — Banners over streets

~~Signs written on canvas or other cloth material may be placed so as to extend over, along or across any street in the city, provided that no such sign shall be placed without first obtaining permission from the city manager, and such permission shall not extend over a period of more than seven (7) days.~~

Sec. 3.10.010 — Clearance of tree limbs extending over streets and sidewalks

~~It shall be the duty of the owner or occupant of any lot or parcel of ground within the limits of the city in front of and adjacent to which any trees are growing, so as to extend the limbs over the sidewalk and street, to keep the same trimmed up in such a manner as the limbs and branches of the same overhanging the sidewalk shall be at least seven (7) feet above such sidewalk and the limbs and branches of such trees shall be at least fourteen (14) feet above the level of the street.~~

Sec. 3.10.011 — Trees, shrubs or other vegetation obstructing streets and alleys

~~It shall be unlawful for any person, whether owner, occupant or tenant, to permit the growth and extension of trees, shrubs or other vegetation into or along any public streets, alleys or thoroughfares that would prevent free and unobstructed passage of any person or vehicle along or through such public streets, alleys and thoroughfares.~~

Sec. 3.10.012 — Plantings in parkway

- ~~(a) — No tree, shrub or other type of vegetation, except lawn grass, may be planted in any parkway existing between an established curbline and property line in the city.~~
- ~~(b) — Where any bush, tree, shrub or other type vegetation has been planted or grown or exists in a parkway prior to June 29, 1964, it shall be unlawful for the owner of any lot, building, house, establishment or premises in the city to allow or permit any bush, tree, shrub or other type of vegetation, existing prior to June 29, 1964, except lawn grass, to grow in or over any parkway so that any leaves, limbs or branches of such bush, tree,~~

shrub, or other type vegetation is less than seven (7) feet above any parkway.

(c) —“Parkway,” for the purposes of this section, is defined as that property existing between an established curblin and the property line of the city.

(d) —Any condition in violation of this section is declared a nuisance and injurious to the health, safety and comfort of the citizens of the city.

Sec. 3.10.013 — Allowing water from filling stations to run on streets

It shall be unlawful for the operator of any filling station or any employee therefor to flush any approach, driveway or sidewalk of any filling station with water or other liquid when used in sufficient quantities to reach the curb of the adjacent street or any public street, alley or other public ground within the limits of the city. (1991 Code, sec. 31-13)

Secs. 3.10.014 – 3.10.040 — Reserved

Division 2. Street Improvements, Paving, Etc.

Sec. 3.10.041 — Penalty for violations

Violations of this division are punishable as provided in section 1.01.009.

Sec. 3.10.042 — Plans and specifications generally

The city engineer is hereby directed to prepare plans and specifications for the improvement of streets and file the same with the City Council. Such plans and specifications shall be made under the direction of the city manager and shall be in all respects full, complete, exact and unambiguous and shall be so drawn and prepared as to fully protect the city and abutting property owners against loss, damage and inconvenience from any cause whatever. Such plans and specifications shall contain adequate provisions for requiring the contractor to make, enter into and file a good and sufficient construction bond to secure prompt and faithful performance of the contract for constructing such improvement, and good and sufficient bond for the protection of all materialmen and laborers who shall at any time furnish any material or perform any labor for or in the construction of such improvement and may be drawn with or without provision for a maintenance bond, at the discretion of the City Council. In preparing such plans and specifications, the city engineer shall specify the use of such paving materials as shall be directed by the city manager or the City Council. No plans and specifications prepared as required hereby shall combine any two (2) or more of such paving materials, but each set of plans and specifications shall be complete within itself and shall specify only one (1) paving material. Plans and specifications shall clearly set forth and specify that the person who shall construct the improvements shall be charged with three (3) percent of all sums which shall be paid for constructing the improvement as the expense of the engineering and inspection work which shall be done by the city in reference thereto, and that such amount so chargeable shall be deducted from the part of the cost of the improvement payable by the city. Such plans and specifications shall specify clearly the method provided for paying for the improvement and shall be submitted to the City Council and shall not be of force or effect until approved and adopted by a written resolution of the council. No bid for the construction of the improvement shall be taken and no contract therefor shall be entered into until such plans and specifications shall be so approved.

Sec. 3.10.043 — Adoption of state law

V.T.C.A., Transportation Code, chapter 313, is adopted as an alternative method of determining, fixing and levying assessments for permanent street improvements of the city.

Sec. 3.10.044—Grading of parkways before street constructed

All parkways shall be graded to the established curbline before any street is constructed.

Sec. 3.10.045—Making of utility connections and other underground improvements prior to street paving

Within thirty (30) days next preceding the time in which any street is to be paved or improved with any asphalt or other permanent pavement, the city manager shall cause notice of the laying of such pavement to be published in the official newspaper of the city and shall notify the owners of all property fronting thereon by registered letter to cause all gas, water or sewer connections or other underground improvements or work to be made from the gas, water or sewer mains or other underground work or improvement to the lines of the curb on such street before such paving shall be laid. After the laying of such pavement it shall be unlawful for any person to disturb such pavement in any manner. Notice mailed to the agent or attorney of any such owner as above required shall be legal notice to such owner.

Sec. 3.10.046—Lowering or adjusting mains and conduits prior to street paving

- (a) — Any person maintaining, using or having any sewer, gas or water mains or any other underground conduits within any of the public streets in the city shall, when notified by the city manager that a public street then occupied by such person is going to be improved by laying a permanent pavement thereon, immediately and without any unnecessary delay and within two (2) days after receiving such written notice, begin to lower or adjust the sewer, gas or water mains or other underground conduits so maintained, used or controlled by him so as not to interfere or delay the construction of such street improvement work in any manner and in accordance with the profile of such street improvement work which may be obtained from the city engineer. Such work of lowering or adjusting underground gas, sewer or water mains or other underground conduits shall be prosecuted diligently after such second day and so as not to cause the city or anyone else any delay whatever in improving or paving the street as herein contemplated.
- (b) — If any person shall fail, refuse or neglect to comply in all things with the provisions of this section, the city shall have the right to immediately perform such work and comply with such requirements for such person, and any person failing to do such work in compliance with this section shall be liable to the city for the actual cost of performing such work together with a penalty of one hundred (100) percent to be recovered in any court having jurisdiction of the matter and the amount thereof as liquidated damages for such failure.

Sec. 3.10.047—Walking, riding, etc., on fresh pavement

It shall be unlawful for any person to walk, drive, ride or run a weight or cause a weight or vehicle of any kind to be run on or over any pavement on a street or sidewalk in the city which has been newly placed or constructed, until such pavement has been approved by the city engineer.

Secs. 3.10.048–3.10.080—Reserved

Division 3. Street Excavations^{*}

Sec. 3.10.081—Penalty for violations

Violations of this division are punishable as provided in section 1.01.009.

Sec. 3.10.082 — Refilling and repaving

- (a) ~~Any excavation made by any utility, plumber or any other person having a permit to make an excavation in any improved public street shall be refilled and repaved by the city to the specifications of the city at the expense of the utility, plumber or such other person having the permit to make such excavation.~~
- (b) ~~All permits issued for excavations shall provide that the excavation shall be filled and the street repaved by the city at the expense of the utility, plumber or other person having the permit to make such excavation. The charge for filling the excavation and repaving the street shall be \$5.75 per square foot of street surface repaired.~~
- (c) ~~At all times during work activity, the utility, plumber or such other person making excavation shall place and maintain all necessary and proper barriers, barricades, traffic control devices and other safeguards, upon and around the work site area for the prevention of accidents, all in accordance with the Texas Manual on Uniform Traffic Control Devices (TMUTCD). When necessary for public safety, the utility, plumber or such other person shall employ flagpersons whose duties shall be to control traffic around and through the work site. After daylight hours all barriers, barricades, traffic control devices and other safeguards must be reflectorized and must be illuminated or have barricade warning lights in accordance with the TMUTCD. All barriers, barricades, traffic control devices and other safeguards used must be removed immediately upon completion of excavation.~~

Sec. 3.10.083 — Removal of dirt, sand, rock or other material when work completed

~~It shall be the duty of any person making an excavation in or upon any street, alley or public ground to remove all dirt, sand, rock or other material from the street, alley or public ground when the work is completed.~~

Sec. 3.10.084 — Access to utilities under streets

~~Access to utilities under streets shall be by boring. Street cuts shall only be made in the event on an emergency and no other alternative is available with prior approval of the street superintendent or his designee.~~

Sec. 3.10.085 — Permit required; issuance restricted

~~It shall be unlawful for any person to make any cut or excavation within the right-of-way of any street, alley or other public place within the city without first obtaining a permit from the city manager or his designated representative. The city manager shall not issue any such permit if, in his opinion, the proposed improvement can be made by boring.~~

Sec. 3.10.086 — Permit application

~~The application for a permit required by this division shall be made to the city manager and shall be accompanied by plats showing the location of the cut or excavation and such other information as may be required by the manager.~~

Sec. 3.10.087 — Emergency procedures

~~In an emergency when the office of the manager is closed, cuts may be made, provided the police department is notified before any cut is made, and the cut is reported to the office of the city manager the next day the office is open for business.~~

Sec. 3.10.088 — Restoration

~~All permits issued under this division for excavations shall provide that the excavation shall be filled and the street repaved by the city at the expense of the utility, plumber or other person~~

having the permit to make such excavation. The charge for filling the excavation and repaving the street shall be as established by ordinance.

Secs. 3.10.089–3.10.120 — Reserved

Division 4. Sidewalk Construction or Repair

Sec. 3.10.121 — Permit required

No person shall construct, reconstruct or repair any sidewalk in the city without first obtaining a permit so to do from the city engineer. Usually twenty-four (24) hours will be required after filing written application for such permit before same will be issued. That time is necessary to check grades, lines, etc.

Sec. 3.10.122 — Penalty for violation

Violations of this division are punishable as provided in section 1.01.009.

Sec. 3.10.123 — Bond

It shall be unlawful for any person to build, construct or complete any sidewalk within the city limits, and no permit shall be issued so to do, unless such person has filed with the city clerk a bond approved by the City Council. Such bond shall be in the sum of one thousand dollars (\$1,000.00), payable to the city, conditioned that the principal shall faithfully and strictly comply with the regulations and ordinances relating to the construction, reconstruction and repair of sidewalks, and further conditioned that the principal shall promptly, when notified so to do by the city engineer, remedy any defect in any sidewalk constructed, reconstructed or repaired by him, due to defective material or workmanship which shall be discovered or shall occur within one (1) year after the completion and acceptance of such work.

Sec. 3.10.124 — Width; slope; location with respect to property line

No sidewalk constructed in the city shall be less than four (4) feet in width. Sidewalks within the C-1 retail district, as established by the zoning ordinance, abutting upon business houses or lots used for business purposes shall extend from the front and side street property lines to the curbline and shall slope from the property lines to the curbline at the rate of one-fourth inch to the foot. All sidewalks four (4) feet in width shall be located not less than twelve (12) nor more than eighteen (18) inches from the property line.

Sec. 3.10.125 — Specifications

All sidewalks, curbs and gutters in the city shall be constructed, reconstructed and repaired in accord with specifications prescribed by the City Council and on file in the office of the city clerk and the city engineer, and nothing in this code or the ordinance adopting the same shall be deemed to affect any such specifications previously prescribed.

Sec. 3.10.126 — Supervision and approval of work

All sidewalks shall be constructed, reconstructed and repaired under the supervision and subject to the direction and approval of the city engineer, whose decision shall be final.

Sec. 3.10.127 — Approval of materials

Upon notice from the city engineer, no materials of any kind shall be used in the construction, reconstruction or repair of any sidewalk until they have been examined and approved by the city engineer, and the contractor shall furnish whatever samples may be required for making tests and examinations in sufficient time prior to use of same.

Sec. 3.10.128 — ~~Lights, barricades and warning devices~~

~~During construction of any sidewalk, the contractor shall see that the necessary lanterns, barricades and other warning devices required by the city engineer are placed so that pedestrians or vehicle traffic shall not be injured in any manner.~~

Sec. 3.10.129 — ~~Preservation and location of stakes~~

~~All stakes set by the city engineer must be carefully preserved by the contractor doing any work under a permit required by this division. Stakes for grades and line stakes will be set every fifty (50) feet or closer at the discretion of the engineer.~~

Sec. 3.10.130 — ~~Identification of work~~

~~All sidewalks, curbs and gutters shall be marked by means of a suitable stamp or dye, of design acceptable to the city engineer, making an impression in the finish with the firm name of the builder and the month and year in which work is done.~~

Sec. 3.10.131 — ~~Removal of maters and dirt upon completion of work~~

~~Immediately upon completion of work under a permit required by this division, the contractor shall remove all unused materials and surplus dirt. He shall see that the street and sidewalk are clean and usable by the public.~~

Secs. 3.10.132 – 3.10.150 — ~~Reserved~~

Division 5. ~~Access Driveways~~

Sec. 3.10.151 — ~~Definition~~

~~For the purposes of this division, the word “grantee” shall mean a person to whom a permit has been issued under this division authorizing the construction, reconstruction or repair of an access driveway.~~

Sec. 3.10.152 — ~~Penalty for violations~~

~~Violations of this division are punishable as provided in section 1.01.009.~~

Sec. 3.10.153 — ~~Compliance~~

~~No access driveway to any street of this city shall be constructed, reconstructed or repaired except in compliance with this division.~~

Sec. 3.10.154 — ~~Permit to construct, reconstruct, repair, etc.~~

~~No access driveway to any street of this city shall be constructed, reconstructed or repaired without a permit issued by the city, and no driveway, approach, or other improvement constructed on the right-of-way shall be relocated or its dimensions altered without a duly executed permit from the city. Application for such permit shall be made by the owner or lessee of the property, who shall represent all parties in interest, and shall be for the bona fide purpose of securing access to his property and not for the purpose of parking or servicing vehicles on the street right-of-way.~~

Sec. 3.10.155 — ~~Materials~~

~~The grantee shall furnish all materials necessary for the construction of the entrances and appurtenances authorized by a permit issued under this division. All materials shall be of satisfactory quality, and shall be subject to inspection and approval of the city engineer. All access driveways shall be of reinforced concrete, a minimum of four (4) inches in thickness,~~

reinforced with steel mesh weighing forty (40) pounds per square, or three-eighths-inch bars on eighteen-inch centers each way, and the concrete shall be placed on graded and wetted sand sub-base. The city engineer may approve other materials providing the grantee submits data warranting and supporting a change of materials. The engineer may require other design conditions as deemed necessary.

Sec. 3.10.156 — Design requirements generally

- (a) — Common design requirements for commercial and noncommercial access driveways are as follows:
- (1) — All parts of entrances and exits on street rights-of-way shall be confined within the grantee's property frontage. Frontage is that portion of the right-of-way lying between the two (2) most distant possible lines drawn perpendicular from the centerline of the street to the grantee's abutting property.
 - (2) — Location of access driveways shall be selected to provide maximum safety for street traffic and for users of the driveway.
 - (3) — At any intersection, access driveways shall be restricted for a sufficient distance from the intersection to preserve the normal and safe movement of traffic through it. All parts of any commercial access driveway, including the radii, shall be a minimum of ten (10) feet inside the abutting property frontage, except as provided in subsection (b) of this section.
 - (4) — Drainage in street side ditches shall not be altered or impeded. When drainage structures are required, the size of opening and other design features shall be approved by the city engineering department.
 - (5) — Radii for all access driveways within the city shall be not less than two and one-half (2 1/2) feet.
- (b) — The city may authorize or require certain changes in the design limits prescribed in this division when such changes are necessary to preserve the normal and safe movement of traffic or to permit reasonable access. In consideration of type, speed and volume of street and access driveway traffic, larger curb return radii than the minimum herein may be required by the city engineer. When physical factors make it impractical to obtain reasonable access within the requirements herein, appropriate variations may be authorized by the city inspector; provided, however, that in all cases, curb return radii shall be confined to the grantee's property frontage and shall be not less than two and one-half (2 1/2) feet, and the island between driveways shall be not less than five (5) feet long, driveway widths shall not exceed forty five (45) feet, except with the approval of the city engineer who is hereby authorized to increase the widths in keeping with good engineering practices, and no part of a driveway or its radii shall extend beyond property line extensions at street intersections.

Sec. 3.10.157 — Filling in of adjacent safety zones

Safety zones adjacent to access driveways may be filled in, provided the following requirements are fully complied with:

- (1) — Surface drainage shall be provided so that all surface water on the filled-in area shall be carried away from the street in a suitable manner.
- (2) — The drainage opening under the filled-in area shall be adequate to carry the water in the street side ditches.
- (3) — The filled-in area shall extend from the sidewalk, or where no sidewalk exists, from the

right-of-way line to the shoulder line or curbed pavement as the case may be.

Sec. 3.10.158 — Maintenance; inspection; correction of defects

~~The maintenance of all driveways, islands and other access driveway appurtenances on the right-of-way shall be the responsibility of the grantee. The city reserves the right to inspect these installations at the time of construction and at all times thereafter, and to require that such changes, maintenance and repairs be made as may at any time be considered necessary to provide protection of life or property on or adjacent to the street. The cost of changes, maintenance and repairs shall be borne by the grantee, except as otherwise specifically provided.~~

Sec. 3.10.159 — Commercial driveways

- (a) ~~Application of section.~~ The provisions of this section shall apply to commercial access driveways.
- (b) ~~Grantee to do work and pay costs.~~ The grantee shall do all work and pay all costs in connection with the construction of access driveways and their appurtenances on the right-of-way.
- (c) ~~Width.~~ The width of access driveways shall be measured at right angles to the centerline of the driveway, and shall not exceed the values listed in the following table, except as increased by permissible radii or as provided in section 3.10.156:

TABLE OF DRIVEWAY DIMENSIONS

Frontage		Driveway	Driveway
Interior Lot	Corner Lot	Width Max.	Angle
Up to 149 ft.	Up to 159 ft.	30 ft.	60–90 deg.
150–175 ft.	160–185 ft.	30 ft.	45–90 deg.
Over 175 ft.	Over 185 ft.	35 ft.	45–90 deg.

- (d) ~~Angle.~~ The angle of access driveways from street pavement shall be as listed in the table in subsection (c) above, except in the case of one-way entrances from divided lane highways, the angle may be thirty (30) degrees to ninety (90) degrees.
- (e) ~~Safety zones.~~ All parts of the street right-of-way between the curb or shoulder line and the right-of-way along the grantee's property frontage, except the areas contained in the access driveways, shall be safety zones. Safety zones between drives shall be not less than twenty-five (25) feet in length, except as provided in section 3.10.156(b), and generally should be a minimum of one-third the width of the property frontage. Curbs or posts shall be installed to prohibit vehicle parking and access in safety zones. If curbs are used, they shall be concrete or masonry barrier-type curbs not less than six (6) inches in height. If posts are used, they shall be round, six (6) inches in diameter, with domed tops, two and three-quarters (2 3/4) feet in length, and they shall be installed six (6) feet apart, extending fifteen (15) inches above the ground, and shall be painted white.
- (f) ~~Distance from right-of-way line to fixtures.~~ The minimum distance from the right-of-way line to the near edge of service pumps, vending stands, tanks, or water hydrants shall be twelve (12) feet.

- (g) ~~Sketches.~~ A typical access layout for a commercial location is on file in the city clerk's office as a reference and a guide to aid in interpreting these regulations.

Sec. 3.10.160 — Noncommercial driveways

- (a) ~~Application of section.~~ This section shall apply to noncommercial access driveways.
- (b) ~~Grantee to do work and pay costs.~~ The grantee shall do all work and pay all costs in connection with the construction of access driveways and their appurtenances on the right-of-way.
- (c) ~~Width.~~ The width shall not exceed twenty four (24) feet measured at right angles to the centerline of the driveway, except as increased by permissible radii. The minimum radii shall be two and one-half (2 1/2) feet.
- (d) ~~Angle.~~ The angle of the access driveway from the street pavement shall be forty-five (45) degrees to ninety (90) degrees.
- (e) ~~Sketches.~~ Typical access layout for a residential location is on file in the city clerk's office as a reference and a guide to aid in interpreting these regulations.

Sec. 3.10.161 — Driveways to state highways

- (a) ~~The city hereby adopts the Regulations for Access Driveways to State Highways, as adopted by the state highway commission and as revised in November, 1963, for use on state highways within the corporate limits of the city as such corporate limits are now established or as same may be hereafter extended. With reference to access driveways to state highways, such regulations shall govern in case of conflict with any provision of this division.~~
- (b) ~~Notwithstanding the above, driveways shall be spaced a minimum of two hundred fifty (250) feet apart on state highways and farm to market roads within the city limits. In cases where undue hardship would occur from the enforcement of this division, the board of adjustments may grant an exception to the spacing requirement referenced herein.~~
- (c) ~~The spacing restriction contained in subsection (b) above shall not be applicable to a separately owned lot of record which will be permitted access through one (1) driveway either on the parcel or as part of joint access.~~

ARTICLE 3.11 BUILDING NUMBERS

Sec. 3.11.001 — Required

~~It shall be the duty of the owner or agent of the owner of any building situated in the city to place thereon in some conspicuous place an official street number, so that such number may be plainly seen and observed from the street.~~

Sec. 3.11.002 — Designation of numbers

~~When a plat delineating and prescribing the manner and method of numbering buildings in the city has been approved by the City Council, the number thereon designated shall be termed the "official number." It shall be the duty of the building inspector, or such other officer as the City Council may designate, upon application, to give the correct and official number for buildings to persons requesting the same, and such person shall be required to state the street upon which the building is situated from the nearest cross street.~~

Sec. 3.11.003 — Duty to place numbers on buildings

~~It shall be the duty of the owner of any building to have placed an official and correct number thereon, but in case the owner is a nonresident of the city, it shall be the duty of his agent, when such owner, agent or occupant is notified by the building inspector, or such other official as the council may designate, to place such official number on such building; provided that such owner, agent or occupant so notified shall be allowed five (5) days from the date of the receipt of the notice to place such official number on the house.~~

~~Sec. 3.11.004 — Specifications for numbers~~

~~The official number herein referred to shall be at least three (3) inches high and composed of visible permanent material; provided, however, that nothing herein shall prohibit any number from being painted by any person when such character of material is used as will, in the judgment of the building inspector, be equal in strength, durability and service to the visible permanent material herein provided for.~~

~~Sec. 3.11.005 — Numbering on curbs and gutters~~

~~(a) — No numbers indicating the building number shall be painted on the curbs of the city unless they shall meet the following specifications:~~

~~(1) — Paint.~~

~~(A) — White background paint shall be regular street marking paint.~~

~~(B) — Black number paint shall be flat black industrial grade.~~

~~(2) — Numbers.~~

~~(A) — Numbers used shall be three-inch high Gothic.~~

~~(B) — Numbers to be black.~~

~~(3) — Background.~~

~~(A) — Background shall be rectangular four (4) inches by nine (9) inches in size.~~

~~(B) — Background shall be white.~~

~~(4) — Workmanship.~~

~~(A) — Background and numbers shall be neatly applied with straight distinct lines for the rectangular background.~~

~~(B) — Numbers shall be formed by using stencils or methods giving results equal to stencils.~~

~~(5) — Sample. A sample of the approved numbering system may be obtained from the city engineer, room 305, Municipal Building, Sherman.~~

~~(b) — Any person who is a resident of the city capable of meeting the specifications herein obtained by the exhibition and demonstration satisfactory to the city manager or his representative may secure a permit from the city manager or his representative to become engaged in the business of placing building numbers on the curb at the owner's expense.~~

~~ARTICLE 3.12 FLOOD DAMAGE PREVENTION~~

~~Division 1. Generally~~

Sec. 3.12.001—Statutory authorization

The legislature of the state has, in the Flood Control Insurance Act, Texas Water Code, section 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the city, does adopt this article in accordance with applicable law.

Sec. 3.12.002—Findings of fact

- (a) — The flood hazard areas of the city are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- (b) — These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

Sec. 3.12.003—Statement of purpose

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) — Protect human life and health;
- (2) — Minimize expenditure of public money for costly flood control projects;
- (3) — Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) — Minimize prolonged business interruptions;
- (5) — Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) — Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and
- (7) — Ensure that potential buyers are notified that property is in a flood area.

Sec. 3.12.004—Methods of reducing flood losses

In order to accomplish its purposes, this article uses the following methods:

- (1) — Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) — Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) — Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) — Control filling, grading, dredging and other development which may increase flood damage;
- (5) — Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

Sec. 3.12.005—Definitions

Unless specifically defined below, words or phrases used in this article shall be interpreted to give them the meaning they have in common usage and to give this article its most reasonable application.

Appeal. A request for a review of the floodplain administrator's interpretation of any provision of this article.

Appurtenant structure. A structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of shallow flooding. A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base flood. The flood having a one percent annual chance of being equaled or exceeded in any given year.

Base flood elevation (BFE). The elevation shown on the flood insurance rate map (FIRM) and found in the accompanying flood insurance study for zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a one percent (1%) annual chance of equaling or exceeding that level in any given year; also called the base flood.

Basement. Any area of a building having its floor subgrade (below ground level) on all sides.

Breakaway wall. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Conditional letter of map amendment (CLOMA). A proposed amendment to the currently effective FEMA map which establishes that a property is not located in a special flood hazard area contingent upon adherence to a specified plan of construction.

Conditional letter of map revision (CLOMR). The Federal Emergency Management Agency's comment on a proposed project that would affect the hydraulic or hydrologic characteristics of a flooding source that would result in the modification of the existing regulatory floodway, effective base flood elevation, or special flood hazard area.

Critical facilities. Structures or equipment that, if damaged or made non-functional, would impact the health, safety, and welfare of the public. For some facilities, even a slight chance of flooding is too great a threat. Typical critical facilities include, but are not limited to hospitals, nursing homes, orphanages, penal institutions, police stations, fire stations, emergency services, storage of critical records, water and sewage treatment plants, and pump stations.

Development. Any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building. For insurance purposes, a non-basement building which has its lowest floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Elevation certificate. A form used by the National Flood Insurance Program to indicate the elevation of the lowest inhabitable floor of a structure (including basements).

Existing construction. Structures for which the "start of construction" commenced before the effective date of the current flood insurance rate map. "Existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the flood insurance rate map.

Expansion to an existing manufactured home park or subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Emergency Management Agency (FEMA). An agency within the U.S. Department of Homeland Security charged with responding to presidentially-declared disasters. This agency is responsible for administering the National Flood Insurance Program.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) — The overflow of inland or tidal waters; or
- (2) — The unusual and rapid accumulation of runoff of surface waters from any source.

Flood elevation study. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood insurance rate map (FIRM). An official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood insurance study (FIS). The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the flood boundary floodway map.

Flood protection system. Physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Floodplain or floodprone area. Land area susceptible to being inundated by water from any source. (See definition of “flood or flooding”.)

Floodplain management. The operation of an overall program of corrective and preventative measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of enforcement. The term describes such state or local regulations, or any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing. A combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. See regulatory floodway.

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade. The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Historic structure. Any structure that is:

- (1) — Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) — Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- (3) — Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) — Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (A) — By an approved state program as determined by the Secretary of the Interior; or
 - (B) — Directly by the Secretary of the Interior in states without approved programs.

Known flood hazard area. A local area with a historic tendency of flooding or other drainage-related challenges that is not documented in flood insurance rate maps.

Levee. A manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee system. A flood protection system which consists of a levee or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Letter of map amendment (LOMA). An amendment to the currently effective Federal Emergency Management Agency map which establishes that a property is not located in a special flood hazard area. A LOMA may only be issued by the Federal Emergency Management Agency.

Letter of map revision (LOMR). An official amendment to the currently effective Federal Emergency Management Agency map. It is issued by the Federal Emergency Management Agency and changes flood zones, delineations, and elevations.

Lowest floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the requirements of section 60.3 of the National Flood Insurance Program regulations.

Manufactured (mobile) home. A structure transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured (mobile) home" does not include a "recreational vehicle."

~~Manufactured (mobile) home park or subdivision, existing.~~ A parcel (or contiguous parcels) of land divided into two (2) or more manufactured (mobile) home lots for rent or sale.

~~Manufactured (mobile) home park or subdivision, new.~~ A manufactured home park or subdivision completed on or after the effective date of floodplain management regulations adopted by the city. Completion shall be defined as the date on which the facilities for servicing the manufactured home lots are constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

~~Mean sea level (MSL).~~ For purposes of the National Flood Insurance Program, the North American Vertical Datum of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

~~New construction.~~ Structures for which the "start of construction" commenced on or after the effective date of the current effective flood insurance rate map and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the city and includes any subsequent improvements to such structures.

~~National Flood Insurance Program (NFIP).~~ The program of flood insurance coverage and floodplain management administered under the act and applicable federal regulations promulgated in title 44 of the Code of Federal Regulations, subchapter B.

~~Nonresidential structure.~~ A commercial or non-habitation building, or a mixed-use building that does not qualify as a residential building. This includes but is not limited to small businesses, churches, schools, farm buildings (including grain bins and silos), garages, pool houses, clubhouses, recreational buildings, mercantile buildings, agricultural and industrial buildings, warehouses, nursing homes, licensed bed-and-breakfasts, and hotels and motels with normal room rentals for less than 6 months.

~~Physical map revision (PMR).~~ An amendment to the effective Federal Emergency Management Agency floodplains.

~~Recreational vehicle.~~ A vehicle which is:

- ~~(1) — Built on a single chassis;~~
- ~~(2) — Four hundred (400) square feet or less when measured at the largest horizontal projections;~~
- ~~(3) — Designed to be self-propelled or permanently towable by a light duty truck; and~~
- ~~(4) — Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.~~

~~Regulatory floodway.~~ The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation (i.e. a rise of zero (0) feet).

~~Residential structure.~~ A non-commercial building designed for habitation by one or more families or a mixed-use building that qualifies as a single-family, 2-4 family, or other residential building.

~~Riverine.~~ Relating to, formed by, or resembling a river (including tributaries), stream, creek, brook, etc.

~~Special flood hazard area (SFHA).~~ An area having special flood, mudflow or flood-related

erosion hazards and shown on a flood hazard boundary map or a flood insurance rate map zone A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-A30, V1-V30, VE or V. The SFHA is the area where the National Flood Insurance Program's floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.

Start of construction. For new construction or substantial improvements, the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means:

- (1) — The first placement of permanent construction of a structure on a site or any work beyond the stage of excavation, not including land preparation (clearing, grading or filling), the erection of temporary forms or accessory buildings (garages or sheds not occupied as dwelling units or part of the main structure), or the installation of streets and/or walkways;
- (2) — The placement of a manufactured home on a foundation;
- (3) — For substantial improvement, the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure. For floodplain management purposes, a walled and roofed building that is principally above ground, including gas or liquid storage tanks and manufactured homes. A structure has two or more outside rigid walls and a roof that is affixed to a permanent site. The Federal Emergency Management Agency uses "structure" and "building" interchangeably.

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement. Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not include:

- (1) — Improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) — Alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure."

Variance. A grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see section 60.6 of the National Flood Insurance Program regulations.)

Violation. The failure of a structure or other development to be fully compliant with the city's floodplain management regulations, including failure to provide elevation certificates, other certifications, or evidence of compliance as required in section 60.3 of the National Flood Insurance Program regulations until such time as that documentation is provided.

Water surface elevation. The height, in relation to the North American Vertical Datum of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the

floodplains of coastal or riverine areas.

Sec. 3.12.006 — Applicable lands.

This article shall apply to all areas of special flood hazard within the jurisdiction of the city, including areas within city limits and the city's extraterritorial jurisdiction.

Sec. 3.12.007 — Basis for establishing areas of special flood hazard

The areas of special flood hazard identified by FEMA in the current scientific and engineering report entitled, "The Flood Insurance Study for Grayson County, Texas and Incorporated Areas" dated September 1, 2022, with accompanying flood insurance rate maps, and any updates or revisions thereto, as well as areas which have not yet been delineated on the FEMA maps but are known to constitute a known flood hazard area, are hereby adopted by reference and declared to be a part of this article.

Sec. 3.12.008 — Establishment of floodplain development permit

A floodplain development permit shall be required to ensure conformance with the provisions of this article.

Sec. 3.12.009 — Compliance

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this article and other applicable regulations.

Sec. 3.12.010 — Abrogation and greater restrictions

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 3.12.011 — Interpretation

In the interpretation and application of this article, all provisions shall be:

- (1) — Considered as minimum requirements;
- (2) — Liberally construed in favor of the governing body; and
- (3) — Deemed neither to limit nor repeal any other powers granted under state statutes.

Sec. 3.12.012 — Warning and disclaimer of liability

- (a) — The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by manmade or natural causes. This article does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages.
- (b) — This article shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder. In no case shall responsibility of liability arise from the design or operation of drainage facilities dedicated to the city.

Secs. 3.12.013–3.12.040 — Reserved

Division 2. Administration

Sec. 3.12.041 — Designation of floodplain administrator

The city engineer is hereby appointed the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 Code of Federal Regulations (CFR) of the Emergency Management and Assistance — NFIP Regulations pertaining to floodplain management.

Sec. 3.12.042 — Duties and responsibilities of floodplain administrator

- (a) — Duties and responsibilities of the floodplain administrator shall include, but not be limited to the following:
- (1) — Maintain and hold open for public inspection all records pertaining to the provisions of this article;
 - (2) — Review building permit applications to determine whether proposed building site projects, including the placement of manufactured homes, will be reasonably safe from flooding;
 - (3) — Review, approve, or deny all applications for floodplain development permits required by this article;
 - (4) — Review permits for proposed development to assure that all necessary permits have been obtained from required federal, state or local governmental agencies, including section 404 of the Clean Water Act (Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334). However, these assurances do not assume any responsibility on the part of the floodplain administrator or the city to enforce the conditions of permits issued by agencies other than the city;
 - (5) — Interpret, where necessary, the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions);
 - (6) — In riverine situations, notify adjacent communities and the state coordinating agency, which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA;
 - (7) — Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained;
 - (8) — Obtain, review, and reasonably utilize any base flood elevation data and/or floodway data available from a federal, state or other source, in order to administer the provisions of division 3 of this article when base flood elevation data has not been provided in accordance with section 3.12.007;
 - (9) — When a regulatory floodway has not been designated, require that no new construction, substantial improvements, or other development (including fill) is permitted within zones A1-30 and AE on the community's FIRM unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood (rise of zero (0) feet) at any point within the community;
 - (10) — May approve certain development in zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood, provided that the community first completes all of the provisions required

by 44 CFR chapter 1, section 65.12 of the NFIP regulations;

- ~~(11) Maintain a record of all variance actions, including justification for their issuance; and~~
- ~~(12) Review, comment, and approve or deny all CLOMR or LOMR requests to be submitted on behalf of the city to FEMA. The floodplain administrator must approve all CLOMRs and LOMRs before they are submitted to FEMA.~~
- ~~(b) The city may require an additional third-party review fee depending on the complexity of the proposed project.~~

Sec. 3.12.043 — Floodplain permit procedures

- ~~(a) A city floodplain development permit shall be required for all proposed development within a SFHA or floodplain to assure conformance with the provisions of this article. The floodplain development permit shall be issued by the engineering department.~~
- ~~(b) Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by the city and may include, but are not limited to:~~
 - ~~(1) Plans, drawn to scale, showing:~~
 - ~~(A) The locations, dimensions, and elevation of proposed landscape alterations, including fences.~~
 - ~~(B) The locations and dimensions of existing and proposed structures (including manufactured homes), along with:~~
 - ~~(i) The elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures; and~~
 - ~~(ii) The elevation (in relation to mean sea level) to which any nonresidential structure shall be floodproofed;~~
 - ~~(2) The location of the foregoing in relation to areas of special flood hazard with BFEs shown where applicable. Additionally, the following information is required:~~
 - ~~(A) A certificate from a professional engineer or architect, registered in the state, that the nonresidential floodproofed structure shall meet the floodproofing criteria of section 3.12.072(2);~~
 - ~~(B) A description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of the proposed;~~
 - ~~(C) A model in the latest available version of HEC-RAS or equivalent software showing existing and proposed conditions of the proposed project area and sufficient upstream and downstream extents to show no negative impact outside of the proposed project area;~~
 - ~~(D) Where required, a CLOMR approved by the city's floodplain administrator and FEMA; and~~
 - ~~(E) A maintained record of all information in accordance with section 3.12.042(a)(2).~~
- ~~(c) Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of this article and the following relevant factors:~~
 - ~~(1) The danger to life and property due to flooding or erosion damage;~~

- (2) — ~~The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;~~
- (3) — ~~The danger that materials may be swept onto other lands to the injury of others;~~
- (4) — ~~The compatibility of the proposed use with existing and anticipated development;~~
- (5) — ~~The safety of access to the property in times of flood for ordinary and emergency vehicles;~~
- (6) — ~~The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;~~
- (7) — ~~The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;~~
- (8) — ~~The necessity to the facility of a waterfront location, where applicable;~~
- (9) — ~~The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and~~
- (10) — ~~The relationship of the proposed use to the comprehensive plan for that area.~~

Sec. 3.12.044 — Variance procedures

- (a) — ~~The board of adjustments, as authorized by this code, shall hear and render judgment on written requests for variances from the requirements of this article.~~
- (b) — ~~The board of adjustments shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this article.~~
- (c) — ~~Any person or persons aggrieved by the decision of the board of adjustments may appeal such decision in the courts of competent jurisdiction.~~
- (d) — ~~The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.~~
- (e) — ~~Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this article.~~
- (f) — ~~Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section 3.12.043(b) of this division have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.~~
- (g) — ~~Upon consideration of the factors noted above and the intent of this article, the board of adjustments may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article (section 3.12.003).~~
- (h) — ~~Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.~~
- (i) — ~~Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum~~

~~necessary to preserve the historic character and design of the structure.~~

~~(j) Prerequisites for granting variances:~~

~~(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;~~

~~(2) Variances shall only be issued upon:~~

~~(A) Showing a good and sufficient cause;~~

~~(B) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and~~

~~(C) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.~~

~~(3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.~~

~~(k) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:~~

~~(1) The criteria outlined in subsections (a) through (i) of this section are met; and~~

~~(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.~~

Sec. 3.12.045 — Enforcement

~~(a) A person commits an offense by~~

~~(1) Commencing development within a SFHA or floodplain without first obtaining a floodplain development permit from the city;~~

~~(2) failing to return the property to its original or previous condition after commencing development within a SFHA or floodplain without first obtaining a floodplain development permit from the city; or~~

~~(3) Failing to adhere to the regulations established within this article without first obtaining an appropriate variance as outlined in section 3.12.044.~~

~~(b) A violation of any provision of this article shall be required to return the property to its previous or original condition or complete the appropriate floodplain permitting process including any requirements stated from said process.~~

~~(c) Any person found to be in violation of this article commits an offense and shall be subject to the provisions of section 1.01.009 “general penalty for violations of code; continuing violations” of this code.~~

Secs. 3.12.046–3.12.070 — Reserved

Division 3. Flood Hazard Reduction Standards

Sec. 3.12.071—General standards

In all SFHAs, the following provisions are required for all new construction and substantial improvements:

- (1) — ~~Designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;~~
- (2) — ~~Constructed by methods and practices that minimize flood damage;~~
- (3) — ~~Constructed with materials resistant to flood damage;~~
- (4) — ~~Constructed with electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;~~
- (5) — ~~Designed to minimize or eliminate infiltration of floodwaters into the system;~~
- (6) — ~~Designed to minimize or eliminate infiltration of floodwaters into wastewater systems and discharge from the systems into floodwaters; and~~
- (7) — ~~On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.~~

Sec. 3.12.072—Specific standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 3.12.007, section 3.12.042(8), or section 3.12.074(c), the following provisions are required:

- (1) — ~~Residential construction.~~
 - (A) — ~~New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to two (2) feet above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standards proposed in section 3.12.043(b)(1) — (4) are satisfied.~~
 - (B) — ~~Any fill dirt required for improvements in the 1% annual chance (100-year) floodplain shall come from the lot that the proposed improvements are to be placed on. It shall be unlawful to bring into the 1% annual chance (100-year) floodplain, with the exception of sand necessary to construct an approved foundation that meets the requirements of this section, any fill materials. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in section 3.12.043(b)(1) is satisfied.~~
- (2) — ~~Nonresidential construction.~~
 - (A) — ~~New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to at least two (2) feet above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review~~

structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator.

- (B) — Any fill dirt required for improvements in the 1% annual chance (100-year) floodplain shall come from the lot that the proposed improvements are to be placed on. It shall be unlawful to bring into the 1% annual chance (100-year) floodplain, with the exception of sand necessary to construct an approved foundation that meets the requirements of this section, any fill materials. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in section 3.12.043(b)(1) is satisfied.
- (3) — Enclosures. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - (A) — A minimum of two (2) openings on separate walls having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;
 - (B) — The bottom of all openings shall be no higher than one (1) foot above grade; and
 - (C) — Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) — Manufactured homes.
 - (A) — All manufactured homes to be placed within zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
 - (B) — No development permit shall be issued for the construction of the following structures within the 1% annual chance (100-year) floodplain: hospitals, nursing or convalescent homes, sanitariums, homes for the aged or infirm, mental or penal institutions, refugee centers or camps, halfway houses.
 - (C) — Manufactured homes along with attending utilities that are placed or substantially improved within zones A1-30, AH, and AE on the community's FIRM on sites:
 - (i) — Outside of a manufactured home park or subdivision;
 - (ii) — In a new manufactured home park or subdivision;

- (iii) — ~~In an expansion to an existing manufactured home park or subdivision;~~
~~or~~
- (iv) — ~~In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood; must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least three (3) feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.~~
- (D) — ~~Require that manufactured homes along with attending utilities be placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH and AE on the community’s FIRM that are not subject to the provisions of subsection (4) of this section be elevated so that either~~
 - (i) — ~~The lowest floor of the manufactured home is at least three (3) feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement; or~~
 - (ii) — ~~The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.~~
- (5) — ~~Recreational vehicles. Require that recreational vehicles placed on sites within zones A1-30, AH, and AE on the community’s FIRM either:~~
 - (A) — ~~Be on the site for fewer than one hundred eighty (180) consecutive days;~~
 - (B) — ~~Be fully licensed and ready for highway use; or~~
 - (C) — ~~Meet the permit requirements of section 3.12.043(b)(1) — (4), and the elevation and anchoring requirements for “manufactured homes” in subsection (4)(A) of this section. A recreational vehicle is ready for highway use if it is:~~
 - (i) — ~~On its wheels or jacking system;~~
 - (ii) — ~~Is attached to the site only by quick disconnect-type utilities and security devices, and~~
 - (iii) — ~~Has no permanently attached additions.~~

Sec. 3.12.073 — Subdivision plats

~~All subdivision plats embracing proposed development of portions of any area officially identified as having special flood hazards must be approved prior to the start of construction. Subdivisions or other proposed new development shall be required to be consistent with the need to minimize flood damage, locate, elevate, and construct all public utilities and facilities, such as sewer, gas, electrical and water systems, to minimize or eliminate flood damage and to provide adequate drainage so as to reduce exposure to flood hazards; as a part of subdivision plat approval, water supply and sanitary sewer systems shall be designed and installed to minimize or eliminate infiltration of floodwaters into water systems and discharges from sewer systems into floodwaters. Plats with planned on-site waste disposal systems shall be approved~~

only where the systems can be designed, located, and constructed so as to avoid impairment of these or contamination from these during flooding. Official floodplain delineations and delineations of floodways denoting limits of permissible flood flow restricting development shall be clearly shown on all plats submitted for approval wherever such contain floodplain and floodway segments.

Sec. 3.12.074 — Standards for subdivision proposals

- (a) — All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be consistent with the provisions of this article.
- (b) — All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet floodplain development permit requirements of this article.
- (c) — Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions, which is greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to this article.
- (d) — Base flood elevation data, with the establishment of a floodway, shall be generated by a detailed engineering study for all zone A areas, within one hundred (100) feet of the contour lines of zone A areas, and other streams not mapped by, indicated on the community's FIRM.
- (e) — All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.
- (f) — All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

Sec. 3.12.075 — Standards for areas of shallow flooding (AO/AH zones)

Located within the areas of special flood hazard established in section 3.12.007 are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) — All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to at least two (2) feet above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified). The minimum lowest floor elevation shall be two (2) feet above the flood elevation if flood elevation data is available.
- (2) — All new construction and substantial improvements of nonresidential structures shall:
 - (A) — Have the lowest floor (including basement) elevated to at least two (2) feet above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified); the minimum lowest floor elevation shall be at least two (2) feet above the flood elevation if flood elevation data is available; or
 - (B) — Be designed so that the structure and attendant utility and sanitary facilities are

~~watertight (substantially impermeable to the passage of water and structurally capable of resisting hydrostatic and hydrodynamic loads or effects of buoyancy) below the base specified flood depth in an AO zone, or below the base flood elevation in an AH zone, as well as attendant utility and sanitary facilities~~

- ~~(C) — A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in section 3.12.043(b)(1), are satisfied.~~
- ~~(D) — Require within zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.~~

Sec. 3.12.076 — Floodways

~~Located within areas of special flood hazard established in section 3.12.007 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:~~

- ~~(1) — Encroachments are prohibited, including fill, new construction, substantial improvements and other development unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice by a licensed engineer registered in the state that the proposed encroachment would not result in any increase in flood levels within the city during the occurrence of the base flood discharge.~~
- ~~(2) — If subsection (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this division.~~
- ~~(3) — Under the provisions of 44 CFR chapter 1, section 65.12 of the NFIP regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by section 65.12 of the NFIP regulations.~~

ARTICLE 3.13 STORMWATER DISCHARGES RESULTING FROM CONSTRUCTION ACTIVITIES

Sec. 3.13.001 — Definitions

~~The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~Belowground installations. Activity that causes excess sediment laden water, concrete sawing wash water, wash water or drilling mud pumped from an excavation or structure and shall be treated as sediment laden runoff for erosion control purposes.~~

~~Building official. The building official for the city or his designee.~~

~~City. The city and its employees with authority to inspect or enforce stormwater compliance.~~

~~Construction activities. Construction activities that require a building permit.~~

~~Construction Site BMP Manual. The North Central Texas Storm Water Quality BMP (Best Management Practices) Manual, as amended from time to time. A current copy of the manual shall be kept on file in the office of development services.~~

~~Erosion control plan. A site plan with necessary details, showing the property where land disturbing activity will take place and showing the locations and types of devices, procedures~~

and practices to be used to control erosion and sedimentation.

Final approval. Completion of a project, site or building in accordance with city requirements and ordinances. In the case of a building, a certificate of occupancy is issued.

Land disturbing activity. Any activity, including but not limited to excavation, planting, tilling, and grading, which disturbs the natural or improved vegetative ground cover so as to expose soil to the erosive forces of rain, stormwater runoff or wind. All installations and maintenance of franchise utilities such as telephone, gas, electric, etc., shall be considered land disturbing activities.

MS4. Municipal separate storm sewer system.

NPDES. The National Pollutant Discharge Elimination System as administered by the Environmental Protection Agency.

Off-site borrow area. A source of earth fill material used in the construction of embankments or other earth fill structures, that is located on another parcel of property other than where the principal construction is occurring.

Off-site sedimentation. Deposit of soil material beyond the limits of the property undergoing land disturbing activity or in city streets, alleys or drainage facilities in an amount sufficient to constitute a threat to public safety and comfort.

Off-site spoil area. An area on another parcel of property, other than where the principal construction is occurring, where excess earth, rock or construction material is disposed of.

Permanent erosion control devices. Devices or practices installed prior to final approval and maintained after final approval to prevent or minimize the erosion and deposit of soil materials. Such devices may include, but shall not be limited to, permanent seeding, sod, storm drain channels, channel linings, storm drain pipes, outlet velocity control structures and stormwater detention structures.

Permanent ground cover. Permanent vegetative cover on all bare soil areas of a property not covered by a permanent structure or landscaping improvements, including but not limited to, live sod, perennial grasses or other materials which lessen runoff and soil erosion on the property.

Related land area. Includes the property where the principal land disturbing activity is taking place, all adjacent property, off-site borrow areas, off-site spoil areas, off-site properties necessary for required utility extensions, and off-site areas for required street improvements.

Responsible party. A business entity, franchised utility company, developer, property owner, contractor or holder of a building permit who is required to comply with the terms of this article.

Staging area. An on-site or off-site location used by a contractor to store materials for a project, to assemble portions of equipment or structures, to store equipment or machinery, to park vehicles, or for other construction-related uses.

Stop work order. The suspension of all city permits with no approvals or inspections of work for the site or project being performed.

Temporary erosion control devices. Devices installed or practices implemented and maintained during land disturbing activities to prevent, minimize or control the erosion and deposit of soil materials.

TPDES. The Texas Pollutant Discharge Elimination System as administered by the state commission on environmental quality.

Sec. 3.13.002 — Introduction; purpose

- (a) ~~During the construction process, soil is the most vulnerable to erosion by wind and water. This eroded soil endangers water resources by reducing water quality, and causing the siltation of aquatic habitat for fish and other desirable species. Depositing of eroded soil also necessitates repair of sewers and ditches, and the dredging of lakes. In addition, clearing and grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitat, which provide a healthy living environment for citizens of the city. Management of wastes from construction sites is also important in preventing polluted stormwater runoff from a site.~~
- (b) ~~Therefore, the purpose of this local regulation is to safeguard persons, protect property, prevent damage to the environment and promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity which disturbs or breaks the topsoil or results in the movement of earth on land in the city, in accordance with requirements set forth in the EPA's NPDES Phase II Storm Water Program as administered by the state commission on environmental quality.~~

Sec. 3.13.003 — Erosion control required

- (a) ~~Duty of property owner to prevent dirt, mud, etc., from washing onto public streets, alleys, etc. It shall be unlawful and an offense and shall constitute a nuisance for any person owning or having control of real property within the city to permit soil, mud, rock or debris to wash, slide, erode or otherwise be moved from said real property onto streets, alleys, utility facilities, storm drains, rights of way or easements or receiving waters. It shall be the duty of each property owner or party in control thereof to prevent soil, mud, rock or debris from such real property being deposited or otherwise transported onto the streets, alleys, storm drains, utility facilities, rights of way, easements or receiving waters of the city.~~
- (b) ~~Erosion control plan implementation and compliance. A responsible party engaging in any land disturbing activity, or any construction activities of one acre or greater or construction activity that is part of larger common plan of development or sale that would disturb one acre or more, shall file a notice of intent and prepare an erosion control plan in accordance with the Texas Pollutant Discharge Elimination System construction general permit, permit number TXR 150000, and file a copy of the notice of intent to comply with the TPDES general permit with the city as operator of the MS4 in which construction is occurring.~~
- (c) ~~Limited pollution prevention plan. Operators of construction sites of less than one acre not required to comply with TPDES general permit number 150000 shall prepare a limited pollution prevention plan, for submission at the time of application for a building permit, containing the following:~~
 - (1) ~~Statement of erosion and sediment controls to be used at the construction site~~
 - (2) ~~Statement of pollution prevention practices to be used at the construction site~~
- (d) ~~Implementation and maintenance of erosion control measures. Each responsible party shall implement and maintain erosion control measures to minimize the erosion and the transport of silt, earth, topsoil, etc., by water runoff or construction activities, beyond the limits of the responsible party's site onto city streets, drainage easements, drainage facilities, storm drains or other city property prior to beginning any land disturbing activity. A construction site pollution prevention inspection fee of \$25 for less than one acre and \$45 for one acre or greater shall be submitted by the responsible party at the time of filing the building permit.~~

- (e) ~~Off site borrow, spoil and staging areas.~~ Where applicable, off-site borrow areas, spoil areas and construction staging areas shall be considered as part of the project site and shall be governed by this article.
- (f) ~~Related land areas.~~ The erosion control requirements of this article shall apply to all related land areas. Additionally, when land disturbing activity occurs on a project, all disturbed land areas related to the project shall have permanent erosion control established before final occupancy of structures located thereon or final acceptance of the subdivision may be obtained. This subsection applies whether or not a building permit is required.
- (g) ~~Belowground installations.~~ All discharges resulting from belowground installations shall be passed through city-approved erosion control device(s) or removed from the site and properly disposed of.
- (h) ~~Exclusions.~~ No site development permit is required for the following activities:
 - (1) ~~Any emergency activity which is immediately necessary for the protection of life, property or natural resources.~~
 - (2) ~~Existing nursery and agricultural operations conducted as a permitted main or accessory use.~~

Sec. 3.13.004 — Erosion control plan requirements generally

Each erosion control plan required by this article shall clearly identify all erosion and sediment control measures to be installed and maintained throughout the duration of the project for which that plan is submitted. For land disturbing activity of one acre or greater, the responsible party shall install and maintain erosion control devices in accordance with TPDES or NPDES construction site permit requirements.

Sec. 3.13.005 — Design requirements

- (a) ~~Design criteria.~~ Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the North Central Texas Storm Water Quality Construction Site BMP Manual, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the city.
- (b) ~~Clearing and grading.~~
 - (1) ~~Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other chapters of this code.~~
 - (2) ~~Clearing techniques that retain natural vegetation and retain natural drainage patterns, as described in the Construction Site BMP Manual, shall be used to the satisfaction of the city.~~
 - (3) ~~Phasing shall be required on all sites disturbing greater than thirty acres, with the size of each phase to be established at plan review and as approved by the city.~~
 - (4) ~~Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.~~
- (c) ~~Erosion control.~~
 - (1) ~~Soil must be stabilized within five days of clearing or inactivity in construction, using recommended methods described in the Construction Site BMP Manual.~~

- (2) — ~~Soil stockpiles must be stabilized or covered at the end of each workday.~~
- (3) — ~~Techniques shall be employed to prevent the blowing of dust or sediment from the site.~~
- (4) — ~~Techniques that divert upland runoff past disturbed slopes shall be employed.~~
- (d) — ~~Sediment controls.~~
 - (1) — ~~Sediment controls shall be provided in the form of settling basins or sediment traps or tanks, and perimeter controls.~~
 - (2) — ~~Where possible, settling basins shall be designed in a manner that allows adaptation to provide long-term stormwater management.~~
 - (3) — ~~Adjacent properties shall be protected by the use of a vegetated buffer strip, in combination with perimeter controls.~~
- (e) — ~~Waterways and watercourses.~~
 - (1) — ~~When a wet watercourse must be crossed regularly during construction, a temporary stream crossing shall be provided and an approval obtained from the city.~~
 - (2) — ~~When in-channel work is conducted, the channel shall be stabilized before, during and after work.~~
 - (3) — ~~All on-site stormwater conveyance channels shall be designed according to the criteria outlined in the Construction Site BMP Manual.~~
 - (4) — ~~Stabilization adequate to prevent erosion must be provided at the outlets of all pipes and paved channels.~~
- (f) — ~~Construction site access.~~
 - (1) — ~~A temporary access entrance shall be provided at all sites.~~
 - (2) — ~~Other measures may be required at the discretion of the city in order to ensure that sediment is not tracked onto public streets by construction vehicles, or washed into storm drains.~~
- (g) — ~~Removal of temporary erosion control devices. Upon final occupancy or upon establishing permanent ground cover on a lot, all temporary erosion control devices shall be removed.~~

Sec. 3.13.006 — Franchised utility companies

~~Subject to the terms of its franchise agreement with city, including but not limited to terms regarding permits, a franchised utility company engaging in land disturbing activities within the city shall comply with the following:~~

- (1) — ~~Erosion control plan. Prior to beginning any land disturbing activity of one acre or greater, a copy of the notice of intent for NPDES or TPDES permit coverage shall be filed with the city.~~
- (2) — ~~Emergency construction. Construction activity in response to weather emergencies where services are being restored by a franchised utility company are not subject to the requirements for filing an erosion control plan. At the conclusion of emergency construction activity, the utility company responsible for construction activities should take any needed action to clean up or contain sediment or debris resulting from the emergency construction activity.~~

Sec. 3.13.007—Construction waste management

~~Construction site operators must, at a minimum, control waste such as discarded building materials, concrete truck washout water, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. This includes:~~

- ~~(1) Operators must keep solid waste materials in either a container or an enclosed waste collection area on site that does not receive a substantial amount of runoff from upland areas and that does not drain directly to a water body, and prohibits pollutant runoff from the construction site.~~
- ~~(2) Chemicals, paint, petroleum, fertilizer, and pesticides must be stored in a covered enclosure~~
- ~~(3) Aboveground petroleum storage tanks must be placed in a bermed enclosure.~~
- ~~(4) Empty/unused chemical containers must be disposed of in accordance with label instructions.~~
- ~~(5) Potentially hazardous waste must be segregated from nonhazardous waste.~~
- ~~(6) Daily cleanup of construction site must ensure that all litter is contained in an appropriate enclosure or container so as not to accumulate on the ground.~~
- ~~(7) All construction site wastes must be disposed of at authorized disposal facilities.~~
- ~~(8) Recycling of waste materials is encouraged where feasible.~~
- ~~(9) Concrete truck washout water must be contained on site in a designated washout pit, and concrete residue should be removed at conclusion of construction.~~
- ~~(10) Sanitary waste facilities should be located a minimum of 15 feet from storm drain inlets and receiving waters or facilities must be contained.~~

Sec. 3.13.008—Inspection and review

- ~~(a) Site plan review and inspection programs aid in compliance and enforcement, and provide an opportunity for guidance and education.~~
 - ~~(1) The city shall perform a site plan review for consideration of potential water quality impacts at the time of filing of site plans in accordance with the permitting schedule established by the city's developers ordinance.~~
 - ~~(2) The city shall establish appropriate frequencies for inspection of construction stormwater pollution prevention measures at all active construction sites.~~
 - ~~(3) The city shall require notification from a construction site operator prior to start or upon completion of various stages of construction on a schedule approved by the building official of the city.~~
- ~~(b) The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved erosion and sediment control plan. The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and made available for review by the city.~~

Sec. 3.13.009—Enforcement

- ~~(a) Violations. It shall be an offense for a responsible party or a third party performing work on a project to violate any of the requirements of this article, including, but not limited to, the following:~~

- (1) ~~Conducting any land disturbing or construction activity of greater than one acre without submitting a notice of intent to comply with NPDES or TPDES construction site permit requirements for the location where the land disturbing activity occurred.~~
 - (2) ~~Failing to install erosion control devices or to maintain erosion control devices throughout the duration of land disturbing activities of greater than one acre, in compliance with the approved erosion control plan for the location where the violation occurred.~~
 - (3) ~~Failing to remove off-site sedimentation that is a direct result of land disturbing activities where such off-site sedimentation results from the failure to implement or maintain erosion control devices as specified in this article.~~
 - (4) ~~Allowing sediment laden water resulting from belowground installations to flow from a site without being treated through an erosion control device.~~
 - (5) ~~Failing to repair damage to existing erosion control devices, including replacement of existing grass or sod.~~
 - (6) ~~Failing to provide adequate measures to contain and properly dispose of solid waste, sanitary waste, hazardous waste, chemicals, petroleum products, or concrete truck washout at or from a construction site.~~
- (b) ~~Notice of violation. Written notice of violation shall be given to the responsible party or his job site representative as identified in the erosion control plan for a site. Such notice shall identify the nature of the alleged violation and the action required to obtain compliance with the approved erosion control plan within twenty-four (24) hours. At the end of the twenty-four hour cure period, city shall reinspect the site. If, at the time of such reinspection, the erosion control devices at the site have not been brought into compliance with the approved erosion control plan, city may issue a stop work order and issue a citation for each violation of this article.~~
- ~~Correction shall include sediment cleanup, erosion control device repair, erosion control device maintenance and/or installation of additional erosion control devices to prevent recurrence of the violation. The twenty-four hour cure period may be extended for inclement weather or other factors at the discretion of the city.~~
- (c) ~~Class C misdemeanor. Any person, firm, or corporation violating any of the provisions or terms of this article shall be deemed guilty of a class C misdemeanor and, upon conviction thereof, be subject to a fine in accordance with the general penalty provision set forth in section 1.01.009 of this code."~~

SECTION 3: Amendment to the Code of Ordinances, Appendix C (Comprehensive Fee Schedule). The Code of Ordinances, Appendix C (Comprehensive Fee Schedule) is amended as follows²:

“APPENDIX C: COMPREHENSIVE FEE SCHEDULE

...

- (1) Building permit and inspection fees.

² Deletions are evidenced by ~~strikethrough~~; additions are *italicized*.

(A) Single-family residential building permits.

Minimum fee	\$75.00 \$50.00
Accessory buildings or accessory structures (carport, arbors, etc.)	\$75.00 \$50.00
Swimming pool (in-ground or above-ground)	\$250.00
Fence	\$75.00 \$50.00
Full residential remodels or additions	\$0.50 \$0.30/square foot
New residential	\$0.50 \$0.30/square foot
Partial residential remodels	\$0.50 \$0.30/square foot
Mechanical, electrical, plumbing permits	\$75.00 \$50.00 and \$30.00 for each additional inspection
Moving home structure	\$75.00 \$50.00
Demolition	\$75.00 \$50.00
Solar permit	\$75.00 \$50.00 and \$30.00 for each additional inspection
Roofing repair or replacement	\$75.00 \$50.00
Irrigation	\$75.00 \$50.00 and \$30.00 for each additional inspection

(B) Multifamily residential building permits.

Minimum fee	\$75.00 \$50.00
New multifamily residential (includes plan review and inspections)	\$0.50 \$0.30/square foot
Multifamily remodels	\$0.50 \$0.30/square foot
Mechanical, electrical, plumbing permits (for new construction)	\$0.05/square foot
Mechanical, electrical, plumbing permits (for remodels or repair)	\$75.00 \$50.00 and \$30.00 for each additional inspection
Irrigation	\$75.00 \$50.00 and \$30.00 for each additional inspection
Roofing repair or replacement	\$75.00 \$50.00
Demolition	\$75.00 \$50.00
Swimming pool	\$250.00

(C) Commercial building permits.

Minimum fee	\$75.00 \$50.00
New commercial	\$0.50 \$0.30/square foot
Commercial remodel	\$0.50 /square foot \$5.00 for each \$1,000 in project valuation
Mechanical, electrical, plumbing permits (for new construction)	\$0.05/square foot
Mechanical, electrical, plumbing	\$75.00 \$50.00 and \$30.00 for

permits (for remodels or repair)	<i>each additional inspection</i>
Irrigation	\$75.00 \$50.00 and \$30.00 for each additional inspection
Roofing repair or replacement	\$75.00 \$50.00
Demolition	\$75.00 \$50.00
Temporary utility permit	\$75.00 \$50.00

(D) Residential rental property license fees.

<i>Annual residential rental property license fee</i>	<i>\$10.00 per unit</i>
<i>License late fee</i>	<i>\$100.00</i>
<i>Reinspection fee</i>	<i>\$75.00</i>
<i>Problem property administrative fee</i>	<i>Double the applicable annual rental residential rental property license fee</i>

(E)(D) Other building permit and inspection fees.

After-hours inspections	\$150.00 \$77.00
Inspection of work done prior to permit issuance (in addition to permit fees)	\$250.00
Reinspection fees:	
1 st reinspection	\$75.00 \$50.00
2 nd reinspection	\$100.00 \$50.00
3 rd reinspection	\$125.00 \$50.00
Contractor registration	No fee
Certificate of occupancy permit	\$75.00 \$50.00

(F)(E) Third-Party Review and Inspections. For new construction projects, the building official may require a third-party inspector to provide plan review and inspection services. If so required by the building official, the applicant shall pay the city an amount equal to the third-party contractor's fee plus ten (10) percent."

SECTION 4: Penalty. Any person, firm, corporation or entity 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 FIVE HUNDRED DOLLARS (\$500.00), unless the violation relates to fire safety, zoning or public health and sanitation, in which case the fine amount shall not exceed 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 Sherman from filing suit to enjoin the violation. Sherman retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 5: Severability. Should 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 6: Repealing/Savings. The Code of Ordinances 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 7: Open Meeting. The meeting at which this Ordinance was introduced and passed was open to the public, and public notice of the time, place and purpose of said meeting was given all as required by law.

SECTION 8: Effective Date; Publication. All provisions of this Ordinance shall become effective from and after its adoption and publication as required by law, except for Article 3.11 (Residential Rental Property License and Standards), which shall become effective on April 5, 2024. The City Clerk is directed to publish the caption of this Ordinance as required by law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, on this _____ day of _____, 2024.

David Plyler, Mayor

**ATTESTED AND CORRECTLY
RECORDED:**

APPROVED AS TO FORM:

Linda Ashby, City Clerk

Abernathy, Roeder, Boyd & Hullett, P.C.
Ryan D. Pittman, City Attorneys

Building Regulations Update

January 16, 2024



Building Code Background

- Chapter 3 last updated in 2020 (2018 code year)
- Consists of Residential, Building, Electrical, Fuel Gas, Mechanical, Plumbing, Energy Conservation, Existing Building, Swimming Pool and Spa, and Fire
- Last year, many cities in DFW started transitioning to the 2021 code
- Staff recommends the update to 2021 code year
 - 2023 for Electrical (NEC)
- Adding the Property Maintenance Code to the Building Regulations
- Building official administers and oversees Chapter 3 in the City
 - Coordinates with Fire Marshal and City Engineer

Changes to the Building Regulations

- Testing of back flow devices
 - RPZ every year; PVBs every 5 years
- Form board surveys required for all new construction
- Sheer wall plans
- All commercial and residential buildings over 5,000 square feet must be designed, and signed by a licensed architect and/or professional engineer.



Changes to the Fire Regulations

- Here are some surrounding agencies that have adopted the 2021 International Fire Code: Grayson County, Bells, Collin County, McKinney, Frisco, Denton, and North Central Texas Council of Governments Region.
- We have made amendments to the 2021 Fire Codes to clarify questions that we receive on a regular basis. With the large amount of development that is coming or wanting to come to the City of Sherman, our changes will speed up the design process and create a written set standard. These changes are standards that we currently enforce through the 2018 Fire Codes under the provisions when fire codes state “where required by the *fire code official*” or “*as determined by the AHJ*”.
- We have removed prior amendments to the 2018 International Fire Code that were equal to the 2021 International Fire Code requirements.

Changes to the Fire Regulations

- Requirement for a single horn strobe to be provided on the exterior of the building that activates when a kitchen hood suppression system activates.
- Requirement for new and existing buildings that have a fire sprinkler riser, standpipe system and/or a fire alarm control panel to provide a Knox key box that contains keys for access.
- Added the method for measuring a hose lay. The hose lay should be measured from the centerline of the fire lane along an unobstructed level path measuring 10 feet in width.
- Requirement for fire department connections to be located not more than 100 ft (30.5 m) from the nearest fire hydrant.
- Requirement for fire department connections to be a 2.5-inch threaded fitting design.
- Requirement for fire department connections to be equipped with locking Knox caps that operate with the Authority Having Jurisdiction's Knox key.
- Requirement for an exterior access door directly into the sprinkler control room.

Residential Rental Property Regulations

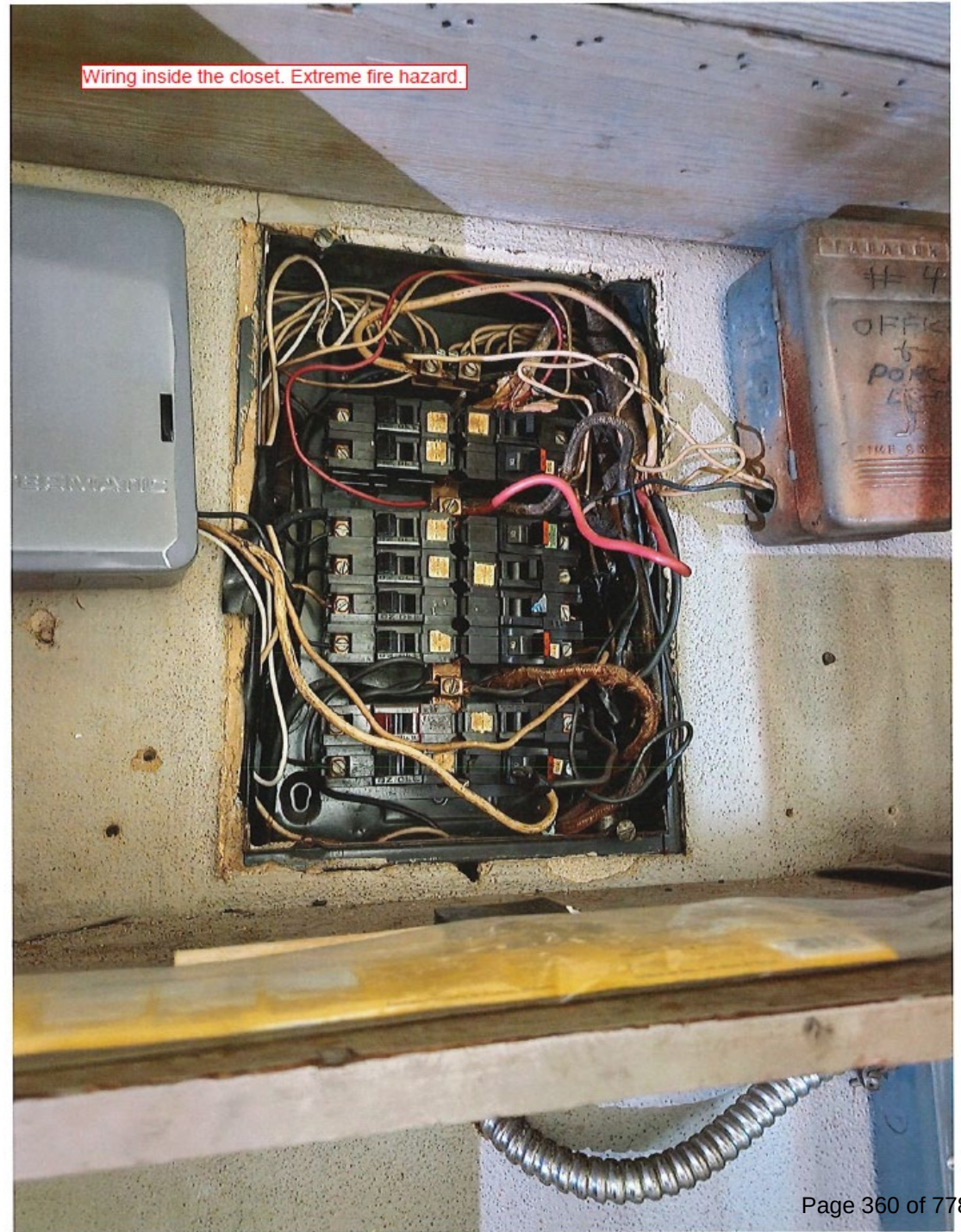
- Proposed new section to regulate rental properties in the City of Sherman
- Purpose – To improve the living conditions and quality for rental tenants in the City.
- License – New regulations would require a rental license for any residential property in the city that is being leased to another.
- Puts all rental properties on a level playing field



Residential Rental Property Regulations

- Staff has inspected the following properties due to poor living conditions and as part of the Community Improvement Initiative:
 - Crossroads Inn
 - Lone Star Inn
 - OK Inn
 - The Baltic Apartments
 - St. Charles Apartments
 - The Norwegian Woods Apartments
 - Westwood Gardens Apartments
 - Candlelight Apartments







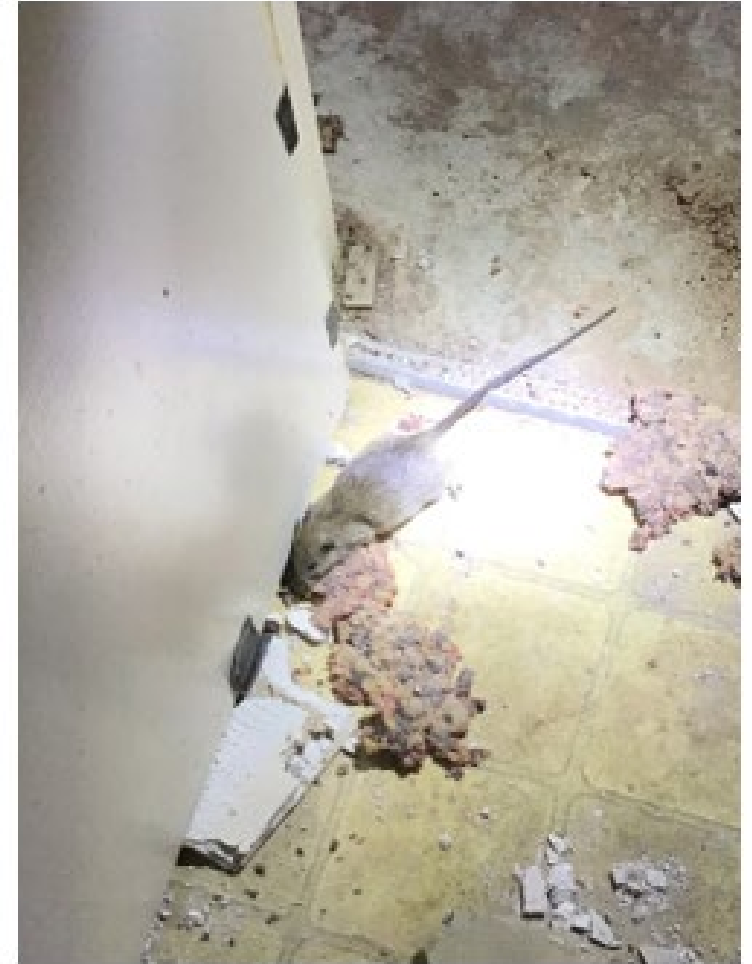
Feces found throughout the apt on the side of the commode and walls. Piles of beer cans scattered throughout the apt. This apt is a hazard to health and safety. Baltic Apt 22.



Drain line is draining into a bucket. Baltic Apt 36.



The faucet in this photo is not useable and it is also leaking. Apt 2 of the St. Charles.





The upper left is a smoke detector that is not working. The upper right is where someone has replaced the water heater three times without the required permits. These old heaters must be removed. The water lines are not protected with insulation to prevent freezing as per code. Section 305.4 of the 2018 IPC. In the lower left is a light fixture missing its protective cover. The lower right is missing the fixture, leaving the wiring exposed.

The water heater in the upper left corner, is missing the protective cover and the conduit does not attach to the intended cover as intended. The upper right corner shows a fixture that has come loose from the ceiling and is missing its protective cover. The lower left corner has a 2x4 attached to the roof to hold wiring in place. This must be corrected. The wall heater in the lower right corner is missing the grates. These wall heaters must be code approved. All items throughout the property, such as these shall be addressed and corrected.



Residential Rental Property Regulations (Con't)

- Allow for city inspectors to schedule annual property inspections with 30 days notice to property owner and tenants.
- Regulations to ensure that the following are meeting minimum standards:
 - Structural integrity of the building
 - Safe egress is provided
 - Exterior wall deterioration
 - Railings, stairs, and balcony safety
 - Plumbing, electrical and HVAC systems are working
 - General Maintenance of grounds and premises
 - Fire safety (already required)

Rental Fees

Number of Units	Frisco	Little Elm	Prosper	Anna	Denison	Celina
1-3	\$5-15	\$85	\$200	\$300	\$0	\$50-150
4-49	\$20-245	\$185-1,310	\$200-490	\$300-1,225	\$0	\$200-1,130
50-99	\$250-495	\$1,335-2,560	\$500-990	\$1,250-2,475	\$0	\$1,150-2,130
100-299	\$500-1,495	\$2,585-7,560	\$1,000-2,990	\$2500-7,475	\$0	\$2,150-6,130
300	\$1,500	\$7,585	\$3,000	\$7,500	\$0	\$6,150

Building Regulation Fees

LAND USE	SHERMAN (Current)	SHERMAN (Proposed)	ANNA	MELISSA	CELINA	MCKINNEY	PROSPER
New Residential Building Permit (ie. 2,000 sq ft home)	\$0.30/square foot (\$600)	\$0.50/square foot (\$1000)	\$2,700 per home	Varies based on SQFT (\$1,750)	\$1.10/square foot (\$2,200)	\$0.68/square foot (\$1,360)	Varies based on SQFT (\$1,750)
New Multi-family Building Permit (ie. 330,000 sq ft apartment complex, 340 units)	\$0.30/square foot (\$99,000)	\$0.50/square foot (\$165,000)	\$1,400 per unit (\$476,000)	Varies based on SQ FT (\$93,200)	\$0.90/square foot (\$297,000)	\$520 per unit (\$176,800)	Varies based on SQ FT (\$102,000)
New Commercial Building Permit (ie. 60,000 sq ft hotel, \$9M in valuation)	\$0.30/square foot (\$18,000)	\$0.50/square foot (\$30,000)	\$0.70/square foot (\$42,000)	Based on Valuation (\$30,800)	???	Based on Valuation (\$30,800)	Based on Valuation (\$30,500)
Mechanical, Electrical, and Plumbing permits (a la carte)	\$50	\$75 plus \$30 for each additional inspection	\$125	\$80	\$100	Varies Depending on scope of work (min \$40)	Based on Valuation
Minimum fee for other items • CO • Roofing repair or replacement • Accessory building	\$50	\$75	\$100 (COs are \$50)	\$80 (COs are \$50)	\$100	Varies between \$40 and \$200	\$50

Building Regulations Update

QUESTIONS?





City Council Regular Meeting

Agenda Item No. F.5.

Meeting Date: 2/5/2024

Prepared By: Rob Rae, Developmental Services Director

Approved By: Robby Hefton, City Manager

Caption:

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6692

Amending the Code of Ordinances of the City of Sherman, Texas, Chapter 14 (Zoning Ordinance), Section 14.04.006 (Residential and Non-Residential Landscaping Requirements); Modifying Certain Existing Regulations Relating to Residential and Non-Residential Landscaping Requirements and the Preservation and Addition of Plants and Trees; Providing a Penalty Clause with a Maximum Fine of \$2,000, Savings/Repealing Clause, Severability Clause and an Effective Date; Providing for the Publication of the Caption Hereof

Issue:

Amending the Code of Ordinances of the City of Sherman, Texas, Chapter 14 (Zoning Ordinance); Modifying Certain Existing Regulations Relating to Residential and Non-Residential Landscaping Requirements and the Preservation and Addition of Plants and Trees Within the Sherman City Limits

Background:

On August 7, 2023, City Council received a presentation from Halff Associates regarding potential updates to the Subdivision and Zoning Ordinances. In that presentation, representatives from Halff discussed the potential to update the subdivision and zoning regulations to include tree preservation and enhance landscaping requirements for new development in the City of Sherman. During that meeting, Council members directed staff update the subdivision ordinance and zoning ordinance to address concerns with tree preservation and landscaping requirements in the City of Sherman.

As the on-call planning consultant for the City of Sherman, Halff Associates was engaged to begin the update of the tree ordinance on behalf of the City. As part of the scope of services for the Tree Ordinance Update, Halff conducted a two-day workshop that was held on September 13th and 14th. On the first day, the City held a developer workshop to gather feedback from developers and engineers that have been doing work in the City of Sherman or have active plans to develop in Sherman. During the evening of September 13th, the City hosted a public open house to gather feedback regarding potential tree ordinance regulations. On September 14th, staff and Halff Associate met with City Council in a special workshop to review the feedback gathered from the developers and the public. Direction was given to staff during that meeting to begin compiling the draft ordinance for the tree ordinance.

On December 18th, City Council adopted Ordinance No. 6681 prescribing new regulations relating to tree protection, planting and tree removal on properties located within the Sherman City Limits and the City's Extraterritorial Jurisdiction. This ordinance pertained to new development and land clearing enforced in the City's Subdivision Ordinance.

This item is specifically for the Zoning Ordinance portion of the Tree Ordinance that relates to Landscaping Requirements and the Requirement for Tree Planting within the Sherman City Limits.

Origination:

Development Services

Financial Consideration:

None

Staff Recommendation:

At the January 9, 2024 regular meeting, the Planning and Zoning Commission voted 7/0 to recommend to the City Council that the Ordinance be approved. **Staff recommends City Council approve this Ordinance.**

Alternatives:

The City Council could deny this item.

Attachments:

1. Ordinance No. 6692
2. P&Z Halff Presentation

ORDINANCE NO. 6692

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF SHERMAN, TEXAS, CHAPTER 14 (ZONING ORDINANCE), SECTIONS 14.04.006 (RESIDENTIAL AND NON-RESIDENTIAL LANDSCAPING REQUIREMENTS); MODIFYING CERTAIN EXISTING REGULATIONS RELATING TO RESIDENTIAL AND NON-RESIDENTIAL LANDSCAPING REQUIREMENTS AND THE PRESERVATION AND ADDITION OF PLANTS AND TREES; PROVIDING A PENALTY CLAUSE WITH A MAXIMUM FINE OF \$2,000, SAVINGS/REPEALING CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF; 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 Council of the City of Sherman, Texas (“City Council”) finds that it is necessary to amend Chapter 14 (Zoning Ordinance) of the Code of Ordinances, City of Sherman, Texas (“Code of Ordinance”) for the purpose of prescribing regulations relating to residential and non-residential landscaping (“City” or “Sherman”); and

WHEREAS, Sherman has complied with all legal notices and public hearings as required by law; and

WHEREAS, the City Council finds that adopting this Ordinance promotes the health, safety and morals of Sherman and is in the best interest of the citizens of Sherman.

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

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Amendment to the Code of Ordinances, Chapter 14 (Zoning Ordinance). Section 14.04.006 (Residential and Non-residential Landscaping Requirements) of the Code of Ordinances are amended as follows¹:

“ARTICLE 14.04 SUPPLEMENTARY DISTRICT REGULATIONS

...

Sec. 14.04.006 Landscaping requirements.

¹ Deletions are evidenced by ~~strikethrough~~; additions are *italicized*.

(a) General Residential tree and landscaping.

- (1) The City finds that the *preservation and addition of plants and trees aid planting of trees aids* in the stabilization of soil by preventing erosion and sedimentation, generates oxygen, ~~provides a buffer and screen against pollution, provides a haven for birds, provide buffering and screening,~~ protects and enhances property values and enhances the city's physical and aesthetic appearance ~~the physical and aesthetic appearance of the community.~~
- (2) Applicability. *The terms and provisions of this section shall apply to new development in the city limits, as specified in the following subsections. ~~Scope. This section shall apply to all new residential construction. These regulations do not apply to additions to existing dwellings.~~*
- (3) Definitions. ~~Refer to subsection (c) below for the approved list of trees to choose from for planting.~~

Bufferyard. *A designated setback that may include a combination of plants, berms, fences or walls, the purpose of which is to separate and screen incompatible land uses from each other.*

Caliper inch. *The diameter of the trunk of a tree measured twelve (12) inches above grade.*

Critically alter. *The uprooting, removing the canopy or severing the main trunk of a tree or causing damage which may cause a tree to die. This includes but is not limited to the removal of a tree from a property, damage inflicted upon a tree by machinery, storage of materials or the compaction of soil above the root system of a tree, a change in the natural grade above the root system of a tree, or excessive pruning.*

Development. *Any manmade change to improved or unimproved real estate including, but not limited to, buildings and other structures, paving, drainage, or utilities, and agricultural activities.*

Mitigation. *The method by which trees are replaced whether through replanting on the subject property, planting or transplanting to another location or same property, or through payment of fees-in-lieu of replanting approved by the City.*

Protective fencing. *Chain link, silt fence or other fencing used to protect preserved trees during construction activities.*

Street perimeter buffer. *A required buffer located at the perimeters of a proposed development site which is directly adjacent to a street or roadway. These areas are considered as areas of high visual impact, and preservation of existing vegetation located along the perimeter of the proposed development site is highly encouraged and used to screen the site and minimize potential nuisances between land uses.*

Tree, dead (or declining). A tree that is dead or in severe decline with substantial structural defects, no remedial options available, and no chance of recovery, as determined and documented by a certified arborist.

Tree, protected. Any shade tree of a size and species as outlined in Table 14.1 that is protected under Article 10.02.007 of this Code.

Tree, ornamental. Smaller tree species, reaching a height of approximately ten to 25 feet at maturity. Such trees provide screening and visual interest.

Tree, replacement. Trees planted to mitigate the loss of trees as a result of development or tree removal.

Tree, street. Trees planted within the right-of-way that may be located in a constrained location and should contain root systems and branch growth conducive to growth around pedestrians, vehicles, and public infrastructure.

- (4) Alternatives. If the requirements of this section cannot be fully met, then an alternative means of compliance mutually agreed upon by the City Manager or his/her designee and the developer may be used to meet the requirements of this section.

~~Caliper. The term “caliper” means the diameter of the trunk of the tree measured twelve (12) inches above grade.~~

- ~~(5) Applicability. The terms and provisions of this section shall apply to all property as follows:~~

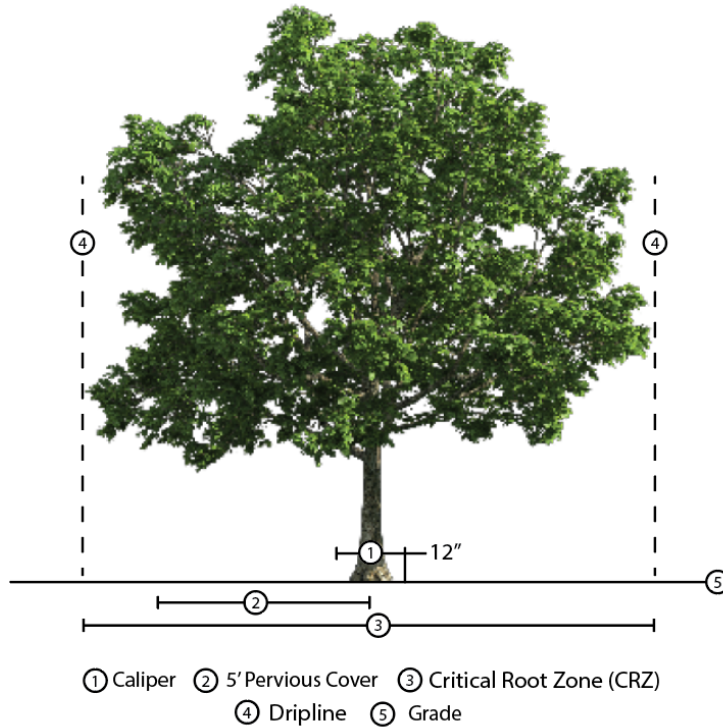
~~(A) New single-family residential construction. Two, two (2) inch caliper trees from the approved tree list set forth herein are required prior to the certificate of occupancy being issued.~~

- ~~(6) Variances. The board of adjustment after a public hearing shall hear appeals for variances to this section.~~

(b) Landscaping Standards. Commercial tree and landscaping.

- (1) Tree Planting Standards. All new trees required to be planted under this section shall meet the following standards:

- (A) Newly planted shade trees shall measure a minimum of three (3) caliper inches. Container-grown trees are preferred.
- (B) All new shade trees shall be planted so they have a minimum pervious area of five (5) feet from the trunk in all directions and no less than twenty-five (25) square feet of pervious area at the base of the tree.
- (C) All new ornamental trees shall be planted so they have a minimum pervious area of three (3) feet from the trunk in all directions.
- (D) Consideration should be given to the selection of tree and plant species and planting locations to avoid utility interference and protect the integrity of sidewalks, curbs, pavement and building foundations.



(E) Approved tree list. The trees listed in Table 14.1 shall be used to satisfy the landscaping requirements outlined in this section.

Table 14.1			
Shade Trees		Ornamental Trees	
Common Name	Scientific Name	Common Name	Scientific Name
Pecan	<i>Carya illinoensis</i>	Chalk maple	<i>Acer leucoderme</i>
Black hickory	<i>Carya texana</i>	Redbud	<i>Cercis canadensis</i>
Walnut	<i>Juglans nigra</i>	Desert willow	<i>Chilopsis linearis</i>
Southern magnolia	<i>Magnolia grandiflora</i>	Arizona cypress	<i>Cupressus arizonica</i>
Texas oak	<i>Quercus buckleyi</i>	Texas persimmon	<i>Diospyros texana</i>
Red oak*	<i>Quercus rubra</i>	Texas mulberry	<i>Morus microphylla</i>
Bur oak*	<i>Quercus macrocarpa</i>	Mexican buckeye	<i>Ungnadia speciosa</i>
Chinkapin oak *	<i>Quercus muehlenbergii</i>	Yaupon holly	<i>Ilex vomitoria</i>
Shumard red oak	<i>Quercus shumardii</i>	Eve's necklace	<i>Sophora affinis</i>
Post oak	<i>Quercus stellata</i>	Mexican plum	<i>Prunus mexicana</i>
Live oak*	<i>Quercus virginiana</i>	Flame leaf sumac	<i>Rhus lanceolata</i>
Bald cypress	<i>Taxodium distichum</i>	Wax myrtle	<i>Myrica cerifera</i>
American elm	<i>Ulmus americana</i>	Crepe myrtle	<i>Lagerstroemia indica</i>
Cedar elm*	<i>Ulmus crassifolia</i>	Little gem magnolia	<i>Magnolia grandiflora</i>
Lacebark elm*	<i>Ulmus parvifolia</i>	Vitex	<i>Vitex agnus-castus</i>

<i>Chinese Pistachio*</i>	<i>Pistacia chinensis</i>		
<i>Bigtooth maple</i>	<i>Acer grandidentatum</i>		
<i>Caddo maple</i>	<i>Acer saccharum</i> <i>'Caddo' (Acer barbatum)</i>		
<i>Red mulberry</i>	<i>Morus rubra</i>		

** Trees that are recommended as appropriate Street Trees within public right-of-way or in close proximity.*

~~All areas that are used for off-street parking shall conform to the minimum landscaping requirements of this section. Parking lots with twenty-five (25) parking spaces or more shall have open landscaped areas that are equal to but not less than ten (10) percent of the parking areas and drives in the parking areas. The required area may be used as island, perimeter landscaping, or in any combination. A minimum of forty (40) percent of the required landscaped area must be used as islands.~~

(2) *Assurance of health and establishment.*

- (A) *To ensure compliance, planted trees and landscaping and preserved trees shall be kept in healthy, living condition in perpetuity, including adequate irrigation. Dead or previously removed trees and landscaping shall be replaced in accordance with the requirements of this section. The City reserves the right to conduct site or aerial confirmation of tree condition and establishment at any point to ensure compliance.*
- (B) *For trees being preserved for credits in accordance with Section 10.02.007(h)(1) of this Code, protective fencing shall be installed at the location of the tree's dripline.*
- (C) *Cut or fill that is greater than four (4) inches in depth around the base of a preserved tree and/or the severing of major roots shall be considered critically altering the tree.*

~~Landscaping shall consist of a combination of such materials as grasses, ground cover, shrubs, vines, hedges, trees or other such materials. Grasses and ground cover alone shall not constitute adequate landscaping.~~

(3) *Visibility at intersections.* *At the corner intersection of two streets, no vegetation shall be planted and allowed to grow in such a manner as to impede vision between a height of two (2) feet and eight (8) feet above the centerline grades of the intersecting streets.*

Definitions. ~~Refer to subsection (c) below for the approved list of trees to choose from for planting.~~

(4) *Maintenance.*

(A) *Responsibility.* The property owner shall be responsible for the maintenance and/or replacement of trees and landscaping on individual property. A property owner's association or similar entity shall assume responsibility for the maintenance of common areas.

(B) *Dead trees, plants or materials.* Maintenance will include the replacement of all dead plants and trees preserved or planted to meet the requirements of this Section.

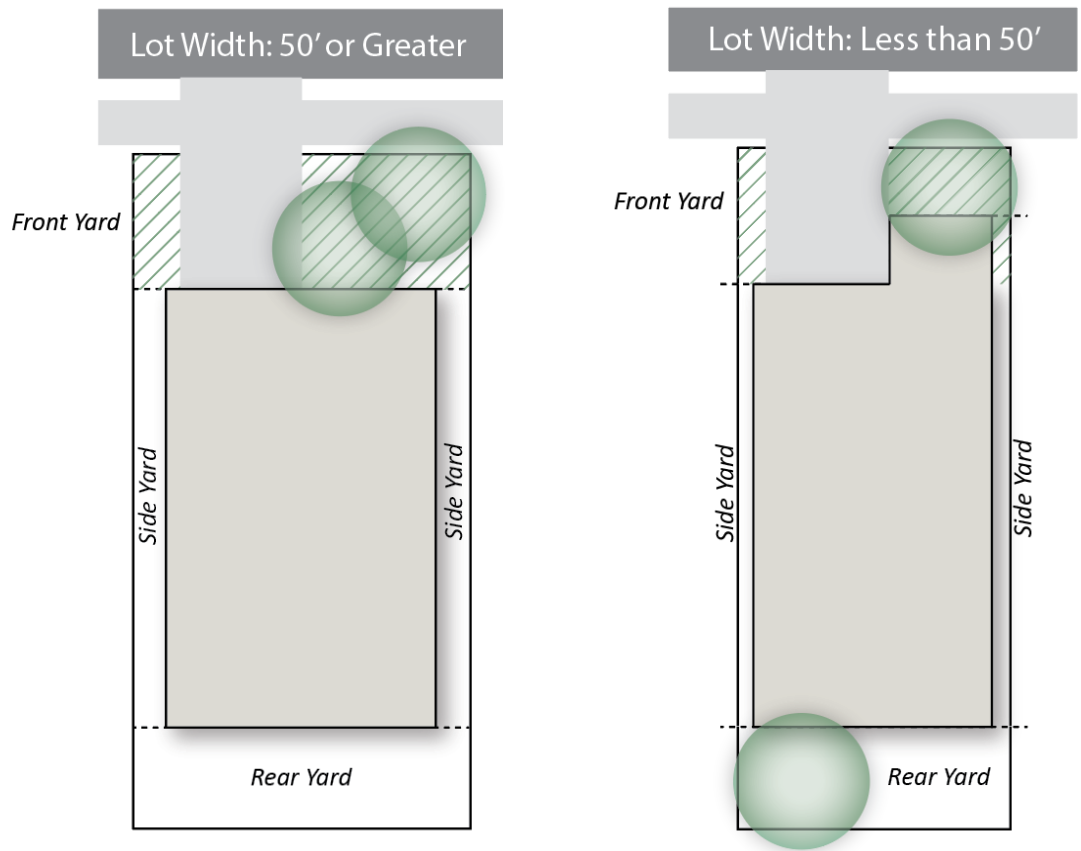
~~Visibility at intersections. On a corner lot, no vegetation shall be planted and allowed to grow, in such a manner as to impede vision between a height of two (2) feet and eight (8) feet above the centerline grades of the intersecting streets, subject to the sight distance regulations in section 14.04.004(b)(1).~~

(c) *Residential tree and landscaping requirements.*

(1) *Scope.* This section shall apply to all new residential permits and lots, including single-family and attached residential. These regulations do not apply to additions to existing dwellings.

(2) *Landscape area.* For all lots, a minimum of fifty-five (55) percent of the width of the front lot line shall be pervious landscape area to include grass, trees, landscape material and may include walkways but not driveways.

(3) *Required shade trees.* Installation of two, three (3) caliper inch shade trees from the approved tree list is required prior to a certificate of occupancy being issued. For lots less than fifty (50) foot width in width, only one of the two trees can be planted in the front yard, with the other tree installed either in the front yard, back yard or neighborhood common space.



- (4) Landscape tree credits. Replacement trees required to mitigate for tree removals can count toward this requirement if planted in compliance with subsection (b)(1) above. Trees preserved in accordance with Section 10.02.007 of this Code may be credited towards the requirements of subsection (c)(3) only if located within the single-family lot and given room and proper care for long-term vitality.

Approved tree list

Common Name	Scientific Name
<i>Bigtooth maple</i>	<i>Acer grandidentatum</i>
<i>Chalk maple</i>	<i>Acer leucoderme</i>
<i>Caddo maple</i>	<i>Acer saccharum 'Caddo' (Acer barbatum)</i>
<i>Chittamwood</i>	<i>Bumelia lanuginosa</i>
<i>Pecan</i>	<i>Carya illinoensis</i>
<i>Black hickory</i>	<i>Carya texana</i>
<i>Redbud</i>	<i>Cercis canadensis</i>
<i>Desert willow</i>	<i>Chilopsis linearis</i>
<i>Arizona cypress</i>	<i>Cupressus arizonica</i>
<i>Texas persimmon</i>	<i>Diospyros texana</i>

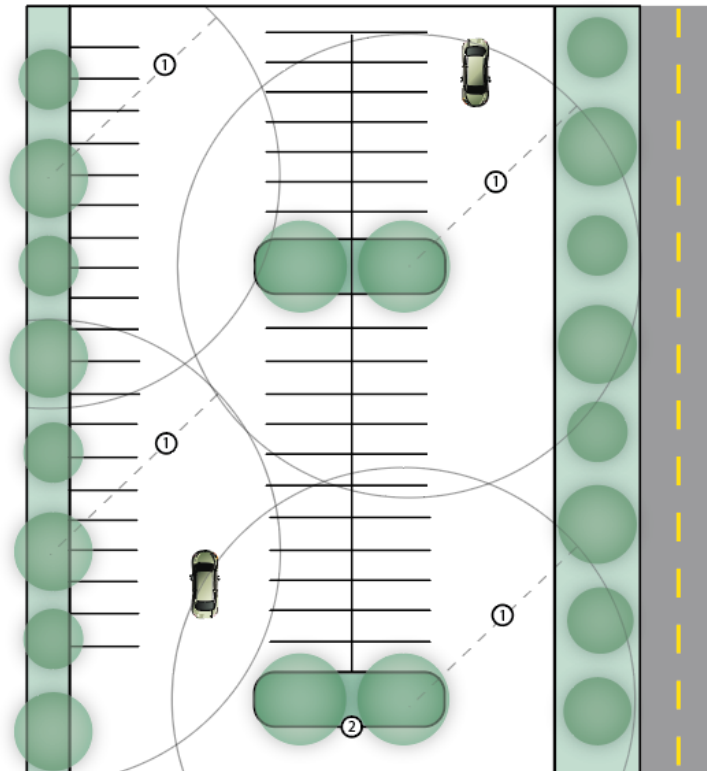
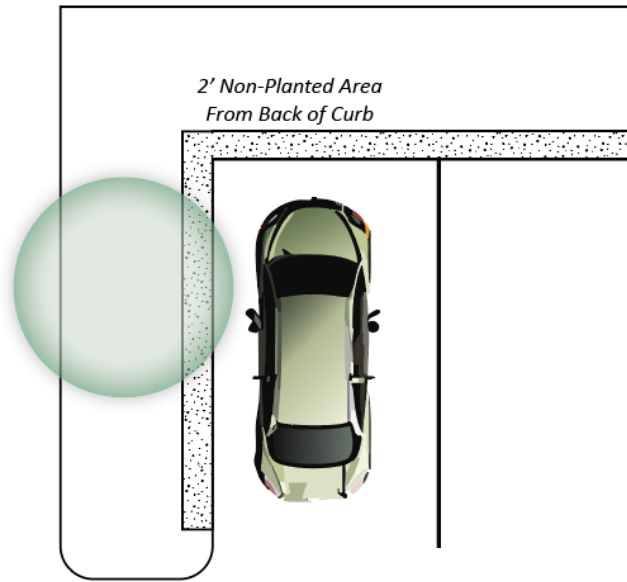
Common Name	Scientific Name
<i>Eastern persimmon</i>	<i>Diospyros virginiana</i>
<i>White ash</i>	<i>Fraxinus americana</i>
<i>Green ash</i>	<i>Fraxinus pennsylvanica</i>
<i>Ginkgo</i>	<i>Ginkgo biloba</i>
<i>Deciduous holly</i>	<i>Ilex decidua</i>
<i>Yaupon holly</i>	<i>Ilex vomitoria</i>
<i>Texas walnut</i>	<i>Juglans microcarpa</i>
<i>Walnut</i>	<i>Juglans nigra</i>
<i>Eastern red cedar</i>	<i>Juniperus virginiana</i>
<i>Golden rain tree</i>	<i>Koelreuteria paniculata</i>
<i>Crepe myrtle</i>	<i>Lagerstroemia indica</i>
<i>Sweetgum</i>	<i>Liquidambar styraciflua</i>
<i>Bois d'arc</i>	<i>Machura pomifera</i>
<i>Southern magnolia</i>	<i>Magnolia grandiflora</i>
<i>Dawn redwood</i>	<i>Metasequoia glyptostroboides</i>
<i>Texas mulberry</i>	<i>Morus microphylla</i>
<i>Red mulberry</i>	<i>Morus rubra</i>
<i>Afghan or Eldarica pine</i>	<i>Pinus eldarica</i>
<i>Chinese pistachio</i>	<i>Pistacia chinensis</i>
<i>Mexican plum</i>	<i>Prunus mexicana</i>
<i>Ornamental pear</i>	<i>Pyrus calleryana</i>
<i>Texas oak</i>	<i>Quercus buckleyi</i>
<i>Escarpment live oak</i>	<i>Quercus fusiformis</i>
<i>Havard shin oak</i>	<i>Quercus havardii</i>
<i>Bluejack oak</i>	<i>Quercus incana</i>
<i>Lacey oak</i>	<i>Quercus laceyi</i>
<i>Bur oak</i>	<i>Quercus macrocarpa</i>
<i>Blackjack oak</i>	<i>Quercus marilandica</i>
<i>Chinkapin oak</i>	<i>Quercus muehlenbergii</i>
<i>Water oak</i>	<i>Quercus nigra</i>
<i>Shumard red oak</i>	<i>Quercus shumardii</i>
<i>White shin oak</i>	<i>Quercus sinuata var. breviloba</i>
<i>Post oak</i>	<i>Quercus stellata</i>
<i>Live oak</i>	<i>Quercus virginiana</i>
<i>Western soapberry</i>	<i>Sapindus drummondii</i>

Common Name	Scientific Name
<i>Eve's-necklace</i>	<i>Sophora affinis</i>
<i>Bald-cypress</i>	<i>Taxodium distichum</i>
<i>Winged elm</i>	<i>Ulmus alata</i>
<i>American elm</i>	<i>Ulmus americana</i>
<i>Cedar elm</i>	<i>Ulmus crassifolia</i>
<i>Lacebark elm</i>	<i>Ulmus parvifolia</i>
<i>Drake elm</i>	<i>Ulmus parvifolia 'Drake'</i>
<i>Slippery elm</i>	<i>Ulmus rubra</i>
<i>Mexican buckeye</i>	<i>Ungnadia speciosa</i>
<i>Texas ash</i>	<i>Fraxinus texensis</i>
<i>Tickle-tongue</i>	<i>Zanthoxylum hirsutum</i>

(d) Non-residential tree and landscaping requirements.

- (1) Scope. This section shall apply to required off-street parking lots for all new commercial, multi-family, industrial and other non-residential site plans.
- (2) Landscape areas. Parking lots shall have open landscaped areas that are equal to but not less than ten (10) percent of the parking areas and drives in the parking areas. The required landscape areas may be located along the perimeter of a parking lot or interior to the parking lot as landscaped islands.
 - (A) A minimum of one (1) shade tree shall be planted in all required landscape islands. In order to maximize shade and aesthetics for people and vehicles, landscaped islands shall be located at the end of every parking row and throughout the interior of the parking lot so that a landscaped island is provided for every twelve (12) parking stalls in a row.
 - (B) In order to maximize the distribution of shade, shade trees shall be planted throughout the interior of the parking lot so that no parking stall shall be more than 50 feet from the center point of any City-approved parking lot tree, other than trees required for street perimeter buffer plantings. Clustering of trees shall be permitted as long as all required trees are situated within the parking lot.
 - (C) Landscaping shall consist of a combination of such materials as turf or ornamental grasses, ground cover, shrubs, vines, hedges, trees or other such materials. Landscape areas shall not contain more than 50% of a non-vegetative landscape material.
 - (D) To protect the root health of trees located within landscape islands, all landscaped areas shall be protected with a two (2) foot wide non-vegetative pervious surface area adjacent to the back of the curb adjacent to all parking spaces. This area may include mulch, crushed granite, river rock, or similar material.

- (E) *Landscaped islands located interior to the parking lot must include six (6) inch curbs and gutters to provide protection of landscape areas and mitigate soil erosion into paved parking areas. Low Impact Development (LID) stormwater components may also be considered.*

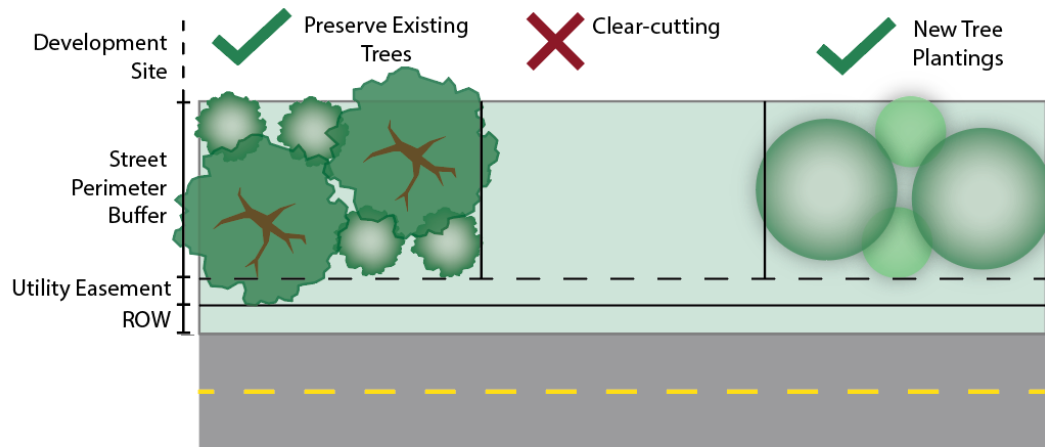


① 50' tree centerpoint radius ② Landscape island

(e) Street perimeter buffer.

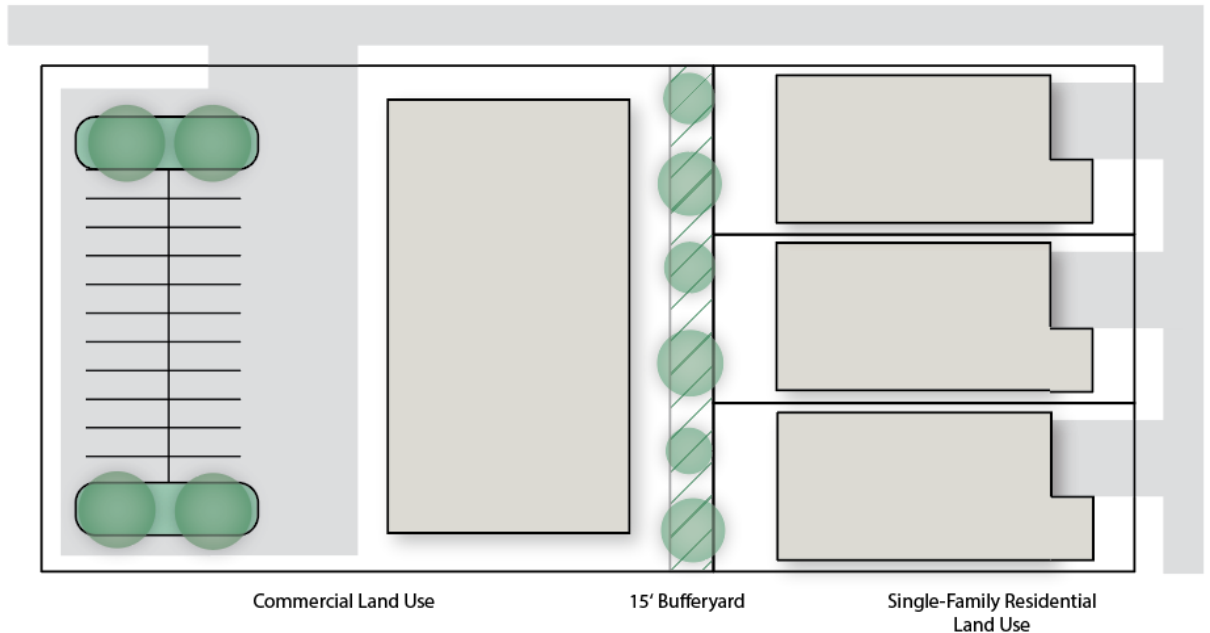
- (1) Street buffer areas. For all developments and land uses, a minimum of a fifteen (15) foot street buffer shall be provided at the perimeters of a proposed development site where adjacent to a public right-of-way and non-inclusive of any existing or proposed utility easements. These areas have high visual aesthetic impact and will aid in the buffering of sight and noise nuisance from perimeter streets and protect property values. Clustering of trees shall be permitted as long as all required trees are situated within the street perimeter buffer.
- (2) Planting requirements. Areas within the street perimeter buffer that are left undisturbed with existing tree cover in accordance with Section 10.02.007(f)(2)(B) of this Code are exempt from the following requirements. All other areas within the buffer area shall comply with the tree planting requirements below:
 - (A) Street perimeter buffer areas shall provide two (2) shade trees and (2) ornamental trees per 1,000 square feet of buffer area (excluding any undisturbed areas with adequate tree cover).
 - (B) For plantings within the street perimeter buffer, no more than twenty-five (25) percent shall be a single species and trees should be planted in a manner characteristic to the natural context.
 - (C) The street perimeter buffer area can include secondary areas between trees that may include turf or ornamental grass, groundcover plants, rocks, and mulch.

(f) Bufferyard landscaping. Bufferyards are required to create a green space transition to



provide better development compatibility. Areas identified as bufferyards which are left undisturbed with adequate tree cover in accordance with Section 10.02.007(f)(2)(B) of this Code are exempt from the following requirements. All other areas within the buffer area shall comply with the tree planting requirements below:

- (1) Compatibility buffer. A fifteen (15) foot bufferyard is required between any single-family residential land use and non-single family land use. Bufferyards shall be installed on the non-single-family site.
- (2) Planting requirements. One (1) shade tree and (2) ornamental trees per 1,000 square feet are required for all required bufferyards.



SECTION 3: Penalty. Any person, firm, corporation or entity violating any provision of this Ordinance, as it exists 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 Sherman from filing suit to enjoin the violation. Sherman retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 4: Severability. Should 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 5: Repealing/Savings. 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: Open Meeting. The meeting at which this Ordinance was introduced and passed was open to the public and that public notice of the time, place and purpose of said meeting was given all as required by law.

SECTION 7: Effective Date; Publication. This Ordinance shall become effective from and after its adoption and publication as required by law. The City Clerk is directed to publish the caption of this Ordinance as required by law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS on this 5th day of February 2024.

CITY OF SHERMAN:

BY: _____
DAVID PLYLER, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM:
ABERNATHY, ROEDER,
BOYD & HULLETT, P.C.

BY: _____
RYAN D. PITTMAN, CITY ATTORNEY

Sherman, Texas

Sherman Landscaping Ordinance

January 9, 2024

ORDINANCE OVERVIEW

1

Applicability

All new development within the City limits

2

Updates to Existing Ordinance

- Residential trees now have a minimum 3" instead of 2"
- Review and edits to the Approved Species List
- Commercial parking lot islands now require trees

3

New Requirements

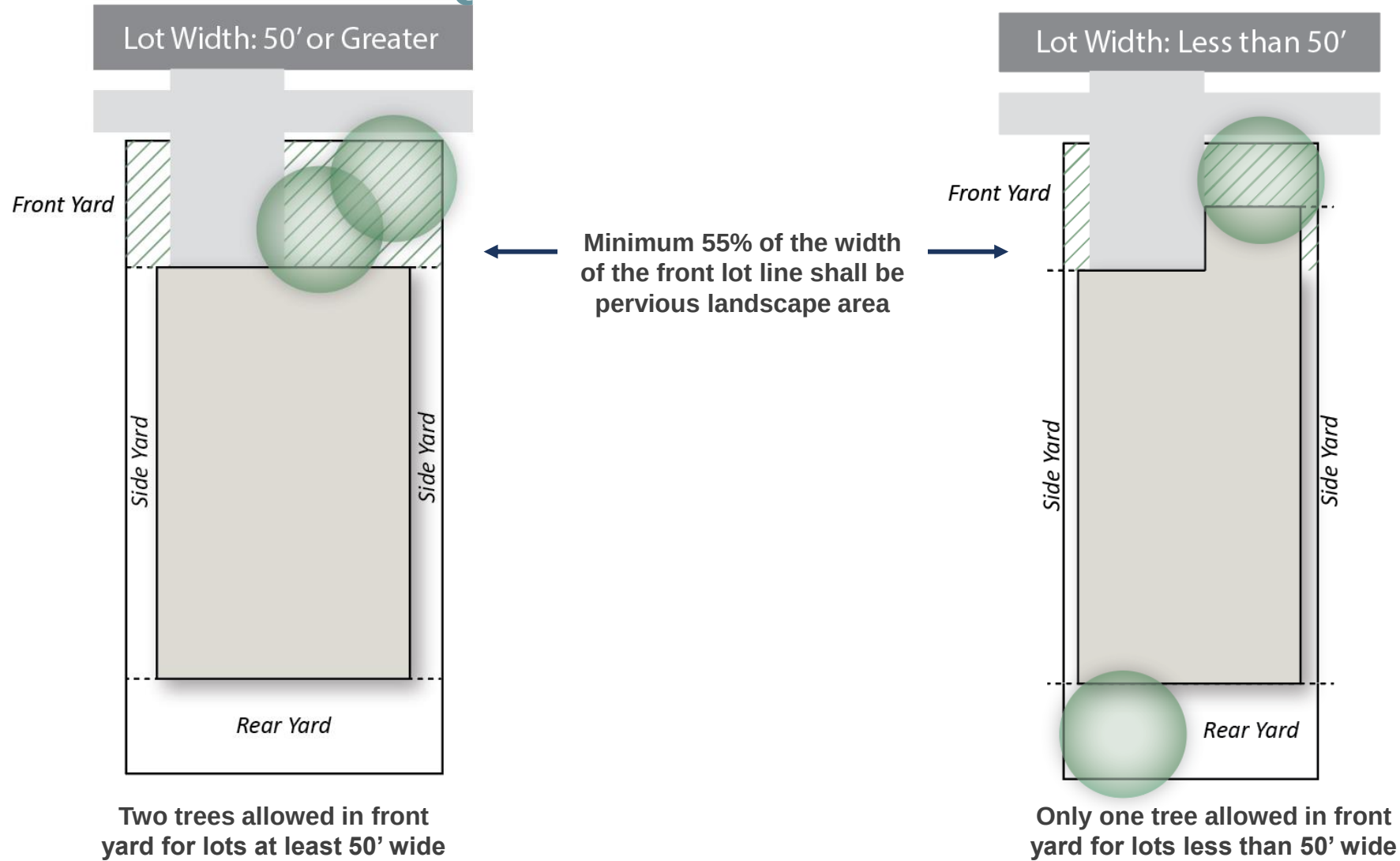
- Standards for planting trees and landscaping, and maintenance
- Street Buffer trees
- Compatibility Bufferyards

4

Relation to Tree Ordinance

Preserved Trees or Replacement Trees required for tree mitigation count towards landscaping requirements

RESIDENTIAL REQUIREMENTS



COMMERCIAL REQUIREMENTS

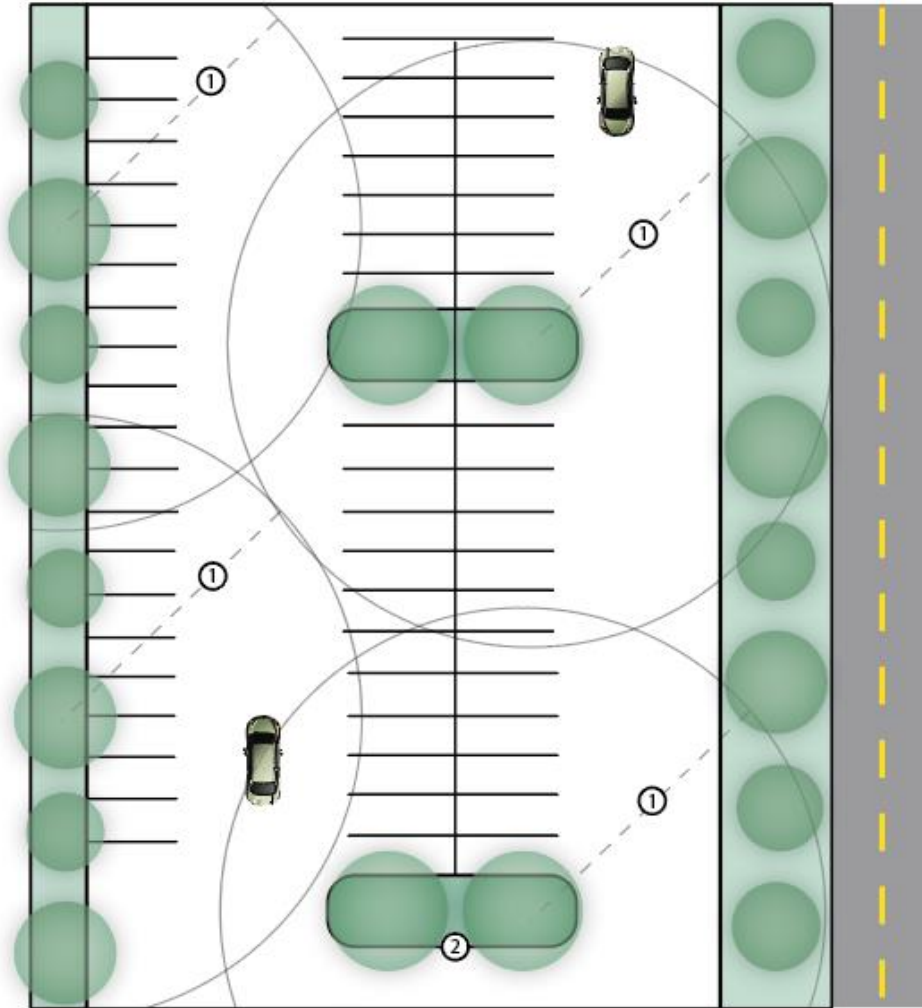
Parking Lot Landscape Areas

Landscape islands now require shade trees, with spacing to ensure canopy coverage, as follows:

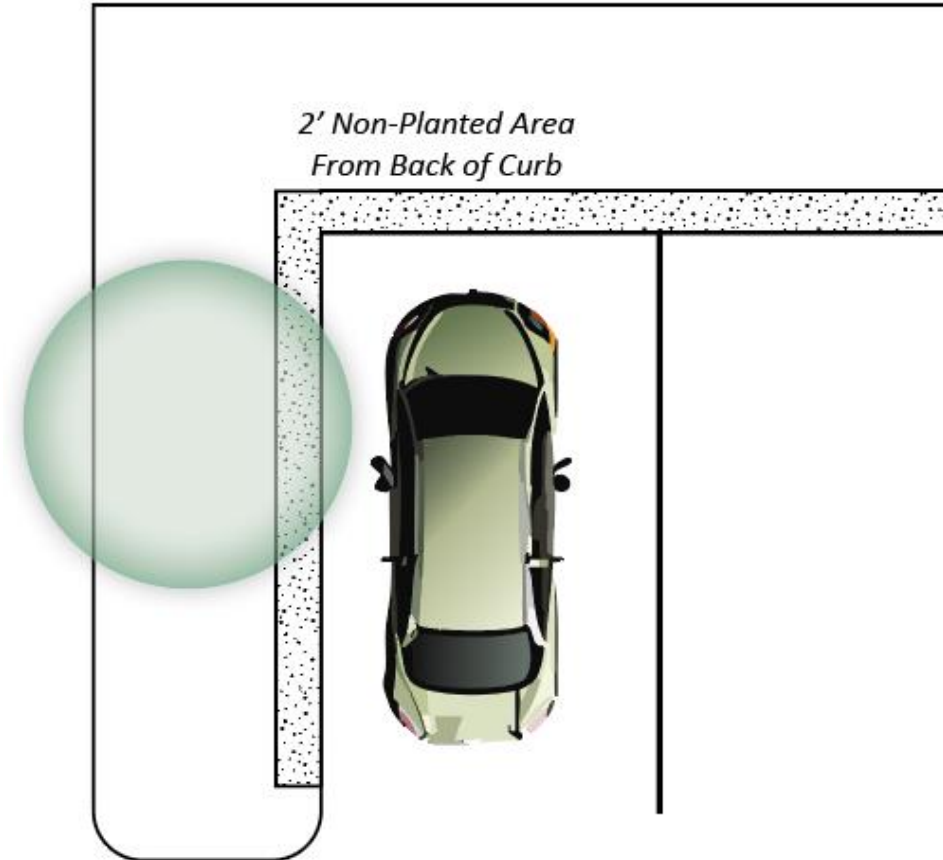
- Shade Tree for 12 parking stalls in a row
- Every parking stall within 50 feet of a shade tree
- Trees can be clustered for natural look and feel



COMMERCIAL REQUIREMENTS



① 50' tree centerpoint radius ② Landscape island



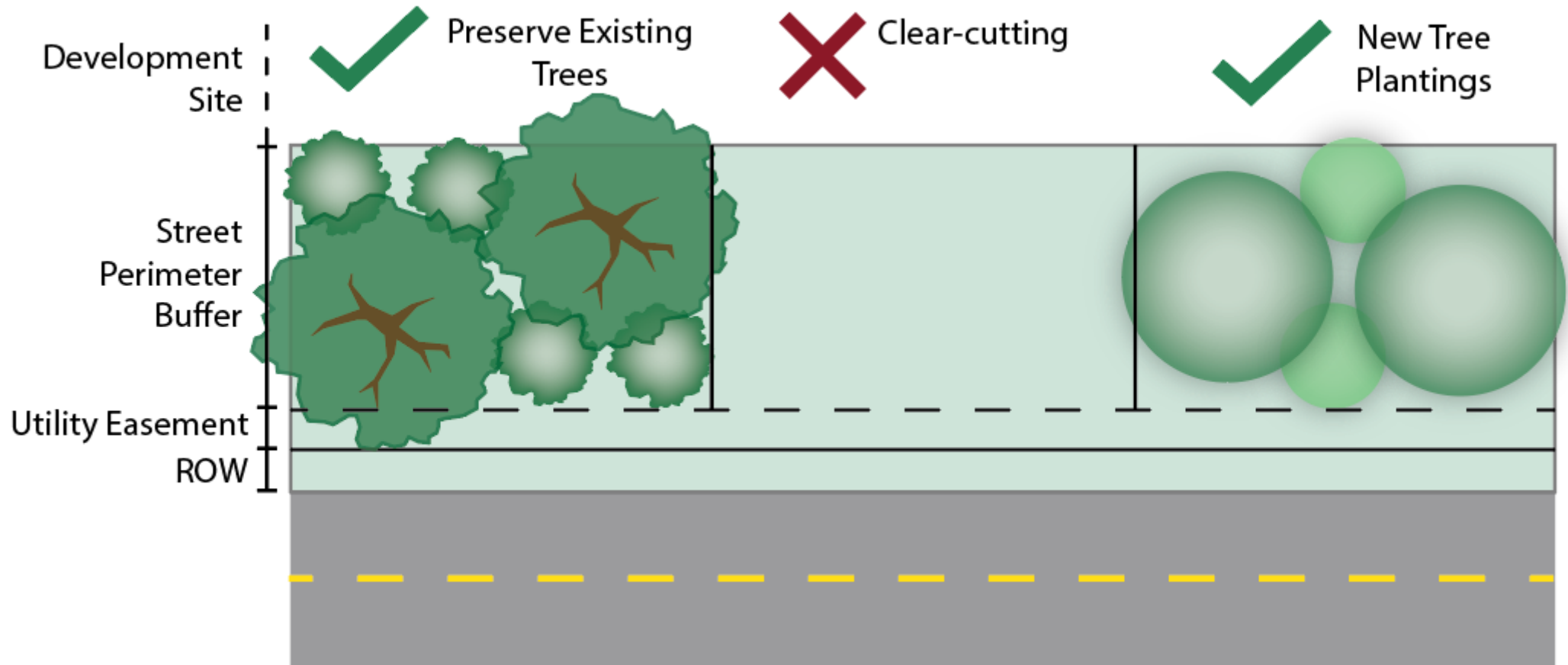
STREET PERIMETER BUFFER

Green space with trees and plantings to add buffering and visual character along streets

- 15-foot buffer adjacent to perimeter streets
- Does not include space for utility easements
- Planting requirements for 1,000 sq ft area:
 - Two (2) shade tree
 - Two (2) ornamental trees
- Can include preserved vegetation or new plantings



STREET PERIMETER BUFFER



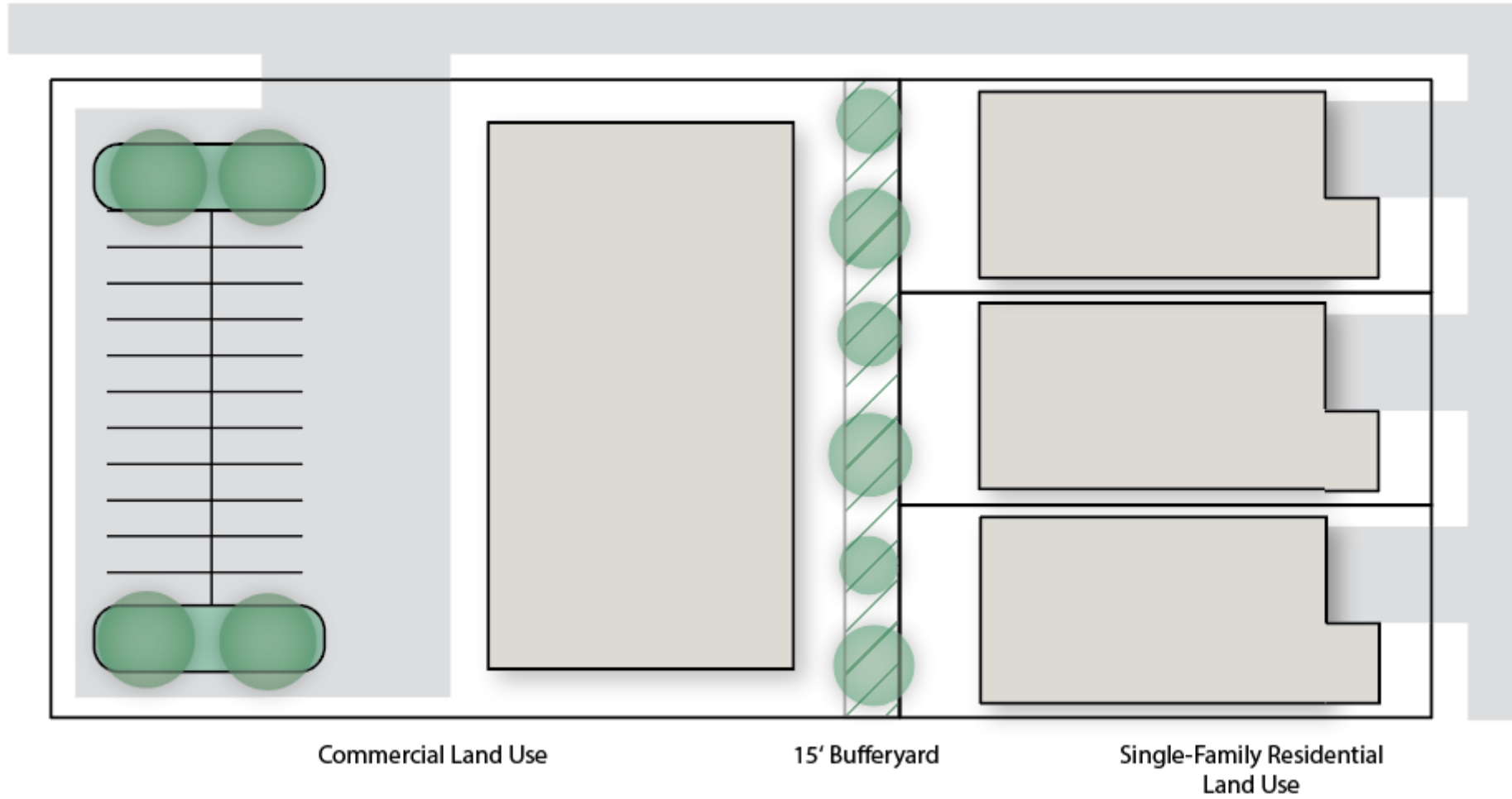
BUFFERYARDS

Green space transitions to facilitate compatibility

- A 15-foot Bufferyard between single-family residential and non-single family use
- Bufferyards shall be installed on the non-single-family site
- Planting requirements for 1,000 sq ft area:
 - One (1) shade tree
 - Two (2) ornamental trees
- Can include preserved vegetation or new plantings



|| BUFFERYARDS



A large, mature tree with dense green foliage dominates the center of the image. In the background, a small white gazebo with a dark roof is visible. The foreground shows a grassy area with some shadows. A blue semi-transparent banner is overlaid across the middle of the image.

QUESTIONS?



City Council Regular Meeting

Agenda Item No. F.6.

Meeting Date: 2/5/2024

Prepared By: Mary Lawrence, Chief Financial Officer

Approved By: Robby Hefton, City Manager

Caption:

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6693

Amending the Composition and Powers of the Board of Directors for the Sherman, Texas, Tax Increment Reinvestment Zone Number Seven, City of Sherman, Texas, Established Pursuant to Chapter 311 of the Texas Tax Code, Extending the Term of the Zone, and Modifying Certain Provisions related to the Tax Increment Base and the Tax Increment Fund for the Zone; Amending Ordinance No. 6081, Previously Approved by the City Council on December 4, 2017, as Amended by Ordinance No. 6262, Approved by the City Council on November 8, 2019; Providing a Repealer Clause, Severability Clause and an Effective Date.

Issue:

To Amend Tax Increment Reinvestment Zone Number Seven

Background:

Tax Increment Reinvestment Zone Number Seven (TIRZ #7) is located on the southeast corner of Hwy 75 and FM 1417 and includes the Legacy Village and Bel Air Village developments. The zone was formed in 2017 with the Legacy Village property and enlarged in 2019 to include Bel Air. This amendment to the ordinances creating and expanding the zone amends the Board of Directors to align with the Tax Code, extends the term of the zone to agree with the Master Development Agreement, and clarifies the increment for Legacy Village is separate from the Bel Air increment.

Changes to the existing Master Development Agreement and the TIRZ #7 Project and Financing Plan will be discussed at a future Council meeting. These proposed changes are also clean-up items to bring those documents into alignment with this proposed Ordinance amendment and to clarify the terms of the agreement that has already been approved by the Council.

Origination:

City Manager

Financial Consideration:

There's no financial cost to approving this ordinance.

Staff Recommendation:

Staff recommends approving this ordinance.

Alternatives:

No alternatives are recommended as the changes are required by statute or are obligations under a separate agreement.

Attachments:

1. Ordinance No. 6693

ORDINANCE NO. 6693

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING THE COMPOSITION AND POWERS OF THE BOARD OF DIRECTORS FOR THE SHERMAN TAX INCREMENT REINVESTMENT ZONE NUMBER SEVEN, CITY OF SHERMAN, TEXAS, ESTABLISHED PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE, EXTENDING THE TERM OF THE ZONE, AND MODIFYING CERTAIN PROVISIONS RELATED TO THE TAX INCREMENT BASE AND THE TAX INCREMENT FUND FOR THE ZONE; AMENDING ORDINANCE NO. 6081, PREVIOUSLY APPROVED BY THE CITY COUNCIL ON DECEMBER 4, 2017, AS AMENDED BY ORDINANCE NO. 6262, APPROVED BY THE CITY COUNCIL ON NOVEMBER 8, 2019; PROVIDING A REPEALER CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the City of Sherman, Texas (“City”), established the Sherman Tax Increment Reinvestment Zone Number Seven, City of Sherman, Texas (the “Zone”), and established a Board of Directors for the Zone (the “Board of Directors”) to promote development or redevelopment in the Zone pursuant to Ordinance No. 6081, approved by the City Council of the City (the “City Council”) on December 4, 2017 (“Ordinance No. 6081”), in accordance with the Tax Increment Financing Act, Chapter 311 of the Texas Tax Code, as amended (the “Act”) for approximately 22.330 acres of land described in Ordinance No. 6081 (the “Original Zone Property”); and

WHEREAS, the Zone is also sometimes referred to as the Sherman Tax Increment Financing Reinvestment Zone Number Seven (#7); and

WHEREAS, on November 18, 2019, the City Council approved Ordinance No. 6262, which amended Ordinance No. 6081 to expand the boundaries of the Zone to add approximately 292.379 acres of land to the Zone pursuant to a request of the landowner filed with the City pursuant to the Section 311.005(a)(4) of the Act (the “Expanded Zone Property”); and

WHEREAS, pursuant to Section 311.009 of the Act, designation of the Zone under Section 311.005(a)(4) of the Act requires that the Board of Directors consist of at least nine members, including the member of the state senate in whose district the Zone is located and the member of the state house of representatives in whose district the Zone is located are members of the Board of Directors, except that either may designate another individual to serve in the member's place at the pleasure of the member; and

WHEREAS, the City desires to amend Ordinance No. 6081 to amend the composition of the Board of Directors to meet the requirements of Section 311.009 of the Act; and

WHEREAS, the City also desires to amend Ordinance No. 6081, to extend the term of the Zone; and

WHEREAS, Section 311.007(c) of the Act, in pertinent part provides, “The governing body of the municipality or county that designated a reinvestment zone by ordinance or resolution or by order or resolution, respectively, may extend the term of all or a portion of the zone after notice and hearing in the manner provided for the designation of the zone;” and

WHEREAS, notice of the public hearing on the extension of the term of the Zone was published in a newspaper having general circulation in the City on January 28, 2024, which date is before the seventh (7th) day before the public hearing held on February 5, 2024; and

WHEREAS, at the public hearing on February 5, 2024, interested persons were allowed to speak for or against the concept of tax increment financing, and owners of property in the proposed Zone were given a reasonable opportunity to protest the inclusion of their property in the Zone; the public hearing was held in full accordance with Section 311.003(c) of the Act; and

WHEREAS, evidence was received and presented at the public hearing on February 5, 2024, and in favor of the amendment of the Zone; and

WHEREAS, after all comments and evidence, both written and oral, were received by the City Council, the public hearing was closed on February 5, 2024; and

WHEREAS, the City has taken all actions required to amend the Zone including, but not limited to, all actions required by the Home Rule Charter of the City, the Act, the Texas Open Meetings Act, and all other laws applicable to the creation of the Zone.

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

SECTION 1. That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct.

SECTION 2. That the tax increment base for property located within the Zone prior to the adoption of this Ordinance shall remain unchanged. In order to provide clarity to the provisions related to the tax increment base and the tax increment fund, Ordinance No. 6081 is hereby amended by deleting Section 3 in its entirety and adding a new Section 3 to read as follows:

“SECTION 3. There is hereby created and established a fund (the “Tax Increment Fund”) for the Zone that may be divided into subaccounts as authorized by subsequent ordinances, into which the Tax Increment of the City, as such increments are described in the Project and Finance Plan with included administration costs less any amount not required to be paid into the Tax Increment Fund pursuant to the Act, is to be deposited. The Tax Increment Fund and any subaccounts shall be maintained at the affiliated depository bank of the City and shall be secured in the manner prescribed by law for funds of Texas cities. In addition, all revenues to be dedicated to and used in the Zone

shall be deposited into the Tax Increment Fund from which money will be disbursed to pay project costs, plus interest, for the Zone; however, at termination excess funds may be transferred to the City's general fund or the County's general fund, respectively, depending on which taxing entity contributed the revenue.

Pursuant to Section 311.012(c) of the Act, the tax increment base shall consist of: (i) the total taxable value, as of January 1, 2017, of all real property in the Original Zone Property taxable by the City or other taxing unit participating in the Zone, and located in the Zone for the year in which the Zone was designated as a reinvestment zone; and (ii) the total taxable value, as of January 1, 2019 of all real property in the Expanded Zone Property taxable by the City or other taxing unit participating in the Zone, and located in the real property added to the Zone for the year in which the property was added (the "Tax Increment Base"). The amount of the tax increment placed into the Tax Increment Fund (hereinafter defined) for a year shall consist of: (i) seventy-five percent (75%) of the City's available portion of the maintenance and operation tax increment, as defined by Section 311.012(a) of the Act collected from the Original Zone Property, (ii) fifty percent (50%) of the City's available portion of the maintenance and operation tax increment, as defined by Section 311.012(a) of the Act collected from the Expanded Zone Property, and (iii) all or a portion of property taxes of other taxing units participating in the Zone and located in the Zone (as set forth in an agreement to participate in the Zone) for that year on the Captured Appraised Value (defined below) of real property taxable by the City or other taxing unit participating in the Zone and located in the Zone (the "Tax Increment"). Consistent with Section 311.012(b) of the Texas Tax Code, as amended, the Captured Appraised Value of real property taxable by the City or other taxing unit participating in the Zone for a year is the total appraised value of all real property taxable by the unit and located in the Zone for that year less the Tax Increment Base (the "Captured Appraised Value")."

SECTION 3. That effective as of the passage of this Ordinance, Ordinance No. 6081 is hereby amended by deleting Section 4 in its entirety and adding a new Section 4 to read as follows:

"SECTION 4. That there is hereby established a nine (9) member Board of Directors for the TIRZ-7 Zone to be composed of five (5) members of the City Council, the City Manager of the City, one (1) representative from Grayson County, the member of the state senate in whose district the Zone is located (or their designee), and the member of the state house of representatives in whose district the Zone is located (or their designee), all to be appointed by the City Council for terms of two (2) years, with no term limitations, in accordance with Section 311.009 of the Texas Tax Code. The City Council may remove and replace a Board member at any time during a term. The Board of Directors shall have all powers as provided under Chapter 311 of the Texas Tax Code, including the powers of

a municipality under Chapter 380, Texas Local Government Code as provided in Section 311.010(h), subject to City Council approval.”

SECTION 4. That the term of the Zone shall be extended such that termination of the Zone shall occur upon any of the following: (i) on December 31, 2050 (with the final year’s tax increment to be collected by September 1, 2051); or (ii) at such time, subsequent to the issuance of tax increment bonds, if any, that all project costs, tax increment bonds, notes and other obligations of the Zone, and the interest thereon, have been paid in full, in accordance with Article VII, Section 7.1 of the Master Development Agreement between the City of Sherman and Bel Air Communities, LLC and Section 311.017 of the Act.

SECTION 5. That all ordinances or portions thereof in conflict with the provisions of this Ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 6. That it is hereby declared to be the intent of the City Council that the words, phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any word, phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by a final judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs or sections of this ordinance, the City Council hereby declaring that this ordinance would have been enacted by the City Council without the incorporation of any such invalid or unconstitutional word, phrase, clause, sentence, paragraph or section.

SECTION 7. That it is hereby found, determined, and declared that sufficient written notice of the date, hour, place and subject of the meeting of the City Council at which this Ordinance was adopted was posted at a place convenient and readily accessible at all times to the general public at the City Hall of the City for the time required by law preceding its meeting, as required by Chapter 551 of the Texas Government Code, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

SECTION 8. That this Ordinance shall take effect immediately upon passage of this Ordinance.

[Remainder of Page Intentionally Left Blank; Signature page follows]

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
SHERMAN, TEXAS on this the 5th day of February 2024.**

CITY OF SHERMAN, TEXAS

ATTEST:

**BY: _____
LINDA ASHBY, CITY CLERK**

**BY: _____
DAVID PLYLER, MAYOR**

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

**BY: _____
RYAN D. PITTMAN, CITY ATTORNEY**



City Council Regular Meeting

Agenda Item No. F.7.

Meeting Date: 2/5/2024

Prepared By: Amber Doan, Engineering Coordinator

Approved By: Robby Hefton, City Manager

Caption:

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6694

Closing and Abandoning the Platted Alley West of Lots 7-10, Block 1, Post Oak Addition and East of Austin Street Cemetery, in the City of Sherman, Grayson County, Texas, as Shown in Volume 35, Page 58, Deed Records, Grayson County, Texas, and Being more Particularly Described in the Exhibits "A" and "B" Attached Hereto and Made a Part hereof for all Purposes

Issue:

To consider approving the closure and abandonment of a platted alley west of Lots 7-10, Block 1 of Post Oak Addition

Background:

This Ordinance will perform the necessary action to officially close and abandon a platted alley west of Lots 7-10, Block 1, Post Oak Addition. The platted alley is located within Austin Street Cemetery and the cemetery will be incorporating the abandoned alley into a replat of the surrounding properties. A Utility Easement will not be retained.

Origination:

Engineering Department

Financial Consideration:

None

Staff Recommendation:

Staff recommends that the City Council approve the Ordinance closing and abandoning the alley

Alternatives:

As may be directed by City Council

Attachments:

1. Ordinance No. 6694
2. Alley Abandonment Survey
3. Aerial Location Map

ORDINANCE NO. 6694

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, CLOSING AND ABANDONING THE PLATTED ALLEY WEST OF LOTS 7-10, BLOCK 1, POST OAK ADDITION, AND EAST OF AUSTIN STREET CEMETERY, IN THE CITY OF SHERMAN, GRAYSON COUNTY, TEXAS, AS BEING SHOWN IN VOLUME 35, PAGE 58, DEED RECORDS, GRAYSON COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED IN THE EXHIBITS "A" AND "B" ATTACHED HERETO AND MADE A PART HEREOF FOR ALL PURPOSES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the platted alley west of Lots 7-10, Block 1, Post Oak Addition, and East of Austin Street Cemetery, in the City of Sherman, Grayson County, Texas, as being shown in Volume 35, Page 58, Deed Records, Grayson County, Texas, and being more particularly described in the Exhibits "A" and "B" attached hereto and made a part hereof for all purposes, shall be closed and abandoned:

SECTION 2. That it is the intent of the City Council that the right and interest in such alley herein closed and vacated shall vest to the City of Sherman by appropriate conveyance of said right-of-way herein described.

SECTION 3. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place, and purpose of said meetings were given all as required by law.

INTRODUCED on this the 5th day of February 2024.

ADOPTED on this the 5th day of February 2024.

EFFECTIVE DATE on this the 5th day of February 2024.

CITY OF SHERMAN, TEXAS

BY:

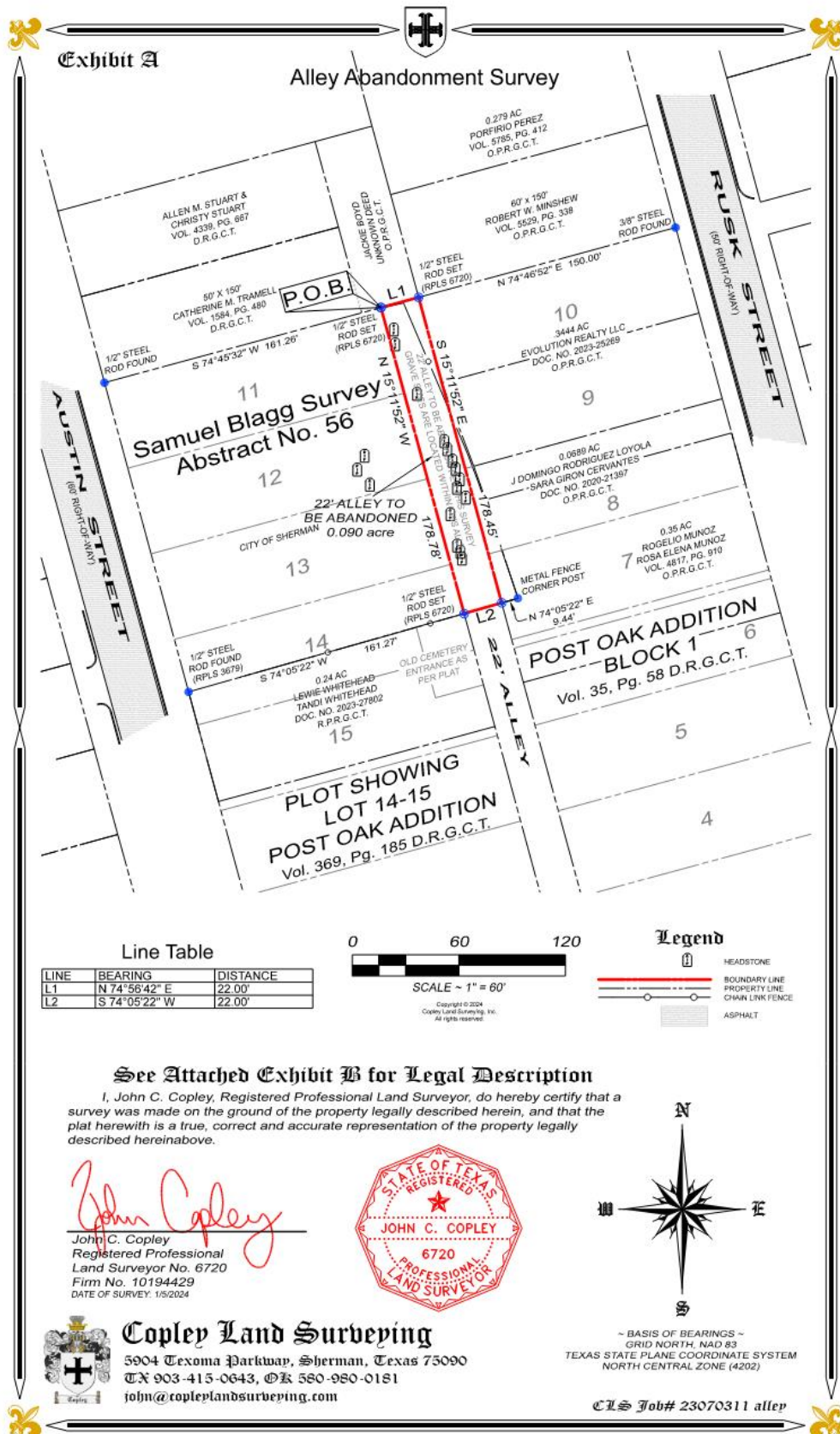
DAVID PLYLER, MAYOR

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



Copley Land Surveying



Exhibit B *Legal Description* *CIS Job# 23070311 alley*

Situated in the City of Sherman, County of Grayson, State of Texas being a part of the Samuel Blagg Survey, Abstract No. 56, and being part of a 22-foot wide alley in Block 1 of Post Oak Addition, an addition to the City of Sherman, Texas as shown by plat of record in Volume 35, Page 58, Deed Records, Grayson County, Texas and being more particularly described by metes and bounds as follows:

Beginning at a 1/2" steel rod set with an aluminum cap marked COPLEY RPLS 6720 for the northwest corner of the tract being described herein, the northwest corner of said alley, and the northeast corner of Lot 11 of said Block 1, from which a 1/2" steel rod found maintaining the northwest corner of said Lot 11 bears South 74°56'42" West, a distance of 161.26 feet;

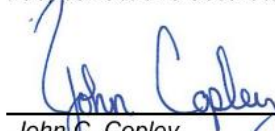
Thence **North 74°56'42" East**, along the north line of said Block 1, a distance of **22.00 feet** to a 1/2" steel rod set with an aluminum cap marked COPLEY RPLS 6720 for the northeast corner of said alley, the northwest corner of Lot 10 of said Block 1, and the southwest corner of a 60' x 150' tract of land conveyed to Robert W. Minshew by deed of record in Volume 5529 Page 338 Official Public Records, Grayson County, Texas;

Thence **South 15°11'52" East**, along the west line of Lots 10, 9, 8 and 7 of said Block 1, and the east line of said alley, a distance of **178.45 feet** to a 1/2" steel rod set with an aluminum cap marked COPLEY RPLS 6720 in the west line of Lot 7 of said Block 1, from which a metal fence corner post found bears North 74°05'22" East, a distance of 9.44 feet;

Thence **South 74°05'22" West**, over and across said alley, a distance of **22.00 feet** to a 1/2" steel rod set with an aluminum cap marked COPLEY RPLS 6720 in the west line of said alley and the east line of Lot 14 of said Block 1;

Thence **North 15°11'52" West**, along the east line of Lots 14, 13, 12 and 11, of said Block 1, and the west line of said alley, a distance of **178.78 feet** to the **Point-of-Beginning** and containing **0.090 acres** of land.

I, John C. Copley, 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.



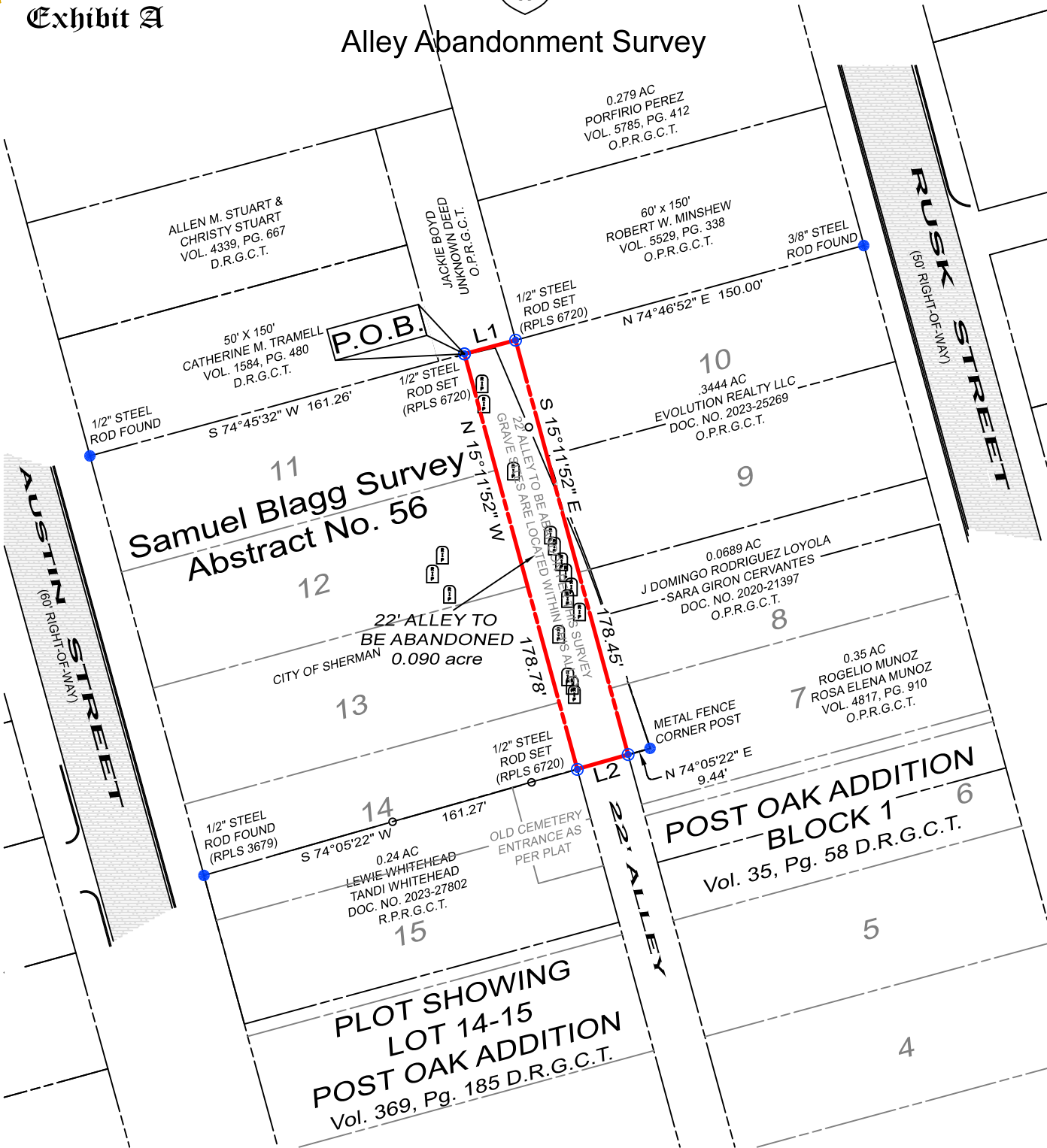
John C. Copley
Registered Professional
Land Surveyor No. 6720
Firm No. 10194429





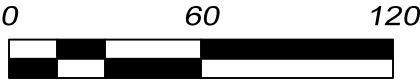
Exhibit A

Alley Abandonment Survey



Line Table

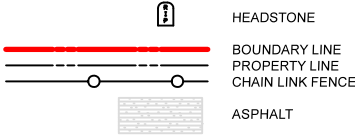
LINE	BEARING	DISTANCE
L1	N 74°56'42" E	22.00'
L2	S 74°05'22" W	22.00'



SCALE ~ 1" = 60'

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Copley Land Surveying, Inc.
All rights reserved.

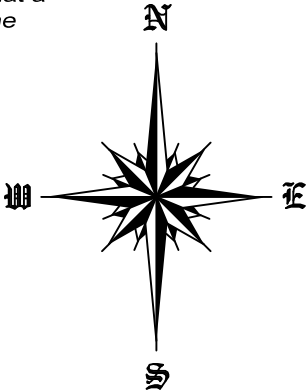
Legend



See Attached Exhibit B for Legal Description

I, John C. Copley, Registered Professional Land Surveyor, do hereby certify that a survey was made on the ground of the property legally described herein, and that the plat herewith is a true, correct and accurate representation of the property legally described hereinabove.

John Copley
John C. Copley
Registered Professional
Land Surveyor No. 6720
Firm No. 10194429
DATE OF SURVEY: 1/5/2024



Copley Land Surveying

5904 Texoma Parkway, Sherman, Texas 75090
TX 903-415-0643, OK 580-980-0181
john@copleylandsurveying.com

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

CLS Job# 23070311 alley



Alley Abandonment



0 50 100 200 Feet





City Council Regular Meeting

Agenda Item No. G.1.

Meeting Date: 2/5/2024

Prepared By:

Approved By:

Caption:

CLOSING OF PUBLIC HEARING

Consider Adoption of Ordinance Numbers 6689, 6690, 6691, 6692, 6693 & 6694.

Issue:

F. 2. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6689

Extending the Corporate Limits of Said City so as to Annex an Area of Land Consisting of Approximately 220.18 acres of Land Located West of F.M. 1417 (Heritage Parkway) and North of O.B. Groner Road Adjacent to the Sherman City Limits and in the City of Sherman's Extraterritorial Jurisdiction, on Application of the Landowner; Providing that the Owners and Inhabitants of the Subject Area of Land shall be Entitled to the Rights and Privileges of Other Citizens of the City of Sherman and Shall be Bound by the Acts and Ordinances now in Effect and hereinafter Adopted; Authorizing Execution of the Annexation Service Plan Agreement; Providing for a Penalty for a Violation of this Ordinance and Sherman's General Zoning Ordinance, Ordinance No. 2280; Providing a Savings/Repealing Clause, Severability Clause and an Effective Date; and Providing for the Publication of the Caption hereof

F. 3. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6690 - (UNDER APPEAL FROM P&Z)

Amending Sherman's Zoning Ordinance/Code of Ordinances Chapter 14, to Rezone a Tract of Land Consisting of 220.18 acres being a part of the Elizabeth Jones Survey, Abstract No. 625 and the Jason Stamps Survey, Abstract No. 1115, City of Sherman, Grayson County, Texas, Located in the 3000 Block West OB Groner Road and the 4500 Block West Park Avenue, Heretofore Zoned R-A (Residential Agriculture) District; Rezoning and Placing the Tract in the PD (Planned Development) Zoning Classification, Shakir Rehmatullah, Flato Development, Inc. (Owner), Rick Leisner, Norris Design (Representative) and Atwell-Group (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

F. 4. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6691

Amending the Code of Ordinance of the City of Sherman, Texas, Chapter 3 (Building Regulations) and Appendix C (Comprehensive Fee Schedule); Modifying Certain Existing Regulations and Establishing Certain New Regulations Relating to Buildings, Contractor Registration, Building Permits and Inspections, Substandard Structures, Backflow Devices, Manufactured Housing, Mobile Homes and Travel Trailers, Streets and Sidewalks, Residential Rental Property License and Standards, Flood Damage Prevention, Stormwater Discharges Resulting from Construction Activities and Administrative Provisions; Adopting Technical Building Codes and the International Property Maintenance Code, 2021 Edition, and Amendments Thereto; Providing for Rights of Appeal; Modifying Certain Existing Fees and Charges and Establishing Certain Fees and Charges; Providing a Penalty Clause with a Maximum Fine of \$2,000,

Savings/Repealing Clause, Severability Clause and an Effective Date; Providing for the Publication of the Caption Hereof

F. 5. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6692

Amending the Code of Ordinances of the City of Sherman, Texas, Chapter 14 (Zoning Ordinance), Section 14.04.006 (Residential and Non-Residential Landscaping Requirements); Modifying Certain Existing Regulations Relating to Residential and Non-Residential Landscaping Requirements and the Preservation and Addition of Plants and Trees; Providing a Penalty Clause with a Maximum Fine of \$2,000, Savings/Repealing Clause, Severability Clause and an Effective Date; Providing for the Publication of the Caption Hereof

F. 6. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6693

Amending the Composition and Powers of the Board of Directors for the Sherman, Texas, Tax Increment Reinvestment Zone Number Seven, City of Sherman, Texas, Established Pursuant to Chapter 311 of the Texas Tax Code, Extending the Term of the Zone, and Modifying Certain Provisions related to the Tax Increment Base and the Tax Increment Fund for the Zone; Amending Ordinance No. 6081, Previously Approved by the City Council on December 4, 2017, as Amended by Ordinance No. 6262, Approved by the City Council on November 8, 2019; Providing a Repealer Clause, Severability Clause and an Effective Date.

F. 7. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6694

Closing and Abandoning the Platted Alley West of Lots 7-10, Block 1, Post Oak Addition and East of Austin Street Cemetery, in the City of Sherman, Grayson County, Texas, as Shown in Volume 35, Page 58, Deed Records, Grayson County, Texas, and Being more Particularly Described in the Exhibits "A" and "B" Attached Hereto and Made a Part hereof for all Purposes

Background:

Origination:

Financial Consideration:

Staff Recommendation:

Alternatives:

Attachments:

None



City Council Regular Meeting

Agenda Item No. H.1.

Meeting Date: 2/5/2024

Prepared By: Rob Rae, Developmental Services Director

Approved By: Robby Hefton, City Manager

Caption:

RESOLUTION NO. 7247

Awarding a Bid to Alterrain Capital, LLC for the Conveyance of approximately 0.5508 Acres of Land in the J.B. McAnair Survey, Abstract No. 763, City of Sherman, Grayson County, Texas, Generally Located at 1400 West Taylor Street; Authorizing Execution of Necessary Transaction Documents Related Thereto

Issue:

To consider the award of a bid and authorizat on of execution of a Special Warranty Deed for the conveyance of 0.5508 acres of City-owned real property located at 1400 West Taylor Street

Background:

At a regularly scheduled meeting on February 20, 2023, City Council authorized staff to advertise for public bids for the conveyance of land located at 1400 West Taylor Street.

A public request for competitive, sealed bids resulted in one (1) submittal which was opened on March 9, 2023 from Alterrain Capital, LLC of Rockwall, Texas. This agenda item authorizes the City Manager to execute a Special Warranty Deed to convey the property to Alterrain Capital, LLC.

The recommended bidder has proposed the following as part of the sale of this property:

- Construct 1,800 linear feet of a hike-and-bike trail.
- Estimated cost of the trail would be put in an escrow account with the City to be eligible for use by the City if Phase 2 of the Sherman Park Apartments is not developed within five years from the Effective Date.
- 20 foot public trail easement will be established between Taylor Street and McGee Street through the Sherman Park Apartments development.
- Conveyance of 1.9 acres of land to the City.

The recommended bidder has gone through the plat approval process for the Sherman Park Apartments and has identified Block A Lot 3 as the property that would remain or be deeded to the City of Sherman.

Oncor has executed and filed an encroachment easement for the proposed trail to be included within their utility easement.

Origination:

Development Services

Financial Consideration:

The conveyance of this property would yield \$155,000.00 in trail infrastructure and conveyance to the City of a 1.9-acre tract of land

Staff Recommendation:

It is recommended that the City Council award the conveyance and authorize execution of a special warranty deed to Alterrain Capital, LLC of Rockwall, Texas

Alternatives:

As may be directed by the City Council

Attachments:

1. Resolution No. 7247
2. Bid Submittal _ Alterrain Capital
3. Affidavit of No Prohibited Interest _ Alterrain Capital
4. Sale of Real Property ITB
5. City of Sherman Tract Exhibit
6. Location Map
7. CIQ Form
8. E-317171 - Oncor Encroachment on Easement - Fully Executed
9. 8' Hike & Bike Trail Opinion of Probable Cost
10. Sherman Park Final Plat Revised 07-12-2023
11. Special Warranty Deed - Conveyance of City-Owned Property to Alterrian(4313388.1)

RESOLUTION NO. 7247

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO ALTERRAIN CAPITAL, LLC FOR THE CONVEYANCE OF APPROXIMATELY 0.5508 ACRES OF LAND IN THE J.B. MCANAIR SURVEY, ABSTRACT NO. 763, CITY OF SHERMAN, GRAYSON COUNTY, TEXAS, GENERALLY LOCATED AT 1400 WEST TAYLOR 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 Alterrain Capital LLC, is hereby awarded the bid and the City of Sherman hereby approves the contract with Alterrain Capital, LLC in the amount of \$155,000; 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 Alterrain Capital, LLC 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 5th day of February 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 2023-10 ATTACHMENT
SUBMITTED BY ALTERRAIN CAPITAL, LLC

BID PRICE – CONSTRUCT TRAIL AS DESCRIBED BELOW.

CLOSING – WITHIN 30 DAYS OF FINAL CONTRACT OF SALE.

RESPONSE TO QUESTION 27 BELOW:

A. Use of Property

1. How will you use the Property if purchased?
To provide access to our property to the south of the subject property and to construct an 8' concrete sidewalk to connect the trail system between West Taylor Street and McGee Street.
2. Detail how your proposal will enhance the ability to provide trail connectivity between West Taylor Street and McGee Street?
We will add the connecting piece of trail to fill in the gap in the trail system.
3. Provide a timeline for development, including and up to when a potential trail connection would be open to the public
Within 18 months we will construct the trail between W. Taylor and McGee Street and open it to the public. The project should take no more than three months to construct.
4. Detail how the proposed trail improvements, if applicable, will benefit the surrounding neighborhoods and parks.
The trail will provide access for all the residents who live south of the subject property to use Fairview Park and to have trail connectivity.

B. Fiscal Impact

1. What is the estimated construction value of a proposed trail to connect from W. Taylor to McGee Street?
The entire trail is approximately 1,765 feet long and will take approximately \$200,000 to complete. The subject property is approximately 177 feet of that total, or about \$15,000 of the total cost.

2. What is the estimated taxable value of the property to be sold for development?

Based on the taxable unimproved land values for the adjacent property, it appears the estimated taxable value of this property is \$8,740 as of the 2022 assessment.

3. If applicable, how much direct ad valorem tax do you anticipate generating in the City during 1st year, 3rd year and 5th year of operation for the specific structures on the subject property?

The only improvement we intend to construct on the property is the trail system. Therefore, we assume the property will be taxed as unimproved land. Based on the 2021 City tax rate of .489/100, we estimate the tax on the subject property will be approximately \$42.75, increasing incrementally in future years.

- C. If the bidder proposed to use the Property in a manner that would involve construction of one or more facilities on the Property, please provide for information purposes only, and not for approval, a proposed depiction of the layout, dimensions, and screening of each such facility.

See enclosed Drawing.

AFFIDAVIT OF NO PROHIBITED INTEREST

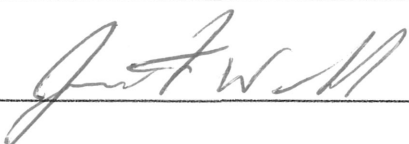
(Supplemental Information)

(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: ALTERRIAN CAPITAL, LLC

Title of Officer: MANAGER

Signature of Contractor: 

Date: 3/8/2023

ACKNOWLEDGMENT

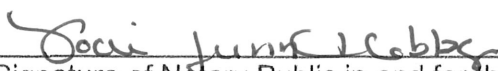
STATE OF TEXAS *

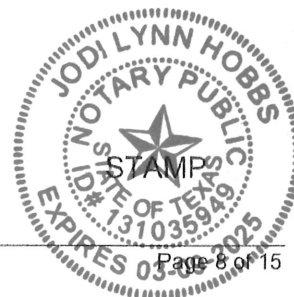
*

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 Justin Webb for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN under my hand and seal of office this the 8 day of March, 2023


Signature of Notary Public in and for the State of Texas



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:
N/A

If company is a partnership, list the partner's full legal name(s):
N/A

If company is a corporation, list the full legal name as listed on the corporate charter:
ALTERRIAN CAPITAL, LLC

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: N/A

Date of certification: N/A

BID 2023-10

**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 0.9± acres located in the J.B. McAnair Survey, Abstract No. 763, City of Sherman, Grayson County, Texas. The subject tract is generally located at 1400 West Taylor Street in Sherman, Grayson County, Texas, as generally depicted below:

BEING a tract of land situated in the J.B. McAnair Survey, Abstract No. 763, City of Sherman, Grayson County, Texas, and being a portion of a called 1.9894 acre tract of land described in a special warranty deed to the City of Sherman, as recorded in Volume 5120, Page 10, Deed Records of Grayson County, Texas, and being a portion of a tract of land south of Taylor Street, a public street, depicted as property owned by City of Sherman, no deed record found, and being more particularly described as follows:

BEGINNING at a 5/8-inch iron rod with red plastic cap stamped "KHA" found for the northeast corner of a called 22.73 acre tract of land described in a special warranty deed to Alterrain Capital, LLC, as recorded in Document No. 2022-36996, Official Records of Grayson County, Texas, same being the northwest corner of a called 9.85 acre tract of land described in a special warranty deed to Sherman Park Apartments, LP, as recorded in Document No. 2022-37006, said Official Records;

THENCE along the northern line of said 22.73-acre tract, the following courses and distances:

South 75°31'41" West, a distance of 39.66 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for corner;

South 75°32'29" West, a distance of 298.54 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for corner;

South 76°30'48" West, distance of 67.56 feet to a 1/2-inch iron rod found for the southeast corner of said 1.9894-acre tract, same being on the northern line of said 22.73-acre tract;

THENCE South 75°16'45" West, continuing along the northern line of said 22.73-acre tract and along the southern line of said 1.9894-acre tract and, a distance of 42.26 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for corner;

THENCE North 00°53'55" West, departing the southern line of said 1.9894-acre tract and the northern line of said 22.73-acre tract and crossing said 1.9894-acre tract a distance of 166.16 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for corner on the northern line of said 1.9894-acre tract, same being on the occupied southerly line of said Taylor Street;

THENCE South 84°15'23" East, along the northern line of said 1.9894-acre tract and along the occupied southerly line of said Taylor Street, a distance of 40.80 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for the northeast corner of said 1.9894-acre tract;

Page 11 of 15

THENCE South $84^{\circ}17'38''$ East, continuing along the occupied southerly line of said Taylor Street and crossing said City of Sherman property, a distance of 363.47 feet to a point at the beginning of a tangent curve to the left with a radius of 640.00 feet, a central angle of $02^{\circ}47'32''$, and a chord bearing and distance of South $85^{\circ}41'24''$ East, 31.19 feet;

THENCE in an easterly direction, continuing along the occupied southerly line of said Taylor Street and continuing across said City of Sherman property and with said tangent curve to the left, an arc distance of 31.19 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for corner;

THENCE South $14^{\circ}36'32''$ East, continuing along the occupied southerly line of said Taylor Street and continuing across said City of Sherman property, a distance of 13.05 feet to the **POINT OF BEGINNING** and containing 0.8916 of an acre (38,838 square feet) of land, more or less.



CITY OF SHERMAN, TEXAS

BID 2023-10

BID FORM

CITY-OWNED REAL PROPERTY

Item	Description	Units	Qty.	Offered Price
1	Purchase of real property described within this document	Lump Sum	1	SEE ATTACHED EXHIBIT

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: ALTERRIAN CAPITAL, LLC

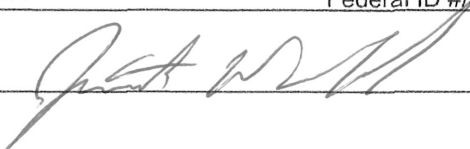
Address of Bidder: 5763 S. SH - 205, SUITE 100, ROCKWALL, TX 75032

Telephone Number: 214-729-7885 Fax: _____

E-mail address: JUSTINW@ALTURAHOMES.COM

By: JUSTIN WEBB (print name)

Title: MANGER Federal ID #/SSN #: 84-3093790

Signature: 

AFFIDAVIT OF NO PROHIBITED INTEREST

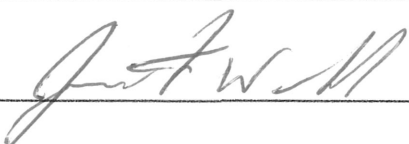
(Supplemental Information)

(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: ALTERRIAN CAPITAL, LLC

Title of Officer: MANAGER

Signature of Contractor: 

Date: 3/8/2023

ACKNOWLEDGMENT

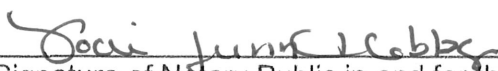
STATE OF TEXAS *

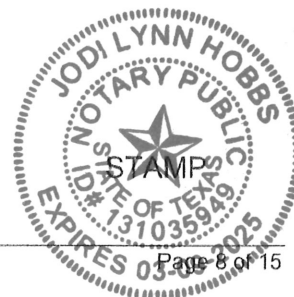
*

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 Justin Webb for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN under my hand and seal of office this the 8 day of March, 2023


Signature of Notary Public in and for the State of Texas



GENERAL INFORMATION CITY OF SHERMAN, TEXAS

COMPETITIVE SEALED BID NO. 2023-10

“SALE OF CITY-OWNED REAL PROPERTY”

~~~~~  
DOCUMENTS ARE DUE TO THE FINANCE DEPARTMENT PRIOR TO:

**March 9<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
03/01/2023 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. 2023-10

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 March 9, 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 March 9, 2023 at 2:00 PM.**

Write the competitive sealed bid number 2023-10, 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

17. **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 176 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 176.006, Local Government Code. A person commits an offense if the person violates Section 176.006, 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 176 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 ability to provide trail connectivity between West Taylor Street and McGee Street?
 - 3. Provide a timeline for development, including and up to when a potential trail connection would be open to the public.
 - 4. Detail how the proposed trail improvements, if applicable, will benefit the surrounding neighborhoods and parks.
- B. Fiscal Impact
 - 1. What is the estimated construction value of a proposed trail to connect from W. Taylor Street to McGee Street?
 - 2. What is the estimated taxable value of the property to be sold for development?
 - 3. 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 0.9± acres located in the J.B. McAnair Survey, Abstract No. 763, City of Sherman, Grayson County, Texas. The subject tract is generally located at 1400 West Taylor Street in Sherman, Grayson County, Texas, as generally depicted below:

BEING a tract of land situated in the J.B. McAnair Survey, Abstract No. 763, City of Sherman, Grayson County, Texas, and being a portion of a called 1.9894 acre tract of land described in a special warranty deed to the City of Sherman, as recorded in Volume 5120, Page 10, Deed Records of Grayson County, Texas, and being a portion of a tract of land south of Taylor Street, a public street, depicted as property owned by City of Sherman, no deed record found, and being more particularly described as follows:

BEGINNING at a 5/8-inch iron rod with red plastic cap stamped "KHA" found for the northeast corner of a called 22.73 acre tract of land described in a special warranty deed to Alterrain Capital, LLC, as recorded in Document No. 2022-36996, Official Records of Grayson County, Texas, same being the northwest corner of a called 9.85 acre tract of land described in a special warranty deed to Sherman Park Apartments, LP, as recorded in Document No. 2022-37006, said Official Records;

THENCE along the northern line of said 22.73-acre tract, the following courses and distances:

South 75°31'41" West, a distance of 39.66 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for corner;

South 75°32'29" West, a distance of 298.54 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for corner;

South 76°30'48" West, distance of 67.56 feet to a 1/2-inch iron rod found for the southeast corner of said 1.9894-acre tract, same being on the northern line of said 22.73-acre tract;

THENCE South 75°16'45" West, continuing along the northern line of said 22.73-acre tract and along the southern line of said 1.9894-acre tract and, a distance of 42.26 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for corner;

THENCE North 00°53'55" West, departing the southern line of said 1.9894-acre tract and the northern line of said 22.73-acre tract and crossing said 1.9894-acre tract a distance of 166.16 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for corner on the northern line of said 1.9894-acre tract, same being on the occupied southerly line of said Taylor Street;

THENCE South 84°15'23" East, along the northern line of said 1.9894-acre tract and along the occupied southerly line of said Taylor Street, a distance of 40.80 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for the northeast corner of said 1.9894-acre tract;

THENCE South $84^{\circ}17'38''$ East, continuing along the occupied southerly line of said Taylor Street and crossing said City of Sherman property, a distance of 363.47 feet to a point at the beginning of a tangent curve to the left with a radius of 640.00 feet, a central angle of $02^{\circ}47'32''$, and a chord bearing and distance of South $85^{\circ}41'24''$ East, 31.19 feet;

THENCE in an easterly direction, continuing along the occupied southerly line of said Taylor Street and continuing across said City of Sherman property and with said tangent curve to the left, an arc distance of 31.19 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for corner;

THENCE South $14^{\circ}36'32''$ East, continuing along the occupied southerly line of said Taylor Street and continuing across said City of Sherman property, a distance of 13.05 feet to the **POINT OF BEGINNING** and containing 0.8916 of an acre (38,838 square feet) of land, more or less.



Sealed bids will be received until **2:00 p.m., March 9, 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 **March 9, 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., March 9, 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)

1. 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.
2. 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>).
3. 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.
4. 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.
5. 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: **2023-10**

Description of Goods and Services to be provided: **Sale of Real Property**
6. All other fields as required or as applicable to the individual vendor must be completed as explained in the tutorial video.
7. 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.

BEING a tract of land situated in the J.B. McAnair Survey, Abstract No. 763, City of Sherman, Grayson County, Texas, and being a portion of a called 1.9894 acre tract of land described in a special warranty deed to the City of Sherman, as recorded in Volume 5120, Page 10, Deed Records of Grayson County, Texas, and being a portion of a tract of land south of Taylor Street, a public street, depicted as property owned by City of Sherman, no deed record found, and being more particularly described as follows:

BEGINNING at a 5/8-inch iron rod with red plastic cap stamped "KHA" found for the northeast corner of a called 22.73 acre tract of land described in a special warranty deed to Alterrain Capital, LLC, as recorded in Document No. 2022-36996, Official Records of Grayson County, Texas, same being the northwest corner of a called 9.85 acre tract of land described in a special warranty deed to Sherman Park Apartments, LP, as recorded in Document No. 2022-37006, said Official Records;

THENCE along the northern line of said 22.73-acre tract, the following courses and distances:

South 75°31'41" West, a distance of 39.66 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for corner;

South 75°32'29" West, a distance of 298.54 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for corner;

South 76°30'48" West, distance of 67.56 feet to a 1/2-inch iron rod found for the southeast corner of said 1.9894-acre tract, same being on the northern line of said 22.73-acre tract;

THENCE South 75°16'45" West, continuing along the northern line of said 22.73-acre tract and along the southern line of said 1.9894-acre tract and, a distance of 42.26 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for corner;

THENCE North 00°53'55" West, departing the southern line of said 1.9894-acre tract and the northern line of said 22.73-acre tract and crossing said 1.9894-acre tract a distance of 166.16 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for corner on the northern line of said 1.9894-acre tract, same being on the occupied southerly line of said Taylor Street;

THENCE South 84°15'23" East, along the northern line of said 1.9894-acre tract and along the occupied southerly line of said Taylor Street, a distance of 40.80 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for the northeast corner of said 1.9894-acre tract;

THENCE South 84°17'38" East, continuing along the occupied southerly line of said Taylor Street and crossing said City of Sherman property, a distance of 363.47 feet to a point at the beginning of a tangent curve to the left with a radius of 640.00 feet, a central angle of 02°47'32", and a chord bearing and distance of South 85°41'24" East, 31.19 feet;

THENCE in an easterly direction, continuing along the occupied southerly line of said Taylor Street and continuing across said City of Sherman property and with said tangent curve to the left, an arc distance of 31.19 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for corner;

THENCE South 14°36'32" East, continuing along the occupied southerly line of said Taylor Street and continuing across said City of Sherman property, a distance of 13.05 feet to the **POINT OF BEGINNING** and containing 0.8916 of an acre (38,838 square feet) of land, more or less.

PRELIMINARY

THIS DOCUMENT SHALL
NOT BE RECORDED FOR
ANY PURPOSE AND
SHALL NOT BE USED OR
VIEWED OR RELIED
UPON AS A FINAL
SURVEY DOCUMENT

MICHAEL MARX
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 5181
6160 WARREN PKWY., SUITE 210
FRISCO, TEXAS 75034
PH. 972-335-3580
michael.marx@kimley-horn.com

EXHIBIT
0.8916 ACRES
J.B. MCANAIR SURVEY
ABSTRACT NO. 763
CITY OF SHERMAN
GRAYSON COUNTY, TEXAS

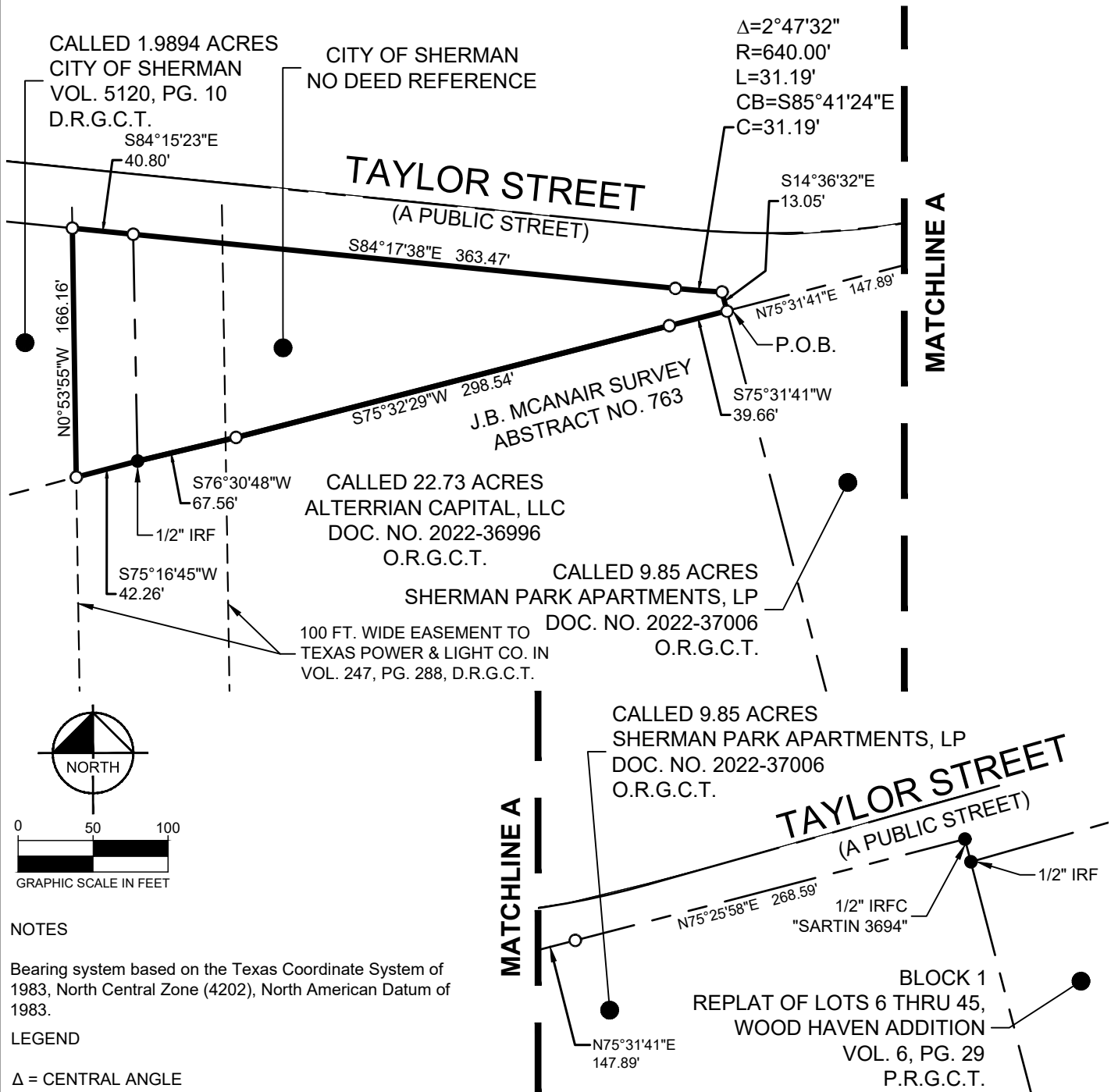
Kimley»Horn

6160 Warren Parkway, Suite 210
Frisco, Texas 75034

FIRM # 10193822

Tel. No. (972) 335-3580
Fax No. (972) 335-3779

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	AFM	KHA	Feb. 2023	063970006	1 OF 2



NOTES

Bearing system based on the Texas Coordinate System of 1983, North Central Zone (4202), North American Datum of 1983.

LEGEND

Δ = CENTRAL ANGLE
P.O.B. = POINT OF BEGINNING
IRF = IRON ROD FOUND
D.R.G.C.T. = DEED RECORDS OF GRAYSON COUNTY, TEXAS
O.R.G.C.T. = OFFICIAL RECORDS OF GRAYSON COUNTY, TEXAS

PRELIMINARY

THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS A FINAL SURVEY DOCUMENT

MICHAEL MARX
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5181
6160 WARREN PKWY., SUITE 210
FRISCO, TEXAS 75034
PH. 972-335-3580
michael.marx@kimley-horn.com

EXHIBIT

0.8916 ACRES
J.B. MCANAIR SURVEY
ABSTRACT NO. 763
CITY OF SHERMAN
GRAYSON COUNTY, TEXAS

Kimley»Horn

6160 Warren Parkway, Suite 210 Frisco, Texas 75034 FIRM # 10193822 Tel. No. (972) 335-3580 Fax No. (972) 335-3779

Scale 1" = 100'	Drawn by AFM	Checked by KHA	Date Feb. 2023	Project No. 063970006	Sheet No. 2 OF 2
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LOCATION MAP



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.

ALTERNATION CAPITAL, LLC

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.

ROB RAE

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.

LAND PURCHASE

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 Justin Weber
Signature of vendor doing business with the governmental entity

1/9/24
Date

Grayson County
Deana Patterson
County Clerk
Sherman, TX 75090

Instrument Number: 2023 - 32408

ERecordings-RP

Recorded On: December 11, 2023 12:17 PM

Number of Pages: 7

" Examined and Charged as Follows: "

Total Recording: \$36.00

***** THIS PAGE IS PART OF THE INSTRUMENT *****

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

File Information:

Document Number: 32408
Receipt Number: 20231211000077
Recorded Date/Time: December 11, 2023 12:17 PM
User: Crystal T
Station: CLERK06

Record and Return To:

CSC Global
100 W. Houston Ste. 17

SHERMAN TX 75090



STATE OF TEXAS
COUNTY OF GRAYSON

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time
printed hereon, and was duly RECORDED in the Official Records of Grayson County, Texas.

Deana Patterson
County Clerk
Grayson County, TX

PT #: 2023-5313
 District: Texoma
 E #: 317171

ENCROACHMENT ON EASEMENT

WHEREAS, **Oncor Electric Delivery Company LLC ("Oncor")**, is the owner of an easement in Grayson County, Texas, recorded in Volume 247, Page 288 of the Deed Records of Grayson County, Texas ("**Easement**"); and

WHEREAS, **City of Sherman and Alterrian Capital, LLC ("User")**, desires permission to construct and utilize a **hike and bike trail, two roads, and a retaining wall at least 15 feet away from a three phase power pole and being 35 feet away and paralleling**, more particularly depicted on Exhibit "A" attached hereto (collectively, the "**Encroaching Facility**") within the area or boundaries of the Easement ("**Easement Area**").

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Oncor and User do hereby agree as follows:

1. **Location of Encroaching Facility.** User may locate the Encroaching Facility in the Easement Area, but only as described and shown on the attached drawing marked **Exhibit "A"** and incorporated herein. User may not relocate the Encroaching Facility within the Easement Area without the consent and approval of Oncor, which consent and approval shall be at Oncor's sole discretion. User acknowledges and agrees that Oncor holds easement rights on the Easement Area; therefore, User shall obtain whatever rights and permission, other than Oncor's that are necessary.
2. **Restrictions on Use of Easement Area.** User shall use only so much of the Easement Area as may be necessary to construct, maintain and repair the Encroaching Facility. User shall, at its own cost and expense, comply with all applicable laws, including but not limited to existing zoning ordinances, governmental rules and regulations enacted or promulgated by any governmental authority and shall promptly execute and fulfill all orders and requirements imposed by such governmental authorities for the correction, prevention and abatement of nuisances in or upon or connected with said Encroaching Facility. At the conclusion of any construction, User shall remove all debris and other materials from the Easement Area and restore the Easement Area to the same condition it was in prior to the commencement of User's construction thereon or in proximity thereto.

User shall not place trash dumpsters, toxic substances or flammable material in the Easement Area. Further, if the Easement Area has distribution facilities located thereon, User shall not place upon the Easement Area any improvements, including but not limited to, buildings, light standards, fences, shrubs, trees or signs unless approved in advance in writing by Oncor.

3. **Maintenance of Encroaching Facility.** User, at User's sole expense, shall maintain and operate the Encroaching Facility. Oncor will not be responsible for any costs of construction, reconstruction, operation, maintenance or removal of User's Encroaching Facility.
4. **Risk and Liability.** User assumes all risks and liability resulting or arising from or relating to User's use, the existing condition or location, or existing state of maintenance, repair or operation of the Easement Area. It is further agreed that Oncor shall not be liable for any damage to the Encroaching Facility as a result of Oncor's use or enjoyment of its Easement. Any Oncor property damaged or destroyed by User or its agents, employees, invitees, contractors or subcontractors shall be repaired or replaced by Oncor at User's expense and payment is due upon User's receipt of an invoice from Oncor.
5. **Indemnification.** User agrees to defend, indemnify and hold harmless Oncor, its officers, agents and employees from and against any and all claims, demands, causes of action, loss, damage, liabilities, costs and expenses (including attorney's fees and court costs) of any and every kind or character, known or unknown, fixed or contingent, for personal injury (including death), property damage or other harm for which recovery of damages is sought or suffered by any person or persons, including claims based on strict liability, arising out of or in connection with User's actions or omissions or the actions or omissions of its officers, agents, associates, employees, contractors or subcontractors or the actions or omissions of any other person entering onto the Easement Area or the Encroaching Facility, **including the negligent actions or omissions of Oncor**, when such actions or omissions relate to User's use of the Easement Area.
6. **High Voltage Restrictions.** Use of draglines or other boom-type equipment in connection with any work to be performed on the Easement Area by User, its employees, agents, invitees, contractors or subcontractors must comply with Chapter 752, Texas Health and Safety Code, the National Electrical Safety Code and any other applicable safety or clearance requirements. Notwithstanding anything to the contrary herein, in no event shall any equipment be within ten (10) feet of the Oncor power lines situated on the aforesaid property. State law requires contacting **Dig Test by calling 811** for underground equipment to be located at least two (2) working days before you dig. Dig Test does not mark a precise location but is usually within four (4) feet of the actual location. User must notify the **Oncor Distribution Operations Manager at 1-888-313-6862**, 48 hours prior to the beginning of any work on the Easement Area.
7. **Removal of Encroaching Facility.** If at any time in the future, the Encroaching Facility, in the sole judgment of Oncor, interferes with Oncor's use or enjoyment of its easement rights, Oncor shall have the right to require User to, within sixty (60) days of Oncor's giving of written notice thereof, either, at Oncor's option, (a) remove the Encroaching Facility from the Easement (at Owner's sole expense) or (b) reimburse Oncor for all reasonable costs of removal and relocation of its electrical facilities located on the Easement. However, in an emergency, Oncor shall have the right to immediately remove

the Encroaching Facility. If the Encroaching Facility is removed, Oncor will not unreasonably withhold consent for User to relocate the Encroaching Facility within the Easement Area.

8. **Default and Termination.** It is understood and agreed that, in case of default by User or its agents in any of the terms and conditions herein stated and such default continues for a period of ten (10) days after Oncor notifies User of such default in writing, Oncor may at its election forthwith terminate this agreement and upon such termination all of User's rights hereunder shall cease and come to an end. This agreement shall also terminate upon the abandonment of the Encroaching Facility.

This agreement shall extend to and be binding upon User and its successors and assigns, and is not to be interpreted as a waiver of any rights held by Oncor under its Easement.

Executed this 11 day of December, 2023.

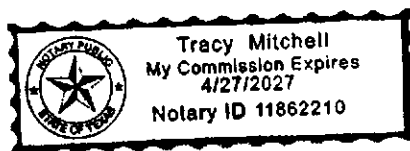
Oncor Electric Delivery Company LLC,
a Delaware limited liability company

By: [Signature]
Todd Scoggins, Attorney-In-Fact

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally **Todd Scoggins, Attorney-In-Fact for Oncor Electric Delivery Company LLC, a Delaware limited liability company**, 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 the said Oncor Electric Delivery Company LLC, a Delaware limited liability company, for the purposes and consideration therein expressed, in the capacity therein stated and that he is authorized to do so.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 11 day of December, A.D. 2023.



[Signature]
Notary Public in and for the State of Texas

Executed this 9th day of November, 2023.

City of Sherman

By: 
Robby Hefton, City Manager

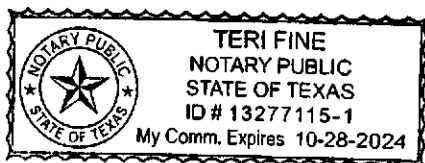
STATE OF TEXAS

§
§
§

COUNTY OF GRAYSON

BEFORE ME, the undersigned authority, on this day personally appeared **Robby Hefton**, as the **City Manager of City of Sherman**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and he is authorized to do so.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 9th day of November, A. D. 2023.




Notary Public in and for the State of Texas

Executed this 28th day of November, 2023.

Alterrian Capital, LLC, a Delaware limited liability company

By: 
Justin Webb, Manager

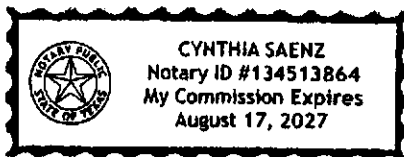
STATE OF

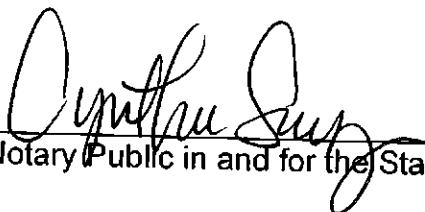
COUNTY OF

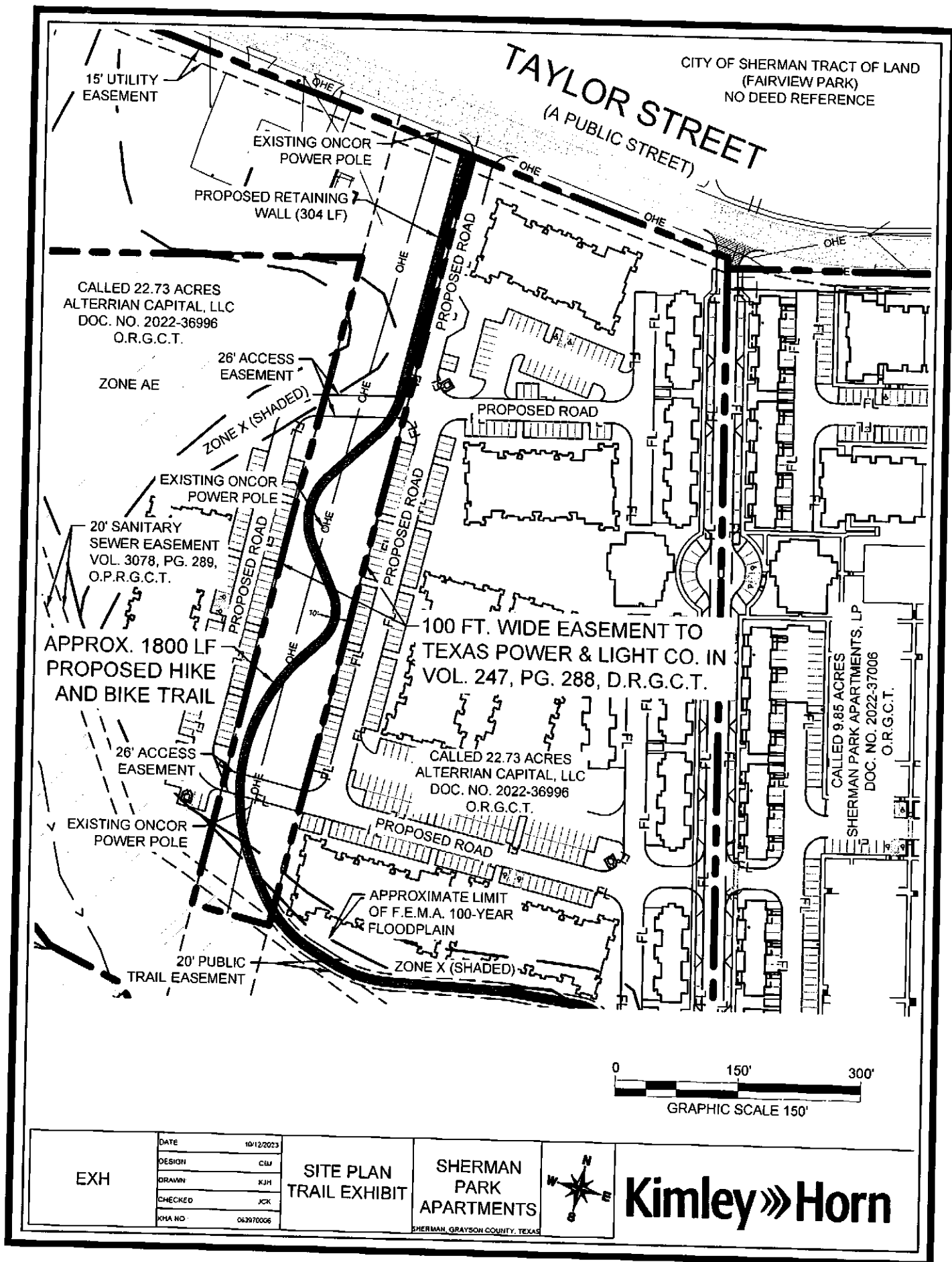
§
§
§

BEFORE ME, the undersigned authority, on this day personally appeared **Justin Webb**, as the **Manager of Alterrian Capital, LLC, a Delaware limited liability company**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and he is authorized to do so.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 28th day of November, A. D. 2023.




Notary Public in and for the State of



KIMLEY-HORN and ASSOCIATES, Inc.

2600 North Central Expressway, Suite 400

Richardson, Texas 75080

TEL: (214) 617-0535 FAX: (972) 770-3820

ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COSTS

for

CITY OF SHERMAN

SHERMAN PARK APARTMENTS HIKE & BIKE TRAIL

PROJECT: Sherman Park Apartments

DATE: 06/22/23

CLIENT: DBA Architects

JOB NUMBER: 063970006

PREPARED BY: Kimley-Horn and Associates, Inc.

DESCRIPTION	QUANTITY	UNIT	COST / UNIT	TOTAL COST
Hike & Bike Trail Improvements				
8' Wide 4" Concrete Hike & Bike Trail (1,800')	1,600	SY	\$ 54.00	\$ 86,400.00
2' Height Concrete Retaining Wall (550')	1,100	SF	\$ 15.75	\$ 17,325.00
42" Pedestrian Handrail	550	LF	\$ 29.25	\$ 16,087.50
Mobilization	1	EA	\$ 10,000.00	\$ 10,000.00
			\$ -	\$ -
			\$ -	\$ -
			\$ -	\$ -

TOTAL	\$ 129,812.50
--------------	----------------------

Since Kimley-Horn and Associates, Inc. has no control over the cost of labor, materials, equipment, or services furnished by others, or over methods of determining price, or over competitive bidding or market conditions, any and all opinions as to the cost herein, including but not limited to opinions as to the costs of construction materials, shall be made on the basis of experience and best available data. Kimley-Horn and Associates, Inc. cannot and does not guarantee that proposals, bids, or actual costs will not vary from the opinions on costs shown herein. The total costs and other numbers in this Opinion of Probable Cost have Not been rounded. This practice is Not intended to reflect or imply a level of certainty with respect to accuracy of the amount.

OWNER'S CERTIFICATE

STATE OF TEXAS §

COUNTY OF GRAYSON §

WHEREAS ALTERRIAN CAPITAL, LLC, SHERMAN PARK APARTMENTS, LP AND THE CITY OF SHERMAN, are the sole owners of a tract of land situated in the J.B. McAnair Survey, Abstract No. 763, Grayson County, Texas, and being all of a called 22.73 acre tract of land described in a deed to Alterrian Capital, LLC, recorded in Document No. 2022-36996, Official Records of Grayson County, Texas, all of a called 9.85 acre tract of land described in a deed to Sherman Park Apartments, LP, recorded in Document No. 2022-37006, Official records of Grayson County, Texas, all of a called 1.984 acre tract of land described in a deed to the City of Sherman, recorded in Volume 5120, Page 10 of the Deed Records of Grayson County, Texas, all of Lot 6, Block 3 of Western Hills Section Four, an addition to the City of Sherman, according the Plat thereof recorded in Volume 3, Page 50 of the Plat Records of Grayson County, Texas, and also described in a deed to the City of Sherman, recorded in Volume 2346, Page 384 of the Deed Records of Grayson County, Texas, and being a portion of a tract of land described in a deed to the City of Sherman, recorded in Volume 889, Page 150 of the Deed Records of Grayson County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8-inch iron rod with a red plastic cap set for the northwest corner of the northerly terminus of Newman Drive (a variable width right-of-way);

THENCE South 03°39'34" East, with the westerly right-of-way line of said Newman Drive and the southeast line of said 22.73 acre tract, a distance of 238.10 feet to a 5/8-inch iron rod with a red plastic cap set in the north line of a Park, per the plat of Replat of Lots 6 thru 45, Wood Haven Addition, an addition to the City of Sherman, Texas according to the plat thereof recorded in Volume 6, Page 29, Official Records of Grayson County, Texas;

THENCE along said north line, the following courses and distances:

South 59°19'08" West, a distance of 63.00 feet to a 5/8-inch iron rod with a red plastic cap set for corner;

South 15°59'08" West, a distance of 56.53 feet to a point for corner;

THENCE along the southerly and west lines of said 22.73 acre tract, the following courses and distances:

South 83°56'41" West, a distance of 12.51 feet to a point for corner;

North 07°12'18" East, a distance of 41.41 feet to a point for corner;

North 38°10'58" West, a distance of 77.62 feet to a point for corner;

North 25°46'18" West, a distance of 63.24 feet to a point for corner;

North 84°14'09" West, a distance of 154.93 feet to a point for corner;

South 47°07'04" West, a distance of 79.68 feet to a point for corner;

South 68°08'36" West, a distance of 50.46 feet to a point for corner;

North 81°34'09" West, a distance of 45.01 feet to a point for corner;

South 89°07'42" West, a distance of 53.97 feet to a point for corner;

North 68°59'16" West, a distance of 39.23 feet to a point for corner;

North 53°01'19" West, a distance of 88.60 feet to a point for corner;

North 59°56'46" West, a distance of 95.59 feet to a point for corner;

North 41°20'33" West, a distance of 88.07 feet to a point for corner;

North 77°57'10" West, a distance of 101.61 feet to a point for corner;

North 53°36'51" West, a distance of 31.82 feet to a point for corner;

North 33°46'17" West, a distance of 52.41 feet to a point for corner;

North 07°10'42" West, a distance of 67.70 feet to a point for corner;

North 31°32'37" West, a distance of 127.30 feet to a point for corner;

North 16°12'15" West, a distance of 88.46 feet to a point for corner;

North 38°44'34" East, a distance of 28.74 feet to a point for corner;

North 09°40'45" West, a distance of 36.80 feet to a point for corner;

North 50°10'34" West, a distance of 113.19 feet to a point for corner;

North 42°14'59" West, a distance of 283.65 feet to a point for corner;

North 13°35'00" West, a distance of 34.67 feet to a point for corner;

North 06°59'42" East, a distance of 32.81 feet to the northeast corner of Lot 9, Block 3 of Western Hills Section Three, an addition to the City of Sherman according to the Plat thereof recorded in Volume 2, Page 42 of the Plat Records of Grayson County, Texas;

THENCE South 78°47'08" West, along the northerly line of said Lot 9, Block 3, a distance of 34.94 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southeast corner of Lot 1, Block 3 of said Western Hills Section Four;

THENCE North 14°34'52" West, along the easterly line of said Lot 1, Block 3 and along the easterly line of Lot 2, Block 3 of said Western Hills Section Four, a distance of 176.74 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northeast corner of said Lot 2, Block 3, common to the southeast corner of Lot 3, Block 3 of said Western Hills Section Four;

THENCE North 14°07'08" East, along the easterly line of said Lot 3, Block 3, the easterly line of Lot 4 and 5, Block 3 of said Western Hills Section Four, and along the westerly line of said Lot 6, Block 3, a distance of 255.44 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northeast corner of said Lot 5, Block 3, common to the northwest corner of said Lot 6, Block 3, same being on the southerly right-of-way line of Taylor Street, a 60-foot wide right-of-way as recorded in said Western Hills Section Four;

THENCE South 83°43'52" East, along the northerly line of said Lot 6, Block 3 and along the southerly right-of-way line of said Taylor Street, a distance of 137.98 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northeast corner of said Lot 6, Block 3 and being at the south end of the easterly terminus of said Taylor Street;

THENCE South 80°20'24" East, along the occupied southerly line of Taylor Street, a public street, no record found and crossing said City of Sherman tract, a distance of 115.37 feet to 3/4 inch iron rod found for the northwest corner of said 1.9894 acre tract;

THENCE South 84°15'23" East, continuing along the occupied southerly line of said Taylor Street and along the northerly line of said 1.9894 acre tract, a distance of 371.40 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northeast corner of said 1.9894 acre tract;

THENCE South 84°17'38" East, continuing along the occupied southerly line of said Taylor Street and crossing said City of Sherman tract, a distance of 363.47 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set at the beginning of a tangent curve to the left, with a radius of 640.00 feet, a central angle of 02°47'32", and a chord bearing and distance of South 85°41'24" East, 31.19 feet;

THENCE in a southeasterly direction, continuing along the occupied southerly line of said Taylor Street and continuing across said City of Sherman tract, with said tangent curve to the left, an arc distance of 31.19 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for corner;

THENCE South 14°36'32" East, continuing along the occupied southerly line of said Taylor Street and continuing across said City of Sherman tract, a distance of 13.05 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northeast corner of said 22.73 acre tract, common to the northwest corner of said 9.85 acre tract;

THENCE continuing along the occupied southerly line of said Taylor Street and along the northerly line of said 9.85 acre tract, the following courses and distance:

North 75°31'41" East, a distance of 147.89 feet to a 5/8-inch iron rod with a red plastic cap set for corner;

North 75°25'58" East, a distance of 268.59 feet to a 1/2-inch iron rod with a plastic cap, stamped "SARTIN 3694" found for the northeast corner of said 9.85 acre tract;

THENCE departing the occupied southerly line of said Taylor street and along the easterly line of said 9.85 acre tract and the southwest line of Block 1 and Block 2, of Replat of Lots 6 thru 45, Wood Haven Addition, an addition to the City of Sherman, Texas according to the plat thereof recorded in Volume 6, Page 29, Official Records of Grayson County, Texas, the following courses and distances:

South 14°36'32" East, a distance of 847.38 feet to a 5/8-inch iron rod with a red plastic cap set for corner;

South 35°47'03" West, a distance of 13.39 feet to a Bois d'arc fence corner post found for corner;

South 14°12'57" East, a distance of 174.13 feet to 1/2-inch iron rod with a plastic cap, stamped "SARTIN 3694" found for the northeast corner of Block 3 of said Replat of Lots 6 thru 45, Wood Haven Addition and the southeast corner of said 9.85 acre tract;

THENCE South 74°09'32" West, with the north line of said Block 3, a distance of 399.76 feet to the POINT OF BEGINNING and containing 37.481 acres (1,632,684 square feet) of land, more or less.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT, ALTERRIAN CAPITAL, LLC, SHERMAN PARK APARTMENTS, LP AND THE CITY OF SHERMAN, acting herein by and through their duly authorized officers, do hereby certify and adopt this plat designating the herein above described property as SHERMAN PARK APARTMENTS, an addition to the City of Sherman, and do hereby dedicate to the public use forever, the streets and alleys shown thereon.

ALTERRIAN CAPITAL, LLC, SHERMAN PARK APARTMENTS, LP AND THE CITY OF SHERMAN, do herein certify the following:

- The streets and alleys herein are dedicated in fee simple for street and alley purposes.
- All public improvements and dedications shall be free and clear of all debt, liens, and/or encumbrances.
- The easements and public use areas, as shown and created by this plat, are dedicated for the public use forever for the purposes indicated on this plat.
- No buildings, fences, trees, shrubs or other improvements or growths shall be constructed or placed upon, over or across the easements as shown, except that landscape improvements may be place in landscape easements if approved by the City of Sherman.
- The City of Sherman is not responsible for replacing any improvements in, under, or over any easements caused by maintenance or repair.
- Utility easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same unless the easement limits the use to particular utilities, said use by public utilities being subordinate to the public's and City of Sherman's use thereof.
- The City of Sherman and public utilities shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs or other improvements or growths which may in any way endanger or interfere with the construction, maintenance, or efficiency of their respective systems in the easements.
- The City of Sherman and public utilities shall at all times have the full right of ingress and egress to or from their respective easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, reading meters, and adding to or removing all or parts of their respective systems without the necessity at any time procuring permission from anyone.
- All modifications to this document shall be by means of plat and approved by the City of Sherman.

This plat approved subject to all platting ordinances, rules, regulations and resolutions of the City of Sherman, Texas.

WITNESS, my hand, this _____ day of _____, _____.

BY: ALTERRIAN CAPITAL, LLC., a Delaware limited liability company

By: _____
(Name)

By: _____
(Title)

STATE OF TEXAS §

COUNTY OF _____ §

BEFORE ME, the undersigned, a Notary Public in and for The State of Texas, on this day personally appeared _____, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, _____.

Notary Public, State of Texas

BY: SHERMAN PARK APARTMENTS, LP, a Delaware limited partnership

By: _____
(Name)

By: _____
(Title)

STATE OF TEXAS §

COUNTY OF _____ §

BEFORE ME, the undersigned, a Notary Public in and for The State of Texas, on this day personally appeared _____, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, _____.

Notary Public, State of Texas

BY: CITY OF SHERMAN

By: _____
(NAME)

By: _____
(TITLE)

STATE OF TEXAS §

COUNTY OF _____ §

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS, ON THIS DAY PERSONALLY APPEARED _____, KNOWN TO ME TO BE THE PERSON AND OFFICER WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE _____ DAY OF _____, _____.

NOTARY PUBLIC, STATE OF TEXAS

SURVEYOR'S CERTIFICATION

KNOW ALL MEN BY THESE PRESENTS:

That I, Michael B. Marx, do hereby certify that I prepared this plat and the field notes made a part thereof from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with the Subdivision regulations of the City of Sherman, Texas.

Michael B. Marx
Registered Professional Land Surveyor No. 5181
Kimley-Horn and Associates, Inc.
6160 Warren Pkwy, Suite 210
Frisco, Texas 75034
Phone 972-335-3580

STATE OF TEXAS §

COUNTY OF COLLIN §

BEFORE ME, the undersigned, a Notary Public in and for The State of Texas, on this day personally appeared Michael B. Marx, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 20____.

Notary Public, State of Texas

FINAL PLAT
SHERMAN PARK APARTMENTS
BLOCK A, LOTS 1-3

37.481 ACRES SITUATED IN THE
J.B. MCANAIR SURVEY, ABSTRACT NO. 763,
CITY OF SHERMAN, GRAYSON COUNTY, TEXAS

Kimley»Horn

6160 Warren Parkway, Suite 210
Frisco, Texas 75034

FIRM # 10193822

Tel. No. (972) 335-3580
Fax No. (972) 335-3779

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = ##'	JCC/CDS	KHA	July 2023	063970006	3 OF 3
OWNER / APPLICANT: Alterrian Capital, LLC 1 Candlelight Trail Heath, Texas 75032		OWNER / APPLICANT: Sherman Park Apartments, LP 1 Candlelight Trail Heath, Texas 75032			
SURVEYOR / ENGINEER: Kimley-Horn and Associates, Inc. 13455 Noel Road, Two Galleria Office Tower, Suite 700 Dallas, TX 75240 Ph: (972) 770-1300 Contact: Jonathan Kerby, PE		OWNER / APPLICANT: City of Sherman 220 W Mulberry Street Sherman, TX 75099			

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.

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: _____, 2024

Grantor: CITY OF SHERMAN, TEXAS, a home-rule municipality

Grantor's Mailing Address: P.O. Box 1106
Sherman, TX 75091

Grantee: ALTERRIAN CAPITAL, LLC, a Delaware limited liability company

Grantee's Mailing Address: Attn: Justin Webb, Manager
1 Candlelite Trail
Heath, TX 75032

Consideration: TEN DOLLARS (\$10.00) cash, Grantee's agreement to comply with all obligations under that certain Development Agreement between Grantor and Grantee dated as of [REDACTED], and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged

Commented [RP1]: Please complete.

Property (including any improvements):

0.5508± acres in the J.B. McAnair Survey, Abstract No. 763, City of Sherman, Grayson County, Texas, as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein for all purposes ("Property").

This conveyance is made by the Grantor and accepted by the Grantee subject to the validly existing and enforceable rights, interests, estates, rights-of-way, easements, encumbrances and other matters presently recorded in Grayson County, Texas, and to all matters that would be revealed by a current survey of the Property (collectively, the “Permitted Exceptions”).

By acceptance of this Deed, Grantee hereby agrees and acknowledges that:

EXCEPT AS EXPRESSLY SET FORTH HEREIN, IT IS UNDERSTOOD AND AGREED THAT THE PROPERTY IS BEING SOLD AND CONVEYED HEREUNDER "AS IS" WITH ANY AND ALL FAULTS AND LATENT AND PATENT DEFECTS WITHOUT ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY BY GRANTOR. GRANTOR HAS NOT MADE AND DOES NOT HEREBY MAKE AND HEREBY SPECIFICALLY DISCLAIMS (EXCEPT AS EXPRESSLY SET FORTH HEREIN) ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR CHARACTER

WHATSOEVER, EXPRESS OR IMPLIED, ARISING BY OPERATION OF LAW OR OTHERWISE, WITH RESPECT TO THE PROPERTY (OTHER THAN GRANTOR'S SPECIAL WARRANTY OF TITLE CONTAINED HEREIN), INCLUDING, WITHOUT LIMITATION ANY REPRESENTATION OR WARRANTY RELATING TO: (I) THE USE, INCOME POTENTIAL, EXPENSES, MAINTENANCE, OPERATION, CHARACTERISTICS, ZONING OR CONDITION OF THE PROPERTY OR ANY PORTION THEREOF, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF SUITABILITY, TENANTABILITY, HABITABILITY, MERCHANTABILITY, DESIGN OR FITNESS FOR ANY SPECIFIC PURPOSE OR A PARTICULAR PURPOSE; (II) THE NATURE, MANNER OR CONDITION OF THE PROPERTY, ON THE SURFACE OR SUBSURFACE THEREOF, WHETHER OR NOT OBVIOUS, VISIBLE OR APPARENT; (III) THE ENVIRONMENTAL CONDITION OF THE PROPERTY AND THE PRESENCE OR ABSENCE OF OR CONTAMINATION BY HAZARDOUS MATERIALS OR THE COMPLIANCE OF THE PROPERTY WITH ANY APPLICABLE REGULATIONS OR LAWS INCLUDING WITHOUT LIMITATION THOSE REGULATIONS OR LAWS PERTAINING TO HEALTH, SAFETY OR THE ENVIRONMENT AND (IV) THE SOIL CONDITIONS, DRAINAGE, GROUNDWATER CONDITION, FLOODING CHARACTERISTICS, UTILITIES OR OTHER CONDITIONS EXISTING IN, ON OR UNDER THE PROPERTY.

GRANTEE ACKNOWLEDGES AND AGREES THAT IT IS ACCEPTING THIS DEED WITHOUT RELYING (EXCEPT AS EXPRESSLY SET FORTH HEREIN) UPON ANY SUCH REPRESENTATION, WARRANTY, STATEMENT OR OTHER ASSERTION, ORAL OR WRITTEN, MADE BY GRANTOR OR ANY REPRESENTATIVE OF GRANTOR OR ANY OTHER PERSON ACTING OR PURPORTING TO ACT FOR OR ON BEHALF OF GRANTOR WITH RESPECT TO THE PROPERTY. GRANTEE ACKNOWLEDGES AND AGREES THAT GRANTEE IS EXPERIENCED IN THE OWNERSHIP AND OPERATION OF PROPERTIES SIMILAR TO THE PROPERTY AND THAT GRANTEE PRIOR TO THE CLOSING DATE WILL HAVE INSPECTED THE PROPERTY TO GRANTEE'S SATISFACTION AND GRANTEE IS QUALIFIED TO MAKE SUCH INSPECTION. GRANTEE ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY SET FORTH HEREIN, IT IS SOLELY RELYING ON GRANTEE'S (OR GRANTEE'S REPRESENTATIVES') INSPECTION, EXAMINATION AND EVALUATION OF THE PROPERTY. GRANTEE ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY SET FORTH HEREIN, GRANTEE HAS (OR GRANTEE'S REPRESENTATIVES HAVE), OR PRIOR TO THE CLOSING DATE WILL HAVE, THOROUGHLY INSPECTED AND EXAMINED THE PROPERTY TO THE EXTENT DEEMED NECESSARY BY GRANTEE IN ORDER TO ENABLE GRANTEE TO EVALUATE THE CONDITION OF THE PROPERTY AND ALL OTHER ASPECTS OF THE PROPERTY (INCLUDING, BUT NOT LIMITED TO, THE ENVIRONMENTAL CONDITION OF THE PROPERTY), AND GRANTEE ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY SET FORTH HEREIN, GRANTEE IS RELYING SOLELY UPON ITS OWN (OR ITS REPRESENTATIVES') INSPECTION, EXAMINATION AND EVALUATION OF THE PROPERTY. EXCEPT AS EXPRESSLY SET FORTH HEREIN, GRANTEE REPRESENTS THAT IT SHALL INSPECT THE PROPERTY AND SHALL RELY SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY TO DETERMINE THE CONDITION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY GRANTOR. GRANTEE FURTHER ACKNOWLEDGES AND AGREES THAT THE

PROVISIONS OF THIS PARAGRAPH WERE A MATERIAL FACTOR IN GRANTOR'S DETERMINATION OF THE CONSIDERATION FOR THE TRANSFER OF THE PROPERTY TO GRANTEE.

GRANTEE, ON BEHALF OF GRANTEE AND GRANTEE'S SUCCESSORS AND ASSIGNS (COLLECTIVELY, "GRANTEE PARTIES") AND ANYONE CLAIMING BY, THROUGH OR UNDER GRANTEE HEREBY FULLY, UNCONDITIONALLY AND IRREVOCABLY RELEASES GRANTOR AND GRANTOR'S EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES, AGENTS, SERVANTS, ATTORNEYS, SUCCESSORS AND ASSIGNS, AND ALL PERSONS, FIRMS, CORPORATIONS AND ORGANIZATIONS ACTING ON THE BEHALF OF EACH OF THE FOREGOING (COLLECTIVELY, THE "GRANTOR PARTIES") FROM ANY AND ALL CLAIMS, COUNTERCLAIMS, COSTS, LOSSES, LIABILITIES, OBLIGATIONS, LEGAL OR ADMINISTRATIVE ORDERS OR PROCEEDINGS, DAMAGES, PUNITIVE DAMAGES, EXPENSES, PENALTIES, FINES, DEMANDS, ACTIONS OR CAUSES OF ACTION AND JUDGMENTS (COLLECTIVELY, "CLAIMS") THAT GRANTEE, ANY GRANTEE PARTY OR ANYONE CLAIMING BY, THROUGH OR UNDER GRANTEE MAY NOW HAVE OR HEREAFTER ACQUIRE AGAINST ANY GRANTOR PARTY (INCLUDING AS A RESULT OF A GRANTOR PARTIES' NEGLIGENCE OR STRICT LIABILITY) ARISING FROM OR RELATED TO ANY CONSTRUCTION DEFECTS, ERRORS, OMISSIONS OR OTHER CONDITIONS, WHETHER ENVIRONMENTAL, GEOTECHNICAL, SEISMIC OR OTHERWISE, AFFECTING THE PROPERTY OR ANY PORTION THEREOF.

THE PROVISIONS OF THE ABOVE PARAGRAPHS WERE BARGAINED FOR BY THE PARTIES AND IF GRANTEE REQUIRED GRANTOR EITHER (A) TO MAKE ANY REPRESENTATIONS OR WARRANTIES ABOUT THE CONDITION OF THE PROPERTY OTHER THAN THOSE EXPRESSLY SET FORTH HEREIN OR (B) TO MAKE REPAIRS, ALTERATIONS OR IMPROVEMENTS WITH RESPECT TO SAID CONDITION, THE CONSIDERATION AND OTHER TERMS OF THE TRANSACTION WOULD HAVE BEEN MATERIALLY DIFFERENT.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereof in anywise belonging unto Grantee, its successors and assigns forever, and Grantor does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND, all and singular such premises unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through, or under the Grantor, but not otherwise, subject, however, to the Permitted Exceptions.

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.

IN WITNESS WHEREOF, Grantor has executed this Special Warranty Deed to be effective as of the _____ day of _____, 2024.

GRANTOR:

CITY OF SHERMAN, TEXAS,
a home-rule municipality

By: _____
Name: _____
Its: _____

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 _____, 2024.

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: _____
Ryan D. Pittman, City Attorney

AGREED AND ACCEPTED BY GRANTEE:

ALTERRIAN CAPITAL, LLC,
a Delaware limited liability company

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 duly authorized representative of ALTERRIAN CAPITAL, LLC, a Delaware limited liability company, 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: _____

After Recording Return to:
Abernathy, Roeder, Boyd & Hullett, P.C.
1700 Redbud Boulevard, Suite 300
McKinney, Texas 75069
Attention: Ryan D. Pittman

EXHIBIT A
Legal Description of the Property

BEING a tract of land situated in the J. B. McAnair Survey, Abstract No. 763, Grayson County, Texas, and being part of a tract of land described in a Deed to City of Sherman, recorded in Volume 889, Page 150, Deed Records of Grayson County, Texas, and being more particularly described as follows:

BEGINNING at a PK nail set for a corner on the southerly line of said City of Sherman tract and being the northeast corner of a called 22.73-acre tract of land described in the Special Warranty Deed to Alterian Capital, LLC, recorded in Document No. 2022-36996, Official Records of Grayson County, Texas, and the northwest corner of a called 9.85-acre tract of land described in a Deed to Sherman Park Apartments, LP, recorded in Document No. 2022-37006, Official Records of Grayson County, Texas

THENCE South 75°31'41" West, along the southerly line of said City of Sherman tract and the northerly line of said 22.73-acre tract, a distance of 39.66 feet to a 5/8-inch iron rod with a red plastic cap, stamped "KHA" set for corner;

THENCE South 75°32'29" West, continuing along the southerly line of said City of Sherman tract and the northerly line of said 22.73-acre tract, a distance of 298.54 feet to a 5/8-inch iron rod with a red plastic cap, stamped "KHA" set for corner;

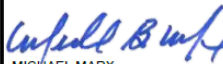
THENCE South 76°30'48" West, continuing along the southerly line of said City of Sherman tract and the northerly line of said 22.73-acre tract, a distance of 7.15 feet to a 5/8-inch iron rod with a red plastic cap, stamped "KHA" set for corner on the easterly line of a 100' wide easement to Texas Power & Light Co., recorded in Volume 247, Page 288, Deed Records of Grayson County, Texas, from which, a 1/2-inch iron rod found for the southeast corner of a called 1.9894-acre tract of land described in the Deed to City of Sherman, recorded in Volume 5120, Page 10, Deed Records of Grayson County, Texas, bears South 76°30'48" West, 60.42 feet;

THENCE North 00°53'55" West, departing the southerly line of said City of Sherman tract and the northerly line of said 22.73-acre tract, crossing said City of Sherman tract and along the east line of said 100' wide easement, a distance of 131.29 feet to a 5/8-inch iron rod with a red plastic cap, stamped "KHA" set for corner, from which, a 1/2-inch iron rod found for the northeast corner of said 1.9894-acre tract, bears North 84°17'38" West, 59.87 feet;

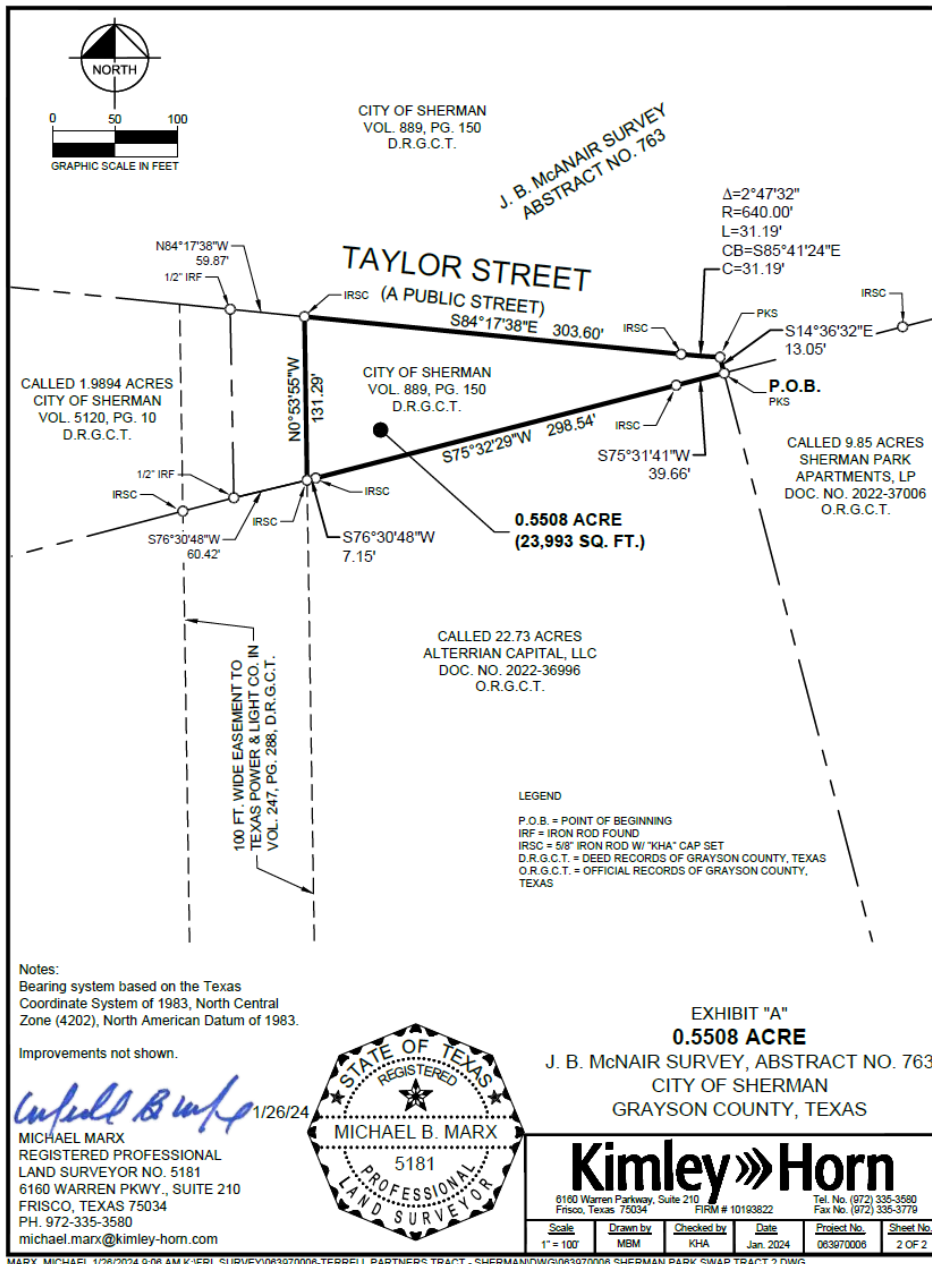
THENCE South 84°17'38" East, departing the east line of said 100' wide easement and continuing across said City of Sherman tract, a distance of 303.60 feet to a 5/8-inch iron rod with a red plastic cap, stamped "KHA" set for the beginning of a tangent curve to the left with a radius of 640.00 feet, a central angle of 02°47'32", and a chord bearing and distance of South 85°41'24" East, 31.19 feet;

THENCE in an easterly direction, continuing across said City of Sherman tract, with said tangent curve to the left, an arc distance of 31.19 feet to a PK nail set for corner;

THENCE South 14°36'32" East, continuing across said City of Sherman tract, a distance of 13.05 feet to the **POINT OF BEGINNING** and containing 0.5508 of an acre (23,993 square feet) of land, more or less.

 MICHAEL MARX REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5181 6160 WARREN PKWY., SUITE 210 FRISCO, TEXAS 75034 PH. 972-335-3580 michael.marx@kimley-horn.com		EXHIBIT "A" 0.5508 ACRE J. B. MCNAIR SURVEY, ABSTRACT NO. 763 CITY OF SHERMAN GRAYSON COUNTY, TEXAS  6160 Warren Parkway, Suite 210 Frisco, Texas 75034 FIRM # 10193622 Tel. No. (972) 335-3580 Fax No. (972) 335-3779 <table border="1" style="width: 100%; border-collapse: collapse;"><tr><td>Scale</td><td>Drawn by</td><td>Checked by</td><td>Date</td><td>Project No.</td><td>Sheet No.</td></tr><tr><td>N/A</td><td>MBM</td><td>KHA</td><td>Jan. 2024</td><td>063670006</td><td>1 OF 2</td></tr></table>	Scale	Drawn by	Checked by	Date	Project No.	Sheet No.	N/A	MBM	KHA	Jan. 2024	063670006	1 OF 2
Scale	Drawn by	Checked by	Date	Project No.	Sheet No.									
N/A	MBM	KHA	Jan. 2024	063670006	1 OF 2									

MARX, MICHAEL 1/26/2024 9:08 AM K:\FRI_SURVEY\063670006-TERRELL PARTNERS TRACT - SHERMAN\DWG\063670006 SHERMAN PARK SWAP TRACT 2.DWG





City Council Regular Meeting

Agenda Item No. H.2.

Meeting Date: 2/5/2024

Prepared By: Rob Rae, Developmental Services Director

Approved By:

Caption:

RESOLUTION NO. 7248

Authorizing Execution of a Development Agreement Between the City of Sherman and Alterrian Capital, LLC for Certain Trail Improvements, Conveyance of a 1.9-acre Tract of Land from Alterrian Capital, LLC to the City of Sherman and Other Matters Involving Property Generally Located at 1400 West Taylor Street

Issue:

To consider and approve a development agreement with Alterrian Capital, LLC for the construction of certain trail improvements, conveyance of a 1.9-acre tract of land from Alterrian Capital, LLC to the City of Sherman and other matters involving property generally located at 1400 West Taylor Street

Background:

At a regularly scheduled meeting on February 20, 2023, City Council authorized staff to advertise for public bids for the sale of approximately 0.9 acres of land located at 1400 West Taylor Street.

A public request for competitive, sealed bids resulted in one (1) submittal which was opened on March 9, 2023 for \$200,000.00 from Alterrian Capital, LLC of Rockwall, Texas. A separate agenda item seeks authorization to execute a Special Warranty Deed to convey the property to Alterrian Capital, LLC. In addition, and as partial consideration for such conveyance, Staff is recommending to enter into a development agreement with Alterrian Capital, LLC to construct infrastructure improvements on 1.9 acres of land that Alterrian Capital, LLC will convey to the City of Sherman and on Block A, Lot 1 of the Sherman Park Apartments Plat within a 20-foot Public Trail Easement. The infrastructure improvements that Alterrian Capital, LLC has agreed upon in this development agreement are the following:

- Construct 1,800 linear feet of a 10-foot wide concrete trail.
- City would reimburse the developer to expand the trail from 8-feet to 10-feet wide at a value of \$25,931.25
- Estimated cost of the trail would be put in an escrow account with the City to be eligible for use by the City if Phase 2 of the Sherman Park Apartments is not developed within five years from the Effective Date.
- 20 foot public trail easement will be established between Taylor Street and McGee Street through the Sherman Park Apartments development.

The recommended bidder has gone through the plat approval process for the Sherman Park Apartments and has identified Block A Lot 3 as the property that would remain or be deeded to the City of Sherman.

Oncor has executed and filed an encroachment easement for the proposed trail to be included within their utility easement.

Origination:

Development Services

Financial Consideration:

The approval of this development agreement will result in approximately \$155,000 in infrastructure improvements to be completed by Alterrian Capital, LLC and a conveyance of 1.9 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. 7248
2. Development Agreement - Sherman Park Apartments Trail Improvements(4295923.4)
3. Oncor Encroachment on Easement - Fully Executed
4. Site Plan Trail Exhibit

RESOLUTION NO. 7248

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SHERMAN AND ALTERRAIN CAPITAL, LLC FOR CERTAIN TRAIL IMPROVEMENTS CONVEYANCE OF A 1.9-ACRE TRACT OF LAND FROM ALTERRIAN CAPITAL, LLC TO THE CITY OF SHERMAN AND OTHER MATTERS INVOLVING PROPERTY GENERALLY LOCATED AT 1400 WEST TAYLOR 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 Alterrain Capital, LLC for the construction of the Sherman Park Apartments Trail Improvements in an approximate 31.21 acre tract of land in the J.B. McAnair Survey, Abstract No. 763 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 5th day of February 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 ALTERRIAN CAPITAL, LLC
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 ALTERRIAN CAPITAL, LLC, a Delaware limited liability company ("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 22.73± acres in the J.B. McAnair Survey, Abstract No. 763, as shown as Block A, Lot 1 of the Sherman Park Apartments Final Plat, as more particularly described in Exhibit A, attached hereto and incorporated herein for all purposes ("Property"); and

WHEREAS, Developer agrees to design and construct, at its sole cost and expense, the Trail 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 Trail Improvements as required by this Agreement; and

WHEREAS, Developer desires to convey to Sherman, at no cost to Sherman, the 1.896± 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 Sherman-owned real property, consisting of 0.5508± acres in the J.B. McAnair Survey, Abstract No. 763, City of Sherman, Grayson County, Texas, generally located at 1400 West Taylor Street, to Developer; 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. Developer represents and warrants that Developer is the sole owner of the Property.
3. Design and Construction of the Trail Improvements.
 - (a) Developer, at its sole cost and expense, shall cause the design of those certain hike-and-bike trail improvements generally depicted in Exhibit B, including 1,800± linear feet of 10-foot-wide, concrete hike-and-bike trail, retaining walls, handrails and all necessary appurtenances thereto on the 1.896± Acre Tract and portion of the Property (collectively, the “Trail Improvements”). Developer shall ensure that the design of the Trail 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 Trail Improvements are equal to One Hundred Fifty-Five Thousand Seven Hundred Forty-Three and 75/100 Dollars (\$155,743.75) (“Estimated Trail Improvements Costs”), as more particularly described in the estimated cost analysis set forth in Exhibit C, attached hereto and incorporated herein for all purposes.
 - (b) As a condition of Sherman’s issuance of any certificates of occupancy for any buildings on the Property, Developer shall submit to Sherman the designs, plans and specifications for each of the Trail 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”). The general depiction of the Trail Improvements attached as Exhibit B is for general informational purposes only, and the Approved Plans (hereinafter defined) are not required to be strictly bound by the same. 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 Trail 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 D. 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 Trail Improvements.
 - (d) The Trail 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 6, Developer must complete the Trail 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 certificate of occupancy for any buildings

on the Property. The parties agree that time is of the essence of this Agreement. Upon Sherman's Final Acceptance of the Trail Improvements, they shall become the sole property of Sherman. All construction or work in connection with the Trail 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 the Reimbursement (hereinafter defined), Developer shall tender to Sherman evidence, in a form acceptable to Sherman, that all of the design and construction costs of the Trail 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 Trail Improvements ("Actual Trail Improvements Costs").

4. Conveyance of 1.896± Acre Tract.

- (a) As additional conditions to Developer receiving Sherman's Final Acceptance of the Trail Improvements, 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 F, in and to that certain tract of land consisting of 1.896± acres, more particularly described in Exhibit E, attached hereto and incorporated herein for all purposes (the "1.896± Acre Tract"). Developer shall convey the 1.896± Acre Tract to Sherman in accordance with this Agreement and on the earlier of: (1) the date required by Sherman in a written notice to Developer; or (2) before, and as a condition of, Sherman's Final Acceptance of the Trail Improvements. Prior to conveyance of the 1.896± Acre Tract, Developer shall provide to Sherman a Phase I Environmental Assessment study on the 1.896± Acre Tract. Sherman shall have no obligation to accept the conveyance of the 1.896± Acre Tract unless and until the Phase I Environmental Assessment study is complete, indicates no recommendations for cleanup and the certification of the assessment is provided to Sherman.
- (b) As additional conditions of Sherman's acceptance of the 1.896± Acre Tract: (1) the 1.896± 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 1.896± Acre Tract, as directed by Sherman, so that the 1.896± 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 1.896± 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 1.896± 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 1.896± 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 1.896± Acre Tract to Sherman. The parties agree that the issuance of an owner's title policy for the 1.896± 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 1.896± Acre Tract is Ten Thousand and 00/100 Dollars (\$10,000.00).

5. Reimbursement. Provided that Developer fulfills all of its obligations under this Agreement, including but not limited to, (a) Developer obtaining Sherman's Final Acceptance of the Trail Improvements, (b) Developer conveying the 1.896± Acre Tract to Sherman, and (c) Developer obtaining from the Sherman City Engineer or his designee written approval of the Actual Trail Improvements Costs, as evidenced by the subject construction contracts and the Evidence of Payments, Sherman shall participate in a portion of the Actual Trail Improvements Costs attributable to the agreed upon, estimated costs for adding two feet to the width of the Trail Improvements by paying to Developer (the "Reimbursement") an amount equal to Twenty-Five Thousand Nine Hundred Thirty-One and 25/100 Dollars (\$25,931.25). The Reimbursement shall be due within thirty (30) days of the later of Sherman's issuance of Final Acceptance of the final portion of the Trail Improvements or Sherman's receipt of Developer's written request for such payment. Notwithstanding any statement to the contrary in this Agreement, Sherman agrees to provide, and Developer agrees to accept, the Reimbursement as Sherman's sole financial participation in the costs incurred by Developer in connection with its obligations under this Agreement.
6. Escrow. As additional security for Developer's performance of its obligations with respect to the Trail Improvements under this Agreement, Developer shall pay to Sherman the sum of One Hundred Twenty-Nine Thousand Eight Hundred Twelve and 50/100 Dollars (\$129,812.50) ("Escrow Funds") within five (5) days of the Effective Date (hereinafter defined) of this Agreement. Sherman shall hold the Escrow Funds in escrow. In the event Developer fails to complete the Trail Improvements or obtain Sherman's Final Acceptance of the Trail Improvements by the earlier of five (5) years from the Effective Date of the Agreement or Sherman's termination of this Agreement under Section 7(a)(ii), Sherman is entitled to use the Escrow Funds to design, construct and complete the Trail Improvements if, as and when deemed appropriate by Sherman in its sole discretion. If Sherman so elects to use the Escrow Funds for such purposes, Sherman shall send written notice to Developer, and Developer shall immediately cease all further work in connection with the Trail Improvements. Developer agrees that Sherman shall be entitled to use the Plans and Approved Plans to complete construction of the Trail Improvements, and Developer shall cooperate with Sherman as necessary regarding the design of the Trail Improvements. If Developer completes the Trail Improvements and obtains Sherman's Final Acceptance of the Trail Improvements in full compliance with this Agreement, Sherman shall return the Escrow Funds to Developer with all interest thereon within thirty (30) days of the date Sherman issues its Final Acceptance of the Trail Improvements.

7. 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 associated with the development of the Property;
 - (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;
 - (iv) to refuse to issue a Certificate of Occupancy for any building on the Property;
 - (v) to withhold the payment of all or a portion of the Reimbursement pursuant to Section 5 of this Agreement and/or to nullify Section 5 of this Agreement;
 - (vi) to withhold all or a portion of the Escrow Funds pursuant to Section 6 of this Agreement; and/or
 - (vii) 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.

8. 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, except as expressly provided in Section 5 of this Agreement. 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 or the Trail 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.

9. Covenant Running with the Land. This Agreement shall be a covenant running with the land and Property 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. 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 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.

10. 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.
11. 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:

Alterrian Capital, LLC
Attn: Justin Webb, Manager
1 Candlelite Trail
Heath, TX 75032

12. 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, GRANTEEES, 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.

13. 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, GRANTEEES 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.
14. Vested Rights/Chapter 245 Waiver. This Agreement shall confer no vested rights on the Property, or any portion thereof. Developer acknowledges and agrees that this Agreement does not confer vested rights on the Property 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.
15. 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.
16. 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.

17. 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.
18. 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.
19. Consideration. This Agreement is executed by the parties without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.
20. 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.
21. 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).
22. 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.
23. 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.
24. 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.

25. 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

26. Indemnification. The Parties agree that the Indemnity provisions set forth in this Agreement are conspicuous, and the parties have read and understood the same.

27. 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.

28. 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.

29. 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.
30. 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.
31. 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 pages follow.]

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: _____

ALTERRIAN CAPITAL, LLC,
a Delaware limited liability company

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 ALTERRIAN CAPITAL, LLC, a Delaware limited liability company, 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
Legal Description of the Property

Being all of that certain tract of land described in the Special Warranty Deed dated November 15, 2022, between Terrell 176 Partners, LLC as grantor and Alterrian Capital, LLC as grantee, recorded on November 15, 2022, under Instrument No. 2022-36996, in the Real Property Records of Grayson County, Texas, more particularly described as follows:

BEING A TRACT OF LAND SITUATED IN THE J.B. MCANAIR SURVEY, ABSTRACT NO. 763, GRAYSON COUNTY, TEXAS, AND BEING PART OF A CALLED 32.580 ACRE TRACT OF LAND DESCRIBED IN THE SPECIAL WARRANTY DEED TO TERRELL 176 PARTNERS, LLC, RECORDED IN DOCUMENT NO. 2021-38430, OFFICIAL RECORDS OF GRAYSON COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8-INCH IRON ROD WITH A RED PLASTIC CAP SET FOR THE NORTHWEST CORNER OF THE NORTHERLY TERMINUS OF NEWMAN DRIVE (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE SOUTH 03°39'34" EAST, WITH THE WEST RIGHT-OF-WAY LINE OF SAID NEWMAN DRIVE AND THE SOUTHEAST LINE OF SAID 32.580 ACRE TRACT, A DISTANCE OF 238.10 FEET TO A 5/8-INCH IRON ROD WITH A RED PLASTIC CAP SET IN THE NORTH LINE OF A PARK, PER THE PLAT OF REPLAT OF LOTS 6 THRU 45, WOOD HAVEN ADDITION, AN ADDITION TO THE CITY OF SHERMAN, TEXAS ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 6, PAGE 29, OFFICIAL RECORDS OF GRAYSON COUNTY, TEXAS;

THENCE WITH SAID NORTH LINE, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 59°19'08" WEST, A DISTANCE OF 63.00 FEET TO A 5/8-INCH IRON ROD WITH A RED PLASTIC CAP SET FOR CORNER;

SOUTH 15°59'08" WEST, A DISTANCE OF 56.53 FEET TO A POINT FOR CORNER;

THENCE WITH THE SOUTH AND WEST LINES OF SAID 32.580 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 83°56'41" WEST, A DISTANCE OF 12.51 FEET TO A POINT FOR CORNER;

NORTH 07°12'18" EAST, A DISTANCE OF 41.41 FEET TO A POINT FOR CORNER;

NORTH 38°10'58" WEST, A DISTANCE OF 77.62 FEET TO A POINT FOR CORNER;

NORTH 25°46'18" WEST, A DISTANCE OF 63.24 FEET TO A POINT FOR CORNER;

NORTH 84°14'09" WEST, A DISTANCE OF 154.93 FEET TO A POINT FOR CORNER;

SOUTH 47°07'04" WEST, A DISTANCE OF 79.68 FEET TO A POINT FOR CORNER;

SOUTH 68°08'36" WEST, A DISTANCE OF 50.46 FEET TO A POINT FOR CORNER;

NORTH 81°34'09" WEST, A DISTANCE OF 45.01 FEET TO A POINT FOR CORNER;

SOUTH 89°07'42" WEST, A DISTANCE OF 53.97 FEET TO A POINT FOR CORNER;

NORTH 68°59'16" WEST, A DISTANCE OF 39.23 FEET TO A POINT FOR CORNER;

NORTH 53°01'19" WEST, A DISTANCE OF 88.60 FEET TO A POINT FOR CORNER;

NORTH 59°56'46" WEST, A DISTANCE OF 95.59 FEET TO A POINT FOR CORNER;

NORTH 41°20'33" WEST, A DISTANCE OF 88.07 FEET TO A POINT FOR CORNER;

NORTH 77°57'10" WEST, A DISTANCE OF 101.61 FEET TO A POINT FOR CORNER;
 NORTH 53°36'51" WEST, A DISTANCE OF 31.82 FEET TO A POINT FOR CORNER;
 NORTH 33°46'17" WEST, A DISTANCE OF 52.41 FEET TO A POINT FOR CORNER;
 NORTH 07°10'42" WEST, A DISTANCE OF 67.70 FEET TO A POINT FOR CORNER;
 NORTH 31°32'37" WEST, A DISTANCE OF 127.30 FEET TO A POINT FOR CORNER;
 NORTH 16°12'04" WEST, A DISTANCE OF 88.63 FEET TO A POINT FOR CORNER;
 NORTH 39°00'28" EAST, A DISTANCE OF 28.65 FEET TO A POINT FOR CORNER;
 NORTH 09°40'45" WEST, A DISTANCE OF 36.80 FEET TO A POINT FOR CORNER;
 NORTH 50°10'34" WEST, A DISTANCE OF 113.19 FEET TO A POINT FOR CORNER;
 NORTH 42°14'59" WEST, A DISTANCE OF 283.65 FEET TO A POINT FOR CORNER;
 NORTH 13°35'00" WEST, A DISTANCE OF 34.67 FEET TO A POINT FOR CORNER;
 NORTH 06°59'42" EAST, A DISTANCE OF 64.13 FEET TO THE NORTHWEST CORNER
 OF SAID 32.580 ACRE TRACT;
 THENCE NORTH 75°23'24" EAST, WITH THE NORTH LINE OF SAID 32.580 ACRE
 TRACT, A DISTANCE OF 235.13 FEET TO A 5/8-INCH IRON ROD WITH A RED PLASTIC
 CAP SET FOR THE SOUTHWEST CORNER OF A CALLED 1.9894 ACRE TRACT OF LAND
 DESCRIBED IN THE DEED TO CITY OF SHERMAN, RECORDED IN VOLUME 5120,
 PAGE 10, DEED RECORDS OF GRAYSON COUNTY, TEXAS;
 THENCE NORTH 75°16'45" EAST, WITH THE SOUTH LINE OF SAID 1.9894 ACRE
 TRACT, A DISTANCE OF 388.26 FEET TO A 1/2-INCH IRON ROD FOUND FOR THE
 SOUTHEAST CORNER OF SAID 1.9894 ACRE TRACT;
 THENCE WITH THE NORTH LINE OF SAID 32.580 ACRE TRACT, THE FOLLOWING
 COURSES AND DISTANCES:
 NORTH 76°30'48" EAST, A DISTANCE OF 67.56 FEET TO A 5/8-INCH IRON ROD WITH A
 RED PLASTIC CAP SET FOR CORNER;
 NORTH 75°32'29" EAST, A DISTANCE OF 298.54 FEET TO A 5/8-INCH IRON ROD WITH
 A RED PLASTIC CAP SET FOR CORNER;
 NORTH 75°31'41" EAST, A DISTANCE OF 39.66 FEET TO A 5/8-INCH IRON ROD WITH A
 RED PLASTIC CAP SET FOR CORNER;
 THENCE OVER AND ACROSS SAID 32.580 ACRE TRACT, THE FOLLOWING COURSES
 AND DISTANCES:
 SOUTH 14°36'32" EAST, A DISTANCE OF 1,038.16 FEET TO A 5/8-INCH IRON ROD WITH
 A RED PLASTIC CAP SET FOR CORNER;
 NORTH 86°20'26" EAST, A DISTANCE OF 5.40 FEET TO THE POINT OF BEGINNING AND
 CONTAINING 22.73 ACRES OF LAND.

[illegible]

Exhibit C
Estimated Cost Analysis

KIMLEY-HORN and ASSOCIATES, Inc.

2600 North Central Expressway, Suite 400
Richardson, Texas 75080
TEL: (214) 617-0535 FAX: (972) 770-3820

ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COSTS
for
CITY OF SHERMAN
SHERMAN PARK APARTMENTS HIKE & BIKE TRAIL

PROJECT: Sherman Park Apartments DATE: 06/22/23
CLIENT: DBA Architects JOB NUMBER: 063970006
PREPARED BY: Kimley-Horn and Associates, Inc.

DESCRIPTION	QUANTITY	UNIT	COST / UNIT	TOTAL COST
<i>Hike & Bike Trail Improvements</i>				
10' Wide 4" Concrete Hike & Bike Trail (1,800')	2,000	SY	\$ 54.00	\$ 108,000.00
2.5' Height Concrete Retaining Wall (550')	1,375	SF	\$ 15.75	\$ 21,656.25
42" Pedestrian Handrail	550	LF	\$ 29.25	\$ 16,087.50
Mobilization	1	EA	\$ 10,000.00	\$ 10,000.00
			\$ -	\$ -
			\$ -	\$ -
			\$ -	\$ -

TOTAL	\$ 155,743.75
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Since Kimley-Horn and Associates, Inc. has no control over the cost of labor, materials, equipment, or services furnished by others, or over methods of determining price, or over competitive bidding or market conditions, any and all opinions as to the cost herein, including but not limited to opinions as to the costs of construction materials, shall be made on the basis of experience and best available data. Kimley-Horn and Associates, Inc. cannot and does not guarantee that proposals, bids, or actual costs will not vary from the opinions on costs shown herein. The total costs and other numbers in this Opinion of Probable Cost have Not been rounded. This practice is Not intended to reflect or imply a level of certainty with respect to accuracy of the amount.

Exhibit D
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 E
Legal Description of the 1.896± Acre Tract

BEING a tract of land situated in the J. B. McAnair Survey, Abstract No. 763, Grayson County, Texas, and being part of a called 22.73-acre tract of land described in the Special Warranty Deed to Alterrian Capital, LLC, recorded in Document No. 2022-36996, Official Records of Grayson County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod found on the northerly line of said 22.73-acre tract for the southeast corner of a called 1.9894-acre tract of land described in the Deed to City of Sherman, recorded in Volume 5120, Page 10, Deed Records of Grayson County, Texas and a southwest corner of a tract of land described in a Deed to City of Sherman, recorded in Volume 889, Page 150, Deed Records of Grayson County, Texas;

THENCE North 76°30'48" East, along the northerly line of said 22.73-acre tract and the southerly line of said City of Sherman tract as recorded in Volume 889, Page 150, a distance of 60.42 feet to a 5/8-inch iron rod with a red plastic cap, stamped "KHA" set for corner on the easterly line of a 100' wide easement to Texas Power & Light Co., recorded in Volume 247, Page 288, Deed Records of Grayson County, Texas;

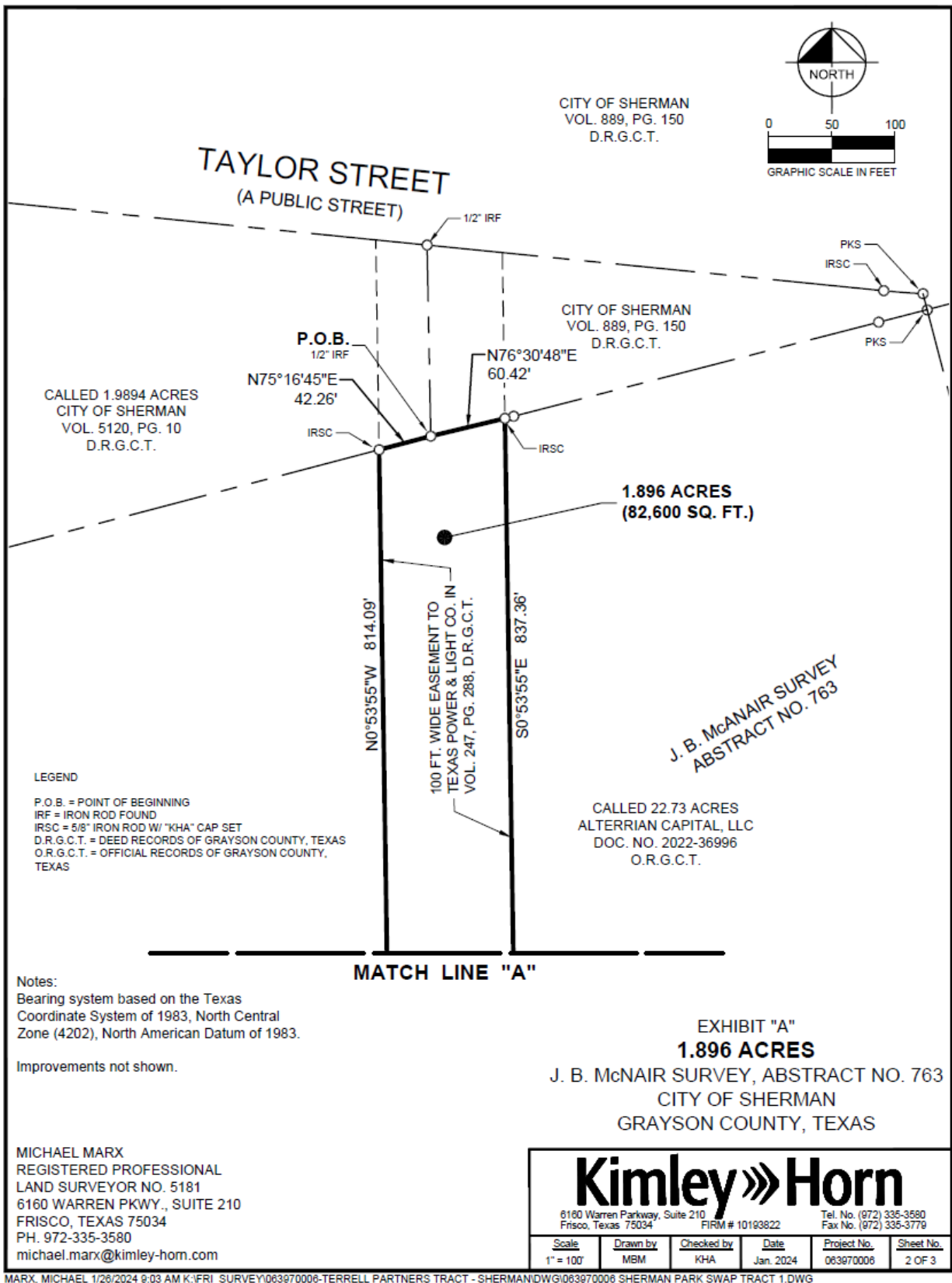
THENCE South 00°53'55" East, departing the northerly line of said 22.73-acre tract, crossing said 22.73-acre tract and along the east line of said 100' wide easement, a distance of 837.36 feet to a 5/8-inch iron rod with a red plastic cap, stamped "KHA" set for corner;

THENCE South 89°06'05" West, departing the east line of said 100' wide easement, continuing across said 22.73-acre tract, a distance of 100.00 feet to a 5/8-inch iron rod with a red plastic cap, stamped "KHA" set for corner on the west line of said 100' wide easement;

THENCE North 00°53'55" West, , continuing across said 22.73-acre tract and along the west line of said 100' wide easement, a distance of 814.09 feet to a 5/8-inch iron rod with a red plastic cap, stamped "KHA" set for corner on the northerly line of said 22.73-acre tract and the southerly line of aforesaid 1.9894-acre tract;

THENCE North 75°16'45" East, along the northerly line of said 22.73-acre tract and the southerly line of said 1.9894-acre tract, a distance of 42.26 feet to the **POINT OF BEGINNING** and containing 1.896 acres (82,600 square feet) of land, more or less.

 1/26/24 MICHAEL MARX REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5181 6160 WARREN PKWY., SUITE 210 FRISCO, TEXAS 75034 PH. 972-335-3580 michael.marx@kimley-horn.com			EXHIBIT "A" 1.896 ACRES J. B. MCNAIR SURVEY, ABSTRACT NO. 763 CITY OF SHERMAN GRAYSON COUNTY, TEXAS						
			 6160 Warren Parkway, Suite 210 Frisco, Texas 75034 FIRM # 10193822 Tel. No. (972) 335-3580 Fax No. (972) 335-3779						
MARX, MICHAEL 1/26/2024 9:03 AM K:\FRI_SURVEY\083970006-TERRELL PARTNERS TRACT - SHERMAN\DWG\083970006 SHERMAN PARK SWAP TRACT 1.DWG		<table border="1" style="width: 100%; border-collapse: collapse;"><tr><td style="width: 15%;">Scale N/A</td><td style="width: 15%;">Drawn by MBM</td><td style="width: 15%;">Checked by KHA</td><td style="width: 15%;">Date Jan. 2024</td><td style="width: 15%;">Project No. 063970006</td><td style="width: 15%;">Sheet No. 1 OF 3</td></tr></table>		Scale N/A	Drawn by MBM	Checked by KHA	Date Jan. 2024	Project No. 063970006	Sheet No. 1 OF 3
Scale N/A	Drawn by MBM	Checked by KHA	Date Jan. 2024	Project No. 063970006	Sheet No. 1 OF 3				



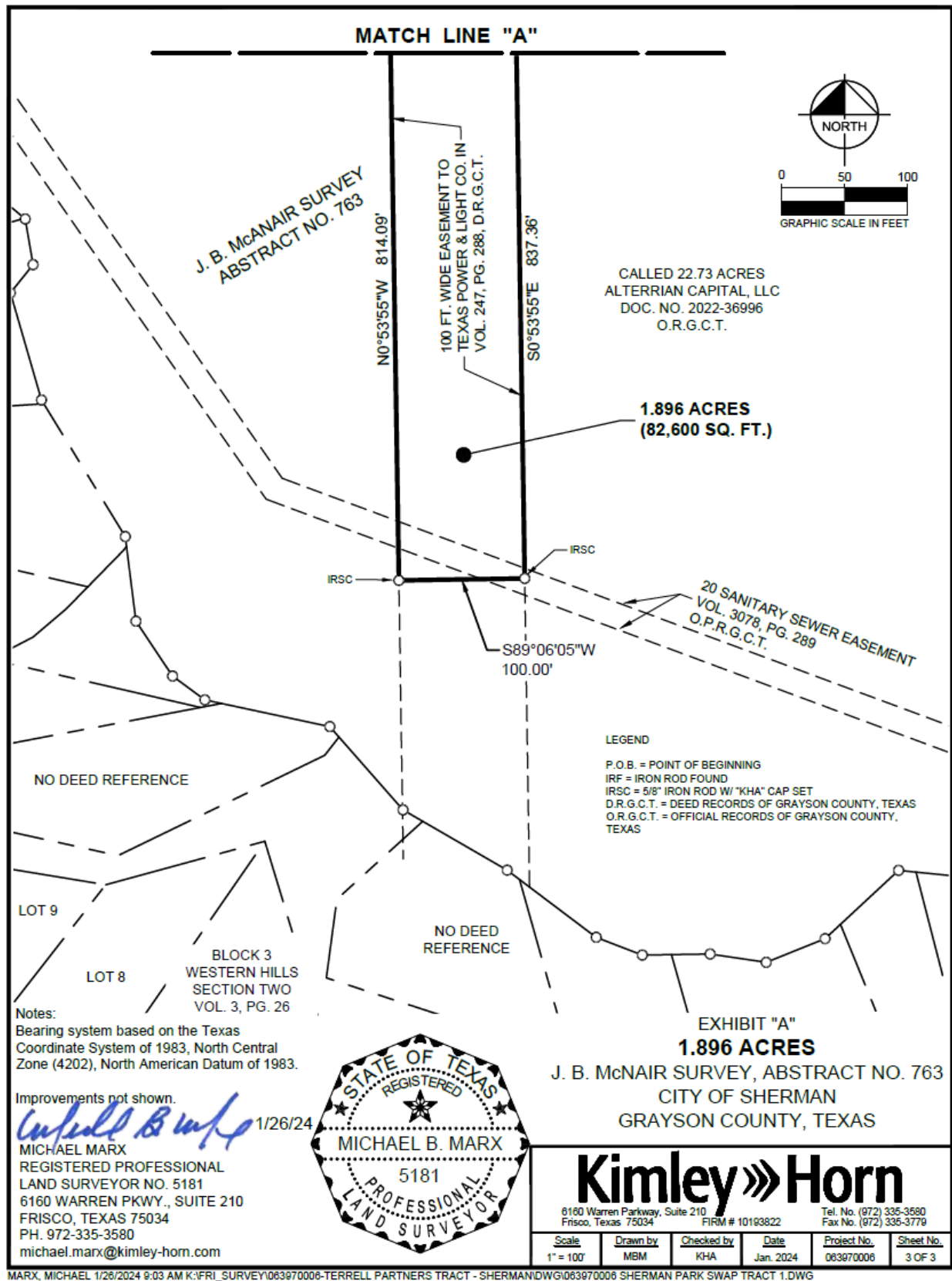


Exhibit F

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

Grayson County
Deana Patterson
County Clerk
Sherman, TX 75090

Instrument Number: 2023 - 32408

ERecordings-RP

Recorded On: December 11, 2023 12:17 PM

Number of Pages: 7

" Examined and Charged as Follows: "

Total Recording: \$36.00

******* THIS PAGE IS PART OF THE INSTRUMENT *******

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

File Information:

Document Number: 32408
Receipt Number: 20231211000077
Recorded Date/Time: December 11, 2023 12:17 PM
User: Crystal T
Station: CLERK06

Record and Return To:

CSC Global
100 W. Houston Ste. 17

SHERMAN TX 75090



STATE OF TEXAS
COUNTY OF GRAYSON

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time
printed hereon, and was duly RECORDED in the Official Records of Grayson County, Texas.

Deana Patterson
County Clerk
Grayson County, TX

PT #: 2023-5313
 District: Texoma
 E #: 317171

ENCROACHMENT ON EASEMENT

WHEREAS, **Oncor Electric Delivery Company LLC ("Oncor")**, is the owner of an easement in Grayson County, Texas, recorded in Volume 247, Page 288 of the Deed Records of Grayson County, Texas ("**Easement**"); and

WHEREAS, **City of Sherman and Alterrian Capital, LLC ("User")**, desires permission to construct and utilize a **hike and bike trail, two roads, and a retaining wall at least 15 feet away from a three phase power pole and being 35 feet away and paralleling**, more particularly depicted on Exhibit "A" attached hereto (collectively, the "**Encroaching Facility**") within the area or boundaries of the Easement ("**Easement Area**").

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Oncor and User do hereby agree as follows:

1. **Location of Encroaching Facility.** User may locate the Encroaching Facility in the Easement Area, but only as described and shown on the attached drawing marked **Exhibit "A"** and incorporated herein. User may not relocate the Encroaching Facility within the Easement Area without the consent and approval of Oncor, which consent and approval shall be at Oncor's sole discretion. User acknowledges and agrees that Oncor holds easement rights on the Easement Area; therefore, User shall obtain whatever rights and permission, other than Oncor's that are necessary.
2. **Restrictions on Use of Easement Area.** User shall use only so much of the Easement Area as may be necessary to construct, maintain and repair the Encroaching Facility. User shall, at its own cost and expense, comply with all applicable laws, including but not limited to existing zoning ordinances, governmental rules and regulations enacted or promulgated by any governmental authority and shall promptly execute and fulfill all orders and requirements imposed by such governmental authorities for the correction, prevention and abatement of nuisances in or upon or connected with said Encroaching Facility. At the conclusion of any construction, User shall remove all debris and other materials from the Easement Area and restore the Easement Area to the same condition it was in prior to the commencement of User's construction thereon or in proximity thereto.

User shall not place trash dumpsters, toxic substances or flammable material in the Easement Area. Further, if the Easement Area has distribution facilities located thereon, User shall not place upon the Easement Area any improvements, including but not limited to, buildings, light standards, fences, shrubs, trees or signs unless approved in advance in writing by Oncor.

3. **Maintenance of Encroaching Facility.** User, at User's sole expense, shall maintain and operate the Encroaching Facility. Oncor will not be responsible for any costs of construction, reconstruction, operation, maintenance or removal of User's Encroaching Facility.
4. **Risk and Liability.** User assumes all risks and liability resulting or arising from or relating to User's use, the existing condition or location, or existing state of maintenance, repair or operation of the Easement Area. It is further agreed that Oncor shall not be liable for any damage to the Encroaching Facility as a result of Oncor's use or enjoyment of its Easement. Any Oncor property damaged or destroyed by User or its agents, employees, invitees, contractors or subcontractors shall be repaired or replaced by Oncor at User's expense and payment is due upon User's receipt of an invoice from Oncor.
5. **Indemnification.** User agrees to defend, indemnify and hold harmless Oncor, its officers, agents and employees from and against any and all claims, demands, causes of action, loss, damage, liabilities, costs and expenses (including attorney's fees and court costs) of any and every kind or character, known or unknown, fixed or contingent, for personal injury (including death), property damage or other harm for which recovery of damages is sought or suffered by any person or persons, including claims based on strict liability, arising out of or in connection with User's actions or omissions or the actions or omissions of its officers, agents, associates, employees, contractors or subcontractors or the actions or omissions of any other person entering onto the Easement Area or the Encroaching Facility, **including the negligent actions or omissions of Oncor**, when such actions or omissions relate to User's use of the Easement Area.
6. **High Voltage Restrictions.** Use of draglines or other boom-type equipment in connection with any work to be performed on the Easement Area by User, its employees, agents, invitees, contractors or subcontractors must comply with Chapter 752, Texas Health and Safety Code, the National Electrical Safety Code and any other applicable safety or clearance requirements. Notwithstanding anything to the contrary herein, in no event shall any equipment be within ten (10) feet of the Oncor power lines situated on the aforesaid property. State law requires contacting **Dig Test by calling 811** for underground equipment to be located at least two (2) working days before you dig. Dig Test does not mark a precise location but is usually within four (4) feet of the actual location. User must notify the **Oncor Distribution Operations Manager at 1-888-313-6862**, 48 hours prior to the beginning of any work on the Easement Area.
7. **Removal of Encroaching Facility.** If at any time in the future, the Encroaching Facility, in the sole judgment of Oncor, interferes with Oncor's use or enjoyment of its easement rights, Oncor shall have the right to require User to, within sixty (60) days of Oncor's giving of written notice thereof, either, at Oncor's option, (a) remove the Encroaching Facility from the Easement (at Owner's sole expense) or (b) reimburse Oncor for all reasonable costs of removal and relocation of its electrical facilities located on the Easement. However, in an emergency, Oncor shall have the right to immediately remove

the Encroaching Facility. If the Encroaching Facility is removed, Oncor will not unreasonably withhold consent for User to relocate the Encroaching Facility within the Easement Area.

8. **Default and Termination.** It is understood and agreed that, in case of default by User or its agents in any of the terms and conditions herein stated and such default continues for a period of ten (10) days after Oncor notifies User of such default in writing, Oncor may at its election forthwith terminate this agreement and upon such termination all of User's rights hereunder shall cease and come to an end. This agreement shall also terminate upon the abandonment of the Encroaching Facility.

This agreement shall extend to and be binding upon User and its successors and assigns, and is not to be interpreted as a waiver of any rights held by Oncor under its Easement.

Executed this 11 day of December, 2023.

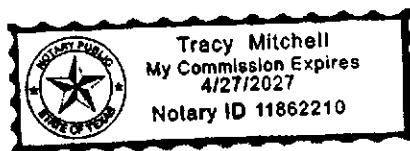
Oncor Electric Delivery Company LLC,
a Delaware limited liability company

By: [Signature]
Todd Scoggins, Attorney-In-Fact

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally **Todd Scoggins, Attorney-In-Fact for Oncor Electric Delivery Company LLC, a Delaware limited liability company**, 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 the said Oncor Electric Delivery Company LLC, a Delaware limited liability company, for the purposes and consideration therein expressed, in the capacity therein stated and that he is authorized to do so.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 11 day of December, A.D. 2023.



[Signature]
Notary Public in and for the State of Texas

Executed this 9th day of November, 2023.

City of Sherman

By: 
Robby Hefton, City Manager

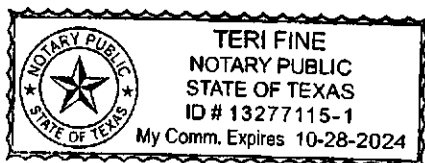
STATE OF TEXAS

§
§
§

COUNTY OF GRAYSON

BEFORE ME, the undersigned authority, on this day personally appeared **Robby Hefton**, as the **City Manager of City of Sherman**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and he is authorized to do so.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 9th day of November, A. D. 2023.




Notary Public in and for the State of Texas

Executed this 28th day of November, 2023.

Alterrian Capital, LLC, a Delaware limited liability company

By: 
Justin Webb, Manager

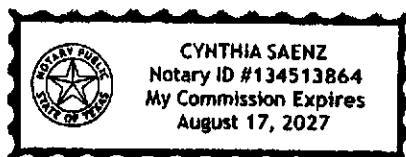
STATE OF

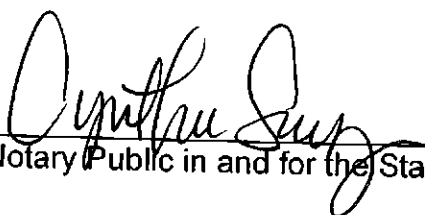
COUNTY OF

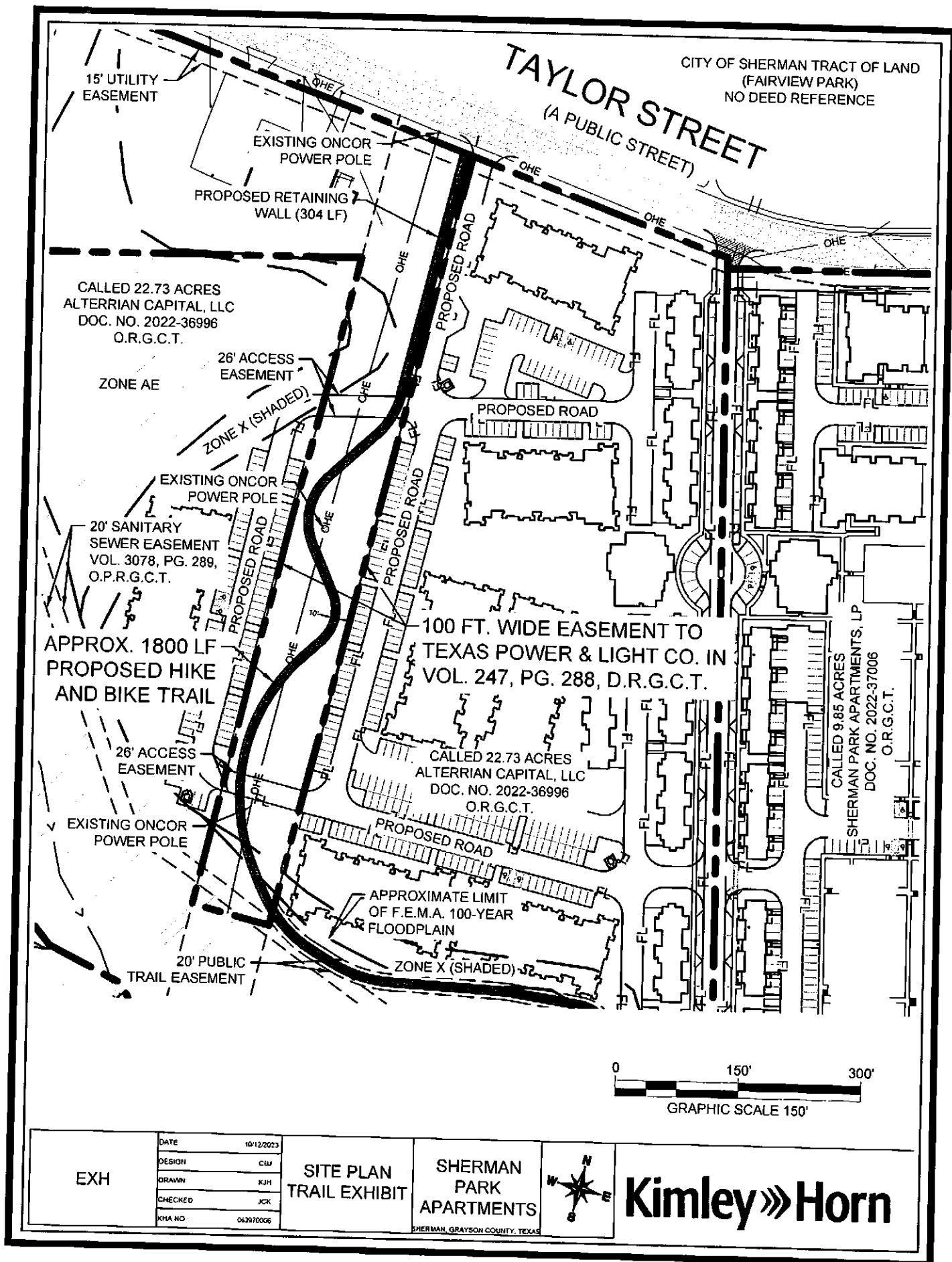
§
§
§

BEFORE ME, the undersigned authority, on this day personally appeared **Justin Webb**, as the **Manager of Alterrian Capital, LLC, a Delaware limited liability company**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and he is authorized to do so.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 28th day of November, A. D. 2023.




Notary Public in and for the State of





City Council Regular Meeting

Agenda Item No. H.3.

Meeting Date: 2/5/2024

Prepared By: Tom Pruitt, Utility Engineer

Approved By: Robby Hefton, City Manager

Caption:

RESOLUTION NO. 7249

Awarding a Bid to and Authorizing Execution of a Contract with W. Brown Enterprises, Inc. Based on an Invitation to Bid for the Westside Sanitary Sewer Replacement

Issue:

To consider awarding a bid to and authorizing execution of a contract with W. Brown Enterprises, Inc. of Durant, Oklahoma, based on an invitation to bid for the Westside Sanitary Sewer Replacement project.

Background:

This project was identified by the Utility Department as a high priority sanitary sewer main replacement project last year and the Engineering Department engaged Freeman-Millican, Inc to design the replacement of this sanitary sewer main. This project was estimated to cost up to \$750,000 a year ago. Bids were opened on January 12th, and the lowest, responsive, responsible bid in the amount of \$757,807.91 was submitted by W. Brown Enterprises, Inc. The Engineer recommends awarding to this contractor.

Five (5) bidders responded to the request for bids. The lowest bid in the amount of \$757,807.91 was submitted by W. Brown Enterprises, Inc. of Durant, Oklahoma. A bid tabulation is attached.

Origination:

Engineering Department

Financial Consideration:

Funding will be through the 2021 GTUA Open Market Bonds.

Staff Recommendation:

It is recommended that the bid be awarded for the Westside Sanitary Sewer Replacement to W. Brown Enterprises, Inc. in the amount of \$757,807.91. It is also recommended that the City Manager be authorized to execute the required contract documents.

Alternatives:

As may be directed by City Council

Attachments:

1. Resolution No. 7249
2. Unsigned Agreement
3. Bid Tabulation

4. Letter of Recommendation
5. Location Map

RESOLUTION NO. 7249

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH W. BROWN ENTERPRISES, INC., BASED ON AN INVITATION TO BID FOR THE WESTSIDE SANITARY SEWER REPLACEMENT; 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 W. Brown Enterprises, Inc., of Durant, Oklahoma, is hereby awarded the bid and the City of Sherman hereby approves the contract with W. Brown Enterprises, Inc, in the amount of Seven Hundred Fifty-Seven Thousand Eight Hundred Seven Dollars and Ninety-One Cents (\$757,807.91) for the Westside Sanitary Sewer Replacement; 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 W. Brown Enterprises, Inc, for the construction of the aforementioned improvements, in accordance with all contract documents attached hereto and made a part hereof for all purposes.

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

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS on this the 5th day of February 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

AGREEMENT

THIS AGREEMENT is by and between the CITY OF SHERMAN, TEXAS, a home-rule municipality (the "CITY"), and W. BROWN ENTERPRISES, INC., a corporation (the "CONTRACTOR"). CITY and CONTRACTOR are sometimes referred to collectively as the "parties" or individually as a "party."

CITY and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

Article 1. WORK

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents and shall furnish all personnel, labor, equipment, supplies and all other items necessary to provide the services and deliverables as specified by the terms and conditions of the Contract Documents. The Work project is generally described as follows:

Westside Sanitary Sewer Replacement

Article 2. ENGINEER

The Project has been designed by Freeman-Millican, Inc. Dallas, Texas, who is hereinafter called ENGINEER and who is to act as CITY'S representative, assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Article 3. CONTRACT TIME

- 3.1 The Work will be substantially completed and ready for final payment within 210 calendar days from the date when the Contract Time commences to run, as provided in the General Conditions.
- 3.2 Liquidated Damages. CITY and CONTRACTOR recognize that time is of the essence of this Agreement and that CITY will suffer financial loss and actual damages if the Work is not completed within the time specified above, plus any extensions thereof allowed in accordance with the General Conditions. The parties also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss and damages suffered by CITY if the Work is not completed on time. The exact amount of such loss and damages will be difficult to ascertain. Accordingly, instead of requiring any such proof, CITY and CONTRACTOR agree that CONTRACTOR shall pay CITY \$420.00 for each calendar day in which the Work is not completed, not as a penalty but as liquidated damages for the loss and damages that would be suffered by CITY as a result of delay for each and every calendar day that the CONTRACTOR shall have failed to have completed the Work as required herein

Article 4. CONTRACT PRICE

CITY shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents in current funds as follows:

At the unit prices shown on the Unit Price Bid Schedule included in the Contract Documents.

Article 5. **PAYMENT PROCEDURES**

CONTRACTOR shall submit Applications for Payment in accordance with the General Conditions. Applications for Payment will be processed by ENGINEER, as provided in the Special Provisions.

CONTRACTOR and CITY acknowledge and agree that the continuation of this Agreement after the close of any given fiscal year of CITY, which fiscal year ends on September 30th of each year, shall be subject to Sherman City Council approval. In the event that the Sherman City Council does not approve the appropriation of funds for this Agreement, the Agreement shall terminate at the end of the fiscal year for which funds were appropriated, and the parties shall have no further obligations hereunder, except that CITY shall be obligated to pay monies owed CONTRACTOR for Services it has provided pursuant to this Agreement through the end of that fiscal year provided that CONTRACTOR is not in breach of this Agreement.

The CITY shall retain 5% of the amount of each payment until final completion and acceptance of all Work covered by the Contract Documents. When the Work is substantially complete, the retained amount may be reduced to 2%, at the CITY'S discretion.

Article 6. **INTEREST**

If the contract amount of this contract is less than \$5,000,000, no interest will be paid to the CONTRACTOR on retained money. When the contract amount exceeds \$5,000,000, no interest will be paid unless required by law.

Article 7. **CONTRACTOR'S REPRESENTATIONS**

In order to induce CITY to enter into this Agreement, CONTRACTOR makes the following representations:

- 7.1 CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that, in any manner, may affect cost, progress, performance or furnishing of the Work.
- 7.2 CONTRACTOR has carefully studied all reports of explorations and tests of subsurface conditions and drawings of physical conditions, if any, which are contained or identified in the Contract Documents, and accepts the determination set forth in the Contract Documents of the extent of the technical data contained in such reports and drawings upon which CONTRACTOR is entitled to rely.
- 7.3 CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports and studies in addition to, or to supplement, those referred to above, which pertain to the subsurface or physical conditions at or contiguous to the site, or otherwise may affect the cost, progress, performance or furnishing of the Work as CONTRACTOR considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are, or will be, required by CONTRACTOR for such purposes.

- 7.4 CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of all Underground Facilities, whether indicated in the Contract Documents, or not. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are, or will be, required by CONTRACTOR in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents.
- 7.5 CONTRACTOR has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.
- 7.6 CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.
- 7.7 CONTRACTOR has reviewed and fully agrees to the limitation of liability provisions included in the Special Provisions.
- 7.8 CONTRACTOR certifies that they are eligible to be awarded government contracts. CONTRACTOR also certifies that any agreement entered into with a subcontractor will contain a clause stating that the subcontractor is eligible to be awarded government contracts.

Article 8. **CONTRACT DOCUMENTS**

The "Contract Documents," which comprise the entire agreement between CITY and CONTRACTOR concerning the Work, consist of the following:

- 8.1 This Agreement
- 8.2 Advertisement for Bids
- 8.3 Instructions to Respondents
- 8.4 Certifications Required by Texas Law
- 8.5 Suspension and Debarment Certification
- 8.6 Bid Bond and Bid Bond POA
- 8.7 Statement of Respondent's Qualifications
- 8.8 Insurance Requirement Affidavit
- 8.9 Bid Submittal
- 8.10 Resolution of Award
- 8.11 Form 1295, Certificate of Interested Parties
- 8.12 Certificate of Insurance
- 8.13 Performance Bond and POA
- 8.14 Payment Bond and POA
- 8.15 Notice to Proceed
- 8.16 Maintenance Bond and POA
- 8.17 Closeout Documents
- 8.18 Davis-Bacon Wage Determinations
- 8.19 Special Provisions
- 8.20 Technical Specification prepared or issued by City of Sherman dated 05/10/2023 .

- 8.21 Drawings, consisting of sheets numbered 1 through 13, inclusive with each sheet bearing the following general title: City of Sherman, Westside Sanitary Sewer Replacement
- 8.22 Addenda numbers 1 to 1, inclusive.
- 8.23 Documentation submitted by CONTRACTOR prior to Notice of Award, identified as _____
- 8.24 _____
The following, which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:

All written Amendments, change orders, and other documents amending, modifying, or supplementing the Contract Documents pursuant to the Special Provisions. The parties understand and agree that deviations or modifications to the scope of Work described in the Contract Documents, in the form of one or more written Contingency Change Allowance or also change orders, may be authorized from time to time by CITY (“Change Orders”). “Extra” work, “claims” invoiced as “extra” work or “claims” which have not been issued as a duly executed, written Change Orders by the Sherman City Manager or his designee will not be authorized for payment and/or shall not become part of this Agreement. A duly executed, written Change Order shall be preceded by the City Council’s authorization for the City Manager to execute said Change Order. CONTRACTOR agrees that CITY’S project managers are authorized to issue Contingency Allowance Authorization but CITY’S project managers, superintendents and/or inspectors not authorized to issue verbal or written Change Orders.

There are no contract Documents other than those listed above in this Agreement. The Contract Documents may only be amended, modified or supplemented, as outlined in this Contract.

Article 9. INDEMNITY

CONTRACTOR 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 GOODS AND/OR SERVICES PROVIDED BY CONTRACTOR, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FOR WHOM CONTRACTOR 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.

Article 10. **LIABILITY**

To the fullest extent permitted by law, CONTRACTOR shall be fully and solely responsible and liable for its own acts and omissions, including those of its officers, agents, representatives, employees, subcontractors, licensees, invitees and all other parties performing services for or on behalf of CONTRACTOR under this Agreement, and for any and all damage to CONTRACTOR's equipment and other property. CITY assumes no such responsibility or liability. CITY shall have no such responsibility or liability to either CONTRACTOR or its officers, agents, representatives, employees, subcontractors, licensees, invitees or other persons.

Article 11. **TERMINATION**

CITY is entitled to terminate this Agreement at any time for any reason or for no reason by giving CONTRACTOR at least thirty (30) days' prior written notice of the termination date.

CITY is entitled to terminate this Agreement immediately on breach of any term or provision of the Contract Documents by CONTRACTOR. If at any time during the term of this Agreement, CONTRACTOR shall fail to commence the work in accordance with the provisions of the Contract Documents or fail to diligently perform the work in an efficient, timely and careful manner and in strict accordance with the provisions of the Contract Documents, then CITY shall have the right to terminate this Agreement. Any such act by CITY shall not be deemed a waiver of any other right or remedy of CITY.

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 12. MISCELLANEOUS

- 12.1 Terms used in the Agreement will have the meanings indicated in the Special Provisions.
- 12.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically, but without limitation, monies that may become due and monies that are due, may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 12.3 CONTRACTOR acknowledges and agrees that the existence of a prohibited interest during the term of this Agreement will render this Agreement voidable. CONTRACTOR further acknowledges and agrees that it also is aware of, and will abide by, the vendor disclosure requirements set forth in Chapter 176 of the Texas Local Government Code, as amended.
- 12.4 Each party represents and warrants to the other that it has the full power and authority to enter into and fulfill the obligations of this Agreement. The respective signatories to this Agreement, by affixing their signatures hereto, warrant and represent that they have the authority to bind their respective parties as duly authorized representatives thereof.
- 12.5 The parties acknowledge and agree that, in executing and performing this Agreement, CITY has not waived, nor shall be deemed 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.
- 12.6 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.
- 12.7 If either party files any action or brings any proceeding against the other arising from this Agreement, then as between CITY and CONTRACTOR, 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.
- 12.8 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.

- 12.9 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 CONTRACTOR covenants and agrees that CONTRACTOR is an independent contractor and not an officer, agent, servant or employee of CITY; that CONTRACTOR shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing the same; that the doctrine of respondent superior shall not apply as between CITY and CONTRACTOR, its officers, agents, employees, contractors, subcontractors and consultants; and that nothing herein shall be construed as creating a partnership or joint enterprise between CITY and CONTRACTOR.
- 12.11 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.
- 12.12 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.
- 12.13 CITY and CONTRACTOR each binds itself, its partners, successors, assign, and legal representatives to the other party hereto, its partners, successors, assign and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

Article 13. **OTHER PROVISIONS**

None.

IN WITNESS WHEREOF, CITY and CONTRACTOR have signed this Agreement in multiple copies. One counterpart each has been delivered to CITY, CONTRACTOR and ENGINEER. All portions of the Contract Documents have been signed or identified by CITY and CONTRACTOR or by ENGINEER on their behalf. 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 (the "Effective Date").

CITY:
CITY OF SHERMAN, TEXAS

CONTRACTOR:
W. BROWN ENTERPRISES, INC.

By: _____

By: _____

Date: _____

Date: _____

(Corporate Seal)

Attest: _____

Attest: _____

Address for giving notices:

Address for giving notices:

PO Box 1106

2905 N. 1st Avenue

Sherman, TX 75091-1106

Durant, OK 74701

BID TABULATION

OWNER: City of Sherman				Contractor W. Brown Enterprises, Inc.		Contractor Atkins Brothers Equipment Co., Inc.		Contractor Lynn Vessels Construction, LLC	
PROJECT: WESTSIDE SANITARY SEWER REPLACEMENT				Address 2905 North First Avenue		Address 3516 Old Fort Worth Road		Address PO Box 1212	
ENGINEER: FREEMAN-MILLICAN, INC.				City, State Durant, OK 74701		City, State Midlothian, TX 76065		City, State Sherman, TX 75091-1212	
BID DATE: January 12, 2024				Phone 580-282-0282		Phone 972-775-7955		Phone 903-893-4300	
ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT
BASE BID									
P.1	Mobilization & Demobilization	1	LS	\$62,106.00	\$62,106.00	\$10,000.00	\$10,000.00	\$45,000.00	\$45,000.00
P.2	Abandon Existing Manhole	9	EA	\$884.37	\$7,959.33	\$2,000.00	\$18,000.00	\$2,463.33	\$22,169.97
P.3	Sanitary Sewer Aerial Crossing abandonment & removal	1	EA	\$8,847.99	\$8,847.99	\$25,000.00	\$25,000.00	\$16,875.00	\$16,875.00
P.4	10" SDR-35 PVC Sanitary Sewer Pipe by Open Cut (0'-13' depth)	409	LF	\$160.72	\$65,734.48	\$210.00	\$85,890.00	\$314.38	\$128,581.42
P.5	10" SDR-35 PVC Sanitary Sewer Pipe by Open Cut (14'-20' depth)	125	LF	\$213.87	\$26,733.75	\$390.00	\$48,750.00	\$364.00	\$45,500.00
P.6	10" SDR-26 PVC Sanitary Sewer Pipe by Open Cut (0'-13' depth)	184	LF	\$204.59	\$37,644.56	\$216.00	\$39,744.00	\$344.00	\$63,296.00
P.7	8" SDR-35 PVC Sanitary Sewer Pipe by Open Cut (0'-13' Depth)	667	LF	\$154.32	\$102,931.44	\$210.00	\$140,070.00	\$226.63	\$151,162.21
P.8	6" SDR-35 PVC Sanitary Sewer Pipe by Open Cut (0'-13' Depth)	6	LF	\$501.87	\$3,011.22	\$200.00	\$1,200.00	\$221.29	\$1,327.74
P.9	5' Diameter Fiberglass Sanitary Sewer Drop Manhole (0'-10' Depth)	2	EA	\$14,420.94	\$28,841.88	\$15,000.00	\$30,000.00	\$13,668.66	\$27,337.32
P.10	5' Diameter Fiberglass Sanitary Sewer Drop Type 'S' Manhole (0'-10' Depth)	1	EA	\$14,711.54	\$14,711.54	\$17,000.00	\$17,000.00	\$13,841.19	\$13,841.19
P.11	5' Diameter Fiberglass Sanitary Sewer Type 'S' Manhole, (0'-10' Depth)	1	EA	\$20,603.46	\$20,603.46	\$16,000.00	\$16,000.00	\$18,294.06	\$18,294.06
P.12	Extra Depth on 5' Diameter Fiberglass Sanitary Sewer Manhole	10	VF	\$1,259.58	\$12,595.80	\$600.00	\$6,000.00	\$1,088.75	\$10,887.50
P.13	4' Diameter Fiberglass Sanitary Sewer Manhole (0'-10' Depth)	5	EA	\$8,682.36	\$43,411.80	\$14,000.00	\$70,000.00	\$8,176.05	\$40,880.25
P.14	4' Diameter Fiberglass Sanitary Sewer Type 'S' Manhole (0'-10' Depth)	1	EA	\$8,358.23	\$8,358.23	\$16,000.00	\$16,000.00	\$7,913.89	\$7,913.89
P.15	Manhole Vacuum Test	10	EA	\$486.83	\$4,868.30	\$700.00	\$7,000.00	\$187.50	\$1,875.00
P.16	Connect Ex Sanitary Sewer to Proposed Manhole	5	EA	\$1,371.63	\$6,858.15	\$2,000.00	\$10,000.00	\$781.25	\$3,906.25
P.17	Locating and Exposing Sanitary Sewer Services before Construction for FLs	18	EA	\$695.48	\$12,518.64	\$1,000.00	\$18,000.00	\$1,335.50	\$24,039.00
P.18	Reconnect Existing Sanitary Sewer Services up to 10' Long	18	EA	\$2,931.66	\$52,769.88	\$500.00	\$9,000.00	\$1,581.25	\$28,462.50
P.19	Flowable Fill on Proposed Main	20	LF	\$367.06	\$7,341.20	\$60.00	\$1,200.00	\$61.63	\$1,232.60
P.20	Remove and Replace Concrete Curb Pavement	9	LF	\$609.61	\$5,486.49	\$210.00	\$1,890.00	\$112.50	\$1,012.50
P.21	Remove and Replace Concrete Flumes	17	SY	\$395.46	\$6,722.82	\$200.00	\$3,400.00	\$156.25	\$2,656.25
P.22	Remove and Replace Asphalt Pavement	948	SY	\$101.16	\$95,899.68	\$150.00	\$142,200.00	\$159.08	\$150,807.84
P.23	Remove and Replace Concrete Driveways	76	SY	\$241.47	\$18,351.72	\$160.00	\$12,160.00	\$156.25	\$11,875.00
P.24	Seed and Reestablish Grass	50	LF	\$112.82	\$5,641.00	\$10.00	\$500.00	\$6.25	\$312.50
P.25	Grass Sod	183	SY	\$37.15	\$6,798.45	\$40.00	\$7,320.00	\$20.00	\$3,660.00
P.26	Trench Safety	1,391	LF	\$3.50	\$4,868.50	\$1.00	\$1,391.00	\$3.13	\$4,353.83
P.27	Post Construction CCTV	1,391	LF	\$4.27	\$5,939.57	\$7.00	\$9,737.00	\$1.56	\$2,169.96
P.28	General Permit TXR1500000 & SWP3	1	LS	\$3,300.00	\$3,300.00	\$3,000.00	\$3,000.00	\$1,562.50	\$1,562.50
P.29	Erosion Control	1	LS	\$3,300.00	\$3,300.00	\$10,000.00	\$10,000.00	\$2,500.00	\$2,500.00
P.30	Traffic Control	1	LS	\$6,600.00	\$6,600.00	\$2,000.00	\$2,000.00	\$31,575.00	\$31,575.00
P.31	Construction Contingency	1	LS	\$80,000.00	\$80,000.00	\$80,000.00	\$80,000.00	\$80,000.00	\$80,000.00
TOTAL AMOUNT OF BASE BID (P.1 - P.31*)					\$770,755.88		\$842,452.00		\$945,067.28
AP.1	5' Diameter Concrete Sanitary Sewer Drop Manhole (0'-10' Depth)	2	EA	\$14,107.66	\$28,215.32	\$18,000.00	\$36,000.00	\$12,966.53	\$25,933.06
AP.2	5' Diameter Concrete Drop Type 'S' Sanitary Sewer Manhole (0'-10' Depth)	1	EA	\$14,772.38	\$14,772.38	\$17,000.00	\$17,000.00	\$12,966.53	\$12,966.53
AP.3	5' Diameter Concrete Type 'S' Sanitary Sewer Manhole (0'-10' Depth)	1	EA	\$17,301.55	\$17,301.55	\$17,000.00	\$17,000.00	\$11,233.63	\$11,233.63
AP.4	Extra depth 5' diameter Concrete Manhole	10.0	VF	\$950.48	\$9,504.80	\$600.00	\$6,000.00	\$627.90	\$6,279.00
AP.5	4' Diameter Concrete Sanitary Sewer Manhole (0'-10' Depth)	5.0	EA	\$7,638.33	\$38,191.65	\$15,000.00	\$75,000.00	\$5,970.90	\$29,854.50
AP.6	4' Diameter Concrete Type 'S' Sanitary Sewer Manhole (0'-10' Depth)	1.0	EA	\$7,589.04	\$7,589.04	\$16,000.00	\$16,000.00	\$118.30	\$118.30
TOTAL AMOUNT OF ADDITIVE ALTERNATE ITEMS (AP.1 - AP.6)					\$115,574.74		\$167,000.00		\$86,385.02
TOTAL AMOUNT ALTERNATE BID (Bid Items P.1-P.8; AP.1-AP.6; P.15-P.31*)					\$757,807.91		\$854,452.00		\$912,298.09

* P.31 included for total as intended, not P.30 as shown on Proposal

** Note: there was a typo on the W. Brown unit price for Item P.5. Written clarification was provided that the unit price should be \$213.87 to hold the as-read total of \$26,733.75.

BID TABULATION

OWNER: City of Sherman				Contractor Canary Construction, Inc.		Contractor Hayes Construction, LLC		Contractor	
PROJECT: WESTSIDE SANITARY SEWER REPLACEMENT				Address 802 N Kealy Avenue, Suite 101		Address 205 Cody Lane		Address	
ENGINEER: FREEMAN-MILLICAN, INC.				City, State Lewisville, TX		City, State Sherman, TX		City, State	
BID DATE: January 12, 2024				Phone 75057 469-464-3823		Phone 75090 469-512-7290		Phone	
ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT
BASE BID									
P.1	Mobilization & Demobilization	1	LS	\$42,000.00	\$42,000.00	\$60,000.00	\$60,000.00		
P.2	Abandon Existing Manhole	9	EA	\$1,500.00	\$13,500.00	\$700.00	\$6,300.00		
P.3	Sanitary Sewer Aerial Crossing abandonment & removal	1	EA	\$35,000.00	\$35,000.00	\$7,500.00	\$7,500.00		
P.4	10" SDR-35 PVC Sanitary Sewer Pipe by Open Cut (0'-13' depth)	409	LF	\$125.00	\$51,125.00	\$600.00	\$245,400.00		
P.5	10" SDR-35 PVC Sanitary Sewer Pipe by Open Cut (14'-20' depth)	125	LF	\$145.00	\$18,125.00	\$650.00	\$81,250.00		
P.6	10" SDR-26 PVC Sanitary Sewer Pipe by Open Cut (0'-13' depth)	184	LF	\$135.00	\$24,840.00	\$600.00	\$110,400.00		
P.7	8" SDR-35 PVC Sanitary Sewer Pipe by Open Cut (0'-13' Depth)	667	LF	\$120.00	\$80,040.00	\$475.00	\$316,825.00		
P.8	6" SDR-35 PVC Sanitary Sewer Pipe by Open Cut (0'-13' Depth)	6	LF	\$115.00	\$690.00	\$800.00	\$4,800.00		
P.9	5' Diameter Fiberglass Sanitary Sewer Drop Manhole (0'-10' Depth)	2	EA	\$30,000.00	\$60,000.00	\$20,000.00	\$40,000.00		
P.10	5' Diameter Fiberglass Sanitary Sewer Drop Type 'S' Manhole (0'-10' Depth)	1	EA	\$35,000.00	\$35,000.00	\$20,000.00	\$20,000.00		
P.11	5' Diameter Fiberglass Sanitary Sewer Type 'S' Manhole, (0'-10' Depth)	1	EA	\$32,000.00	\$32,000.00	\$20,000.00	\$20,000.00		
P.12	Extra Depth on 5' Diameter Fiberglass Sanitary Sewer Manhole	10	VF	\$950.00	\$9,500.00	\$2,000.00	\$20,000.00		
P.13	4' Diameter Fiberglass Sanitary Sewer Manhole (0'-10' Depth)	5	EA	\$26,000.00	\$130,000.00	\$19,000.00	\$95,000.00		
P.14	4' Diameter Fiberglass Sanitary Sewer Type 'S' Manhole (0'-10' Depth)	1	EA	\$28,000.00	\$28,000.00	\$19,000.00	\$19,000.00		
P.15	Manhole Vacuum Test	10	EA	\$400.00	\$4,000.00	\$400.00	\$4,000.00		
P.16	Connect Ex Sanitary Sewer to Proposed Manhole	5	EA	\$2,000.00	\$10,000.00	\$4,500.00	\$22,500.00		
P.17	Locating and Exposing Sanitary Sewer Services before Construction for FLs	18	EA	\$850.00	\$15,300.00	\$900.00	\$16,200.00		
P.18	Reconnect Existing Sanitary Sewer Services up to 10' Long	18	EA	\$3,200.00	\$57,600.00	\$4,500.00	\$81,000.00		
P.19	Flowable Fill on Proposed Main	20	LF	\$50.00	\$1,000.00	\$150.00	\$3,000.00		
P.20	Remove and Replace Concrete Curb Pavement	9	LF	\$185.00	\$1,665.00	\$100.00	\$900.00		
P.21	Remove and Replace Concrete Flumes	17	SY	\$300.00	\$5,100.00	\$175.00	\$2,975.00		
P.22	Remove and Replace Asphalt Pavement	948	SY	\$260.00	\$246,480.00	\$60.00	\$56,880.00		
P.23	Remove and Replace Concrete Driveways	76	SY	\$260.00	\$19,760.00	\$180.00	\$13,680.00		
P.24	Seed and Reestablish Grass	50	LF	\$40.00	\$2,000.00	\$20.00	\$1,000.00		
P.25	Grass Sod	183	SY	\$20.00	\$3,660.00	\$14.00	\$2,562.00		
P.26	Trench Safety	1,391	LF	\$4.00	\$5,564.00	\$7.00	\$9,737.00		
P.27	Post Construction CCTV	1,391	LF	\$4.00	\$5,564.00	\$3.00	\$4,173.00		
P.28	General Permit TXR1500000 & SWP3	1	LS	\$6,500.00	\$6,500.00	\$2,000.00	\$2,000.00		
P.29	Erosion Control	1	LS	\$8,500.00	\$8,500.00	\$3,500.00	\$3,500.00		
P.30	Traffic Control	1	LS	\$12,000.00	\$12,000.00	\$15,000.00	\$15,000.00		
P.31	Construction Contingency	1	LS	\$80,000.00	\$80,000.00	\$80,000.00	\$80,000.00		
TOTAL AMOUNT OF BASE BID (P.1 - P.31*)					\$1,044,513.00		\$1,365,582.00		
AP.1	5' Diameter Concrete Sanitary Sewer Drop Manhole (0'-10' Depth)	2	EA	\$19,000.00	\$38,000.00	\$15,000.00	\$30,000.00		
AP.2	5' Diameter Concrete Drop Type 'S' Sanitary Sewer Manhole (0'-10' Depth)	1	EA	\$22,000.00	\$22,000.00	\$15,000.00	\$15,000.00		
AP.3	5' Diameter Concrete Type 'S' Sanitary Sewer Manhole (0'-10' Depth)	1	EA	\$21,000.00	\$21,000.00	\$15,000.00	\$15,000.00		
AP.4	Extra depth 5' diameter Concrete Manhole	10.0	VF	\$450.00	\$4,500.00	\$1,500.00	\$15,000.00		
AP.5	4' Diameter Concrete Sanitary Sewer Manhole (0'-10' Depth)	5.0	EA	\$16,000.00	\$80,000.00	\$12,000.00	\$60,000.00		
AP.6	4' Diameter Concrete Type 'S' Sanitary Sewer Manhole (0'-10' Depth)	1.0	EA	\$17,000.00	\$17,000.00	\$12,000.00	\$12,000.00		
TOTAL AMOUNT OF ADDITIVE ALTERNATE ITEMS (AP.1 - AP.6)					\$182,500.00		\$147,000.00		
TOTAL AMOUNT ALTERNATE BID (Bid Items P.1-P.8; AP.1-AP.6; P.15-P.31*)					\$932,513.00		\$1,298,582.00		

* P.31 included for total as intended, not P.30 as shown on Proposal

January 24, 2024

Mr. Tom Pruitt, P.E.
City of Sherman
220 W. Mulberry Street
Sherman, Texas 75090

Re: Recommendation of Award
Westside Sanitary Sewer Replacement

Dear Mr. Pruitt:

Sealed bids for the above referenced project were received on January 12, 2024, at 3:00 p.m. at Sherman City Hall. A total of five (5) bids were received. A complete bid tabulation is attached.

This project involves the construction of approximately 1,385 linear feet 8- and 10-inch sanitary sewer lines and 10 concrete manholes, the abandonment of existing sewer line, and other sewer construction, complete in place.

The low bid was submitted by W. Brown Enterprises, Inc. of Durant, Oklahoma in the amount of \$757,807.91.

We have checked references provided by W. Brown Enterprises, Inc. and these have been good. We recommend awarding the project to W. Brown Enterprises, Inc. in the alternate bid amount of \$757,807.91.

Sincerely,
FREEMAN - MILLICAN, INC.



J. Erin Magee, P.E.
Project Engineer

Attachment

F:\22040 - SHERMAN Westside Dr Sewer\5 - Bidding\Ltr of Recommendation - Westside SSWR.docx

BID TABULATION

OWNER: City of Sherman				Contractor W. Brown Enterprises, Inc.		Contractor Atkins Brothers Equipment Co., Inc.		Contractor Lynn Vessels Construction, LLC	
PROJECT: WESTSIDE SANITARY SEWER REPLACEMENT				Address 2905 North First Avenue		Address 3516 Old Fort Worth Road		Address PO Box 1212	
ENGINEER: FREEMAN-MILLICAN, INC.				City, State Durant, OK 74701		City, State Midlothian, TX 76065		City, State Sherman, TX 75091-1212	
BID DATE: January 12, 2024				Phone 580-282-0282		Phone 972-775-7955		Phone 903-893-4300	
ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT
BASE BID									
P.1	Mobilization & Demobilization	1	LS	\$62,106.00	\$62,106.00	\$10,000.00	\$10,000.00	\$45,000.00	\$45,000.00
P.2	Abandon Existing Manhole	9	EA	\$884.37	\$7,959.33	\$2,000.00	\$18,000.00	\$2,463.33	\$22,169.97
P.3	Sanitary Sewer Aerial Crossing abandonment & removal	1	EA	\$8,847.99	\$8,847.99	\$25,000.00	\$25,000.00	\$16,875.00	\$16,875.00
P.4	10" SDR-35 PVC Sanitary Sewer Pipe by Open Cut (0'-13' depth)	409	LF	\$160.72	\$65,734.48	\$210.00	\$85,890.00	\$314.38	\$128,581.42
P.5	10" SDR-35 PVC Sanitary Sewer Pipe by Open Cut (14'-20' depth)	125	LF	\$213.87	\$26,733.75	\$390.00	\$48,750.00	\$364.00	\$45,500.00
P.6	10" SDR-26 PVC Sanitary Sewer Pipe by Open Cut (0'-13' depth)	184	LF	\$204.59	\$37,644.56	\$216.00	\$39,744.00	\$344.00	\$63,296.00
P.7	8" SDR-35 PVC Sanitary Sewer Pipe by Open Cut (0'-13' Depth)	667	LF	\$154.32	\$102,931.44	\$210.00	\$140,070.00	\$226.63	\$151,162.21
P.8	6" SDR-35 PVC Sanitary Sewer Pipe by Open Cut (0'-13' Depth)	6	LF	\$501.87	\$3,011.22	\$200.00	\$1,200.00	\$221.29	\$1,327.74
P.9	5' Diameter Fiberglass Sanitary Sewer Drop Manhole (0'-10' Depth)	2	EA	\$14,420.94	\$28,841.88	\$15,000.00	\$30,000.00	\$13,668.66	\$27,337.32
P.10	5' Diameter Fiberglass Sanitary Sewer Drop Type 'S' Manhole (0'-10' Depth)	1	EA	\$14,711.54	\$14,711.54	\$17,000.00	\$17,000.00	\$13,841.19	\$13,841.19
P.11	5' Diameter Fiberglass Sanitary Sewer Type 'S' Manhole, (0'-10' Depth)	1	EA	\$20,603.46	\$20,603.46	\$16,000.00	\$16,000.00	\$18,294.06	\$18,294.06
P.12	Extra Depth on 5' Diameter Fiberglass Sanitary Sewer Manhole	10	VF	\$1,259.58	\$12,595.80	\$600.00	\$6,000.00	\$1,088.75	\$10,887.50
P.13	4' Diameter Fiberglass Sanitary Sewer Manhole (0'-10' Depth)	5	EA	\$8,682.36	\$43,411.80	\$14,000.00	\$70,000.00	\$8,176.05	\$40,880.25
P.14	4' Diameter Fiberglass Sanitary Sewer Type 'S' Manhole (0'-10' Depth)	1	EA	\$8,358.23	\$8,358.23	\$16,000.00	\$16,000.00	\$7,913.89	\$7,913.89
P.15	Manhole Vacuum Test	10	EA	\$486.83	\$4,868.30	\$700.00	\$7,000.00	\$187.50	\$1,875.00
P.16	Connect Ex Sanitary Sewer to Proposed Manhole	5	EA	\$1,371.63	\$6,858.15	\$2,000.00	\$10,000.00	\$781.25	\$3,906.25
P.17	Locating and Exposing Sanitary Sewer Services before Construction for FLs	18	EA	\$695.48	\$12,518.64	\$1,000.00	\$18,000.00	\$1,335.50	\$24,039.00
P.18	Reconnect Existing Sanitary Sewer Services up to 10' Long	18	EA	\$2,931.66	\$52,769.88	\$500.00	\$9,000.00	\$1,581.25	\$28,462.50
P.19	Flowable Fill on Proposed Main	20	LF	\$367.06	\$7,341.20	\$60.00	\$1,200.00	\$61.63	\$1,232.60
P.20	Remove and Replace Concrete Curb Pavement	9	LF	\$609.61	\$5,486.49	\$210.00	\$1,890.00	\$112.50	\$1,012.50
P.21	Remove and Replace Concrete Flumes	17	SY	\$395.46	\$6,722.82	\$200.00	\$3,400.00	\$156.25	\$2,656.25
P.22	Remove and Replace Asphalt Pavement	948	SY	\$101.16	\$95,899.68	\$150.00	\$142,200.00	\$159.08	\$150,807.84
P.23	Remove and Replace Concrete Driveways	76	SY	\$241.47	\$18,351.72	\$160.00	\$12,160.00	\$156.25	\$11,875.00
P.24	Seed and Reestablish Grass	50	LF	\$112.82	\$5,641.00	\$10.00	\$500.00	\$6.25	\$312.50
P.25	Grass Sod	183	SY	\$37.15	\$6,798.45	\$40.00	\$7,320.00	\$20.00	\$3,660.00
P.26	Trench Safety	1,391	LF	\$3.50	\$4,868.50	\$1.00	\$1,391.00	\$3.13	\$4,353.83
P.27	Post Construction CCTV	1,391	LF	\$4.27	\$5,939.57	\$7.00	\$9,737.00	\$1.56	\$2,169.96
P.28	General Permit TXR1500000 & SWP3	1	LS	\$3,300.00	\$3,300.00	\$3,000.00	\$3,000.00	\$1,562.50	\$1,562.50
P.29	Erosion Control	1	LS	\$3,300.00	\$3,300.00	\$10,000.00	\$10,000.00	\$2,500.00	\$2,500.00
P.30	Traffic Control	1	LS	\$6,600.00	\$6,600.00	\$2,000.00	\$2,000.00	\$31,575.00	\$31,575.00
P.31	Construction Contingency	1	LS	\$80,000.00	\$80,000.00	\$80,000.00	\$80,000.00	\$80,000.00	\$80,000.00
TOTAL AMOUNT OF BASE BID (P.1 - P.31*)					\$770,755.88		\$842,452.00		\$945,067.28
AP.1	5' Diameter Concrete Sanitary Sewer Drop Manhole (0'-10' Depth)	2	EA	\$14,107.66	\$28,215.32	\$18,000.00	\$36,000.00	\$12,966.53	\$25,933.06
AP.2	5' Diameter Concrete Drop Type 'S' Sanitary Sewer Manhole (0'-10' Depth)	1	EA	\$14,772.38	\$14,772.38	\$17,000.00	\$17,000.00	\$12,966.53	\$12,966.53
AP.3	5' Diameter Concrete Type 'S' Sanitary Sewer Manhole (0'-10' Depth)	1	EA	\$17,301.55	\$17,301.55	\$17,000.00	\$17,000.00	\$11,233.63	\$11,233.63
AP.4	Extra depth 5' diameter Concrete Manhole	10.0	VF	\$950.48	\$9,504.80	\$600.00	\$6,000.00	\$627.90	\$6,279.00
AP.5	4' Diameter Concrete Sanitary Sewer Manhole (0'-10' Depth)	5.0	EA	\$7,638.33	\$38,191.65	\$15,000.00	\$75,000.00	\$5,970.90	\$29,854.50
AP.6	4' Diameter Concrete Type 'S' Sanitary Sewer Manhole (0'-10' Depth)	1.0	EA	\$7,589.04	\$7,589.04	\$16,000.00	\$16,000.00	\$118.30	\$118.30
TOTAL AMOUNT OF ADDITIVE ALTERNATE ITEMS (AP.1 - AP.6)					\$115,574.74		\$167,000.00		\$86,385.02
TOTAL AMOUNT ALTERNATE BID (Bid Items P.1-P.8; AP.1-AP.6; P.15-P.31*)					\$757,807.91		\$854,452.00		\$912,298.09

* P.31 included for total as intended, not P.30 as shown on Proposal

** Note: there was a typo on the W. Brown unit price for Item P.5. Written clarification was provided that the unit price should be \$213.87 to hold the as-read total of \$26,733.75.

BID TABULATION

OWNER: City of Sherman				Contractor Canary Construction, Inc.		Contractor Hayes Construction, LLC		Contractor	
PROJECT: WESTSIDE SANITARY SEWER REPLACEMENT				Address 802 N Kealy Avenue, Suite 101		Address 205 Cody Lane		Address	
ENGINEER: FREEMAN-MILLICAN, INC.				City, State Lewisville, TX		City, State Sherman, TX		City, State	
BID DATE: January 12, 2024				Phone 75057 469-464-3823		Phone 75090 469-512-7290		Phone	
ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT
BASE BID									
P.1	Mobilization & Demobilization	1	LS	\$42,000.00	\$42,000.00	\$60,000.00	\$60,000.00		
P.2	Abandon Existing Manhole	9	EA	\$1,500.00	\$13,500.00	\$700.00	\$6,300.00		
P.3	Sanitary Sewer Aerial Crossing abandonment & removal	1	EA	\$35,000.00	\$35,000.00	\$7,500.00	\$7,500.00		
P.4	10" SDR-35 PVC Sanitary Sewer Pipe by Open Cut (0'-13' depth)	409	LF	\$125.00	\$51,125.00	\$600.00	\$245,400.00		
P.5	10" SDR-35 PVC Sanitary Sewer Pipe by Open Cut (14'-20' depth)	125	LF	\$145.00	\$18,125.00	\$650.00	\$81,250.00		
P.6	10" SDR-26 PVC Sanitary Sewer Pipe by Open Cut (0'-13' depth)	184	LF	\$135.00	\$24,840.00	\$600.00	\$110,400.00		
P.7	8" SDR-35 PVC Sanitary Sewer Pipe by Open Cut (0'-13' Depth)	667	LF	\$120.00	\$80,040.00	\$475.00	\$316,825.00		
P.8	6" SDR-35 PVC Sanitary Sewer Pipe by Open Cut (0'-13' Depth)	6	LF	\$115.00	\$690.00	\$800.00	\$4,800.00		
P.9	5' Diameter Fiberglass Sanitary Sewer Drop Manhole (0'-10' Depth)	2	EA	\$30,000.00	\$60,000.00	\$20,000.00	\$40,000.00		
P.10	5' Diameter Fiberglass Sanitary Sewer Drop Type 'S' Manhole (0'-10' Depth)	1	EA	\$35,000.00	\$35,000.00	\$20,000.00	\$20,000.00		
P.11	5' Diameter Fiberglass Sanitary Sewer Type 'S' Manhole, (0'-10' Depth)	1	EA	\$32,000.00	\$32,000.00	\$20,000.00	\$20,000.00		
P.12	Extra Depth on 5' Diameter Fiberglass Sanitary Sewer Manhole	10	VF	\$950.00	\$9,500.00	\$2,000.00	\$20,000.00		
P.13	4' Diameter Fiberglass Sanitary Sewer Manhole (0'-10' Depth)	5	EA	\$26,000.00	\$130,000.00	\$19,000.00	\$95,000.00		
P.14	4' Diameter Fiberglass Sanitary Sewer Type 'S' Manhole (0'-10' Depth)	1	EA	\$28,000.00	\$28,000.00	\$19,000.00	\$19,000.00		
P.15	Manhole Vacuum Test	10	EA	\$400.00	\$4,000.00	\$400.00	\$4,000.00		
P.16	Connect Ex Sanitary Sewer to Proposed Manhole	5	EA	\$2,000.00	\$10,000.00	\$4,500.00	\$22,500.00		
P.17	Locating and Exposing Sanitary Sewer Services before Construction for FLs	18	EA	\$850.00	\$15,300.00	\$900.00	\$16,200.00		
P.18	Reconnect Existing Sanitary Sewer Services up to 10' Long	18	EA	\$3,200.00	\$57,600.00	\$4,500.00	\$81,000.00		
P.19	Flowable Fill on Proposed Main	20	LF	\$50.00	\$1,000.00	\$150.00	\$3,000.00		
P.20	Remove and Replace Concrete Curb Pavement	9	LF	\$185.00	\$1,665.00	\$100.00	\$900.00		
P.21	Remove and Replace Concrete Flumes	17	SY	\$300.00	\$5,100.00	\$175.00	\$2,975.00		
P.22	Remove and Replace Asphalt Pavement	948	SY	\$260.00	\$246,480.00	\$60.00	\$56,880.00		
P.23	Remove and Replace Concrete Driveways	76	SY	\$260.00	\$19,760.00	\$180.00	\$13,680.00		
P.24	Seed and Reestablish Grass	50	LF	\$40.00	\$2,000.00	\$20.00	\$1,000.00		
P.25	Grass Sod	183	SY	\$20.00	\$3,660.00	\$14.00	\$2,562.00		
P.26	Trench Safety	1,391	LF	\$4.00	\$5,564.00	\$7.00	\$9,737.00		
P.27	Post Construction CCTV	1,391	LF	\$4.00	\$5,564.00	\$3.00	\$4,173.00		
P.28	General Permit TXR1500000 & SWP3	1	LS	\$6,500.00	\$6,500.00	\$2,000.00	\$2,000.00		
P.29	Erosion Control	1	LS	\$8,500.00	\$8,500.00	\$3,500.00	\$3,500.00		
P.30	Traffic Control	1	LS	\$12,000.00	\$12,000.00	\$15,000.00	\$15,000.00		
P.31	Construction Contingency	1	LS	\$80,000.00	\$80,000.00	\$80,000.00	\$80,000.00		
TOTAL AMOUNT OF BASE BID (P.1 - P.31*)					\$1,044,513.00		\$1,365,582.00		
AP.1	5' Diameter Concrete Sanitary Sewer Drop Manhole (0'-10' Depth)	2	EA	\$19,000.00	\$38,000.00	\$15,000.00	\$30,000.00		
AP.2	5' Diameter Concrete Drop Type 'S' Sanitary Sewer Manhole (0'-10' Depth)	1	EA	\$22,000.00	\$22,000.00	\$15,000.00	\$15,000.00		
AP.3	5' Diameter Concrete Type 'S' Sanitary Sewer Manhole (0'-10' Depth)	1	EA	\$21,000.00	\$21,000.00	\$15,000.00	\$15,000.00		
AP.4	Extra depth 5' diameter Concrete Manhole	10.0	VF	\$450.00	\$4,500.00	\$1,500.00	\$15,000.00		
AP.5	4' Diameter Concrete Sanitary Sewer Manhole (0'-10' Depth)	5.0	EA	\$16,000.00	\$80,000.00	\$12,000.00	\$60,000.00		
AP.6	4' Diameter Concrete Type 'S' Sanitary Sewer Manhole (0'-10' Depth)	1.0	EA	\$17,000.00	\$17,000.00	\$12,000.00	\$12,000.00		
TOTAL AMOUNT OF ADDITIVE ALTERNATE ITEMS (AP.1 - AP.6)					\$182,500.00		\$147,000.00		
TOTAL AMOUNT ALTERNATE BID (Bid Items P.1-P.8; AP.1-AP.6; P.15-P.31*)					\$932,513.00		\$1,298,582.00		

* P.31 included for total as intended, not P.30 as shown on Proposal



City Council Regular Meeting

Agenda Item No. H.4.

Meeting Date: 2/5/2024

Prepared By: Wayne Lee, Director of Engineering

Approved By: Robby Hefton, City Manager

Caption:

RESOLUTION NO. 7250

Authorizing Execution of a Discretionary Service Agreement with Oncor Electric Delivery Company, LLC for the Relocation of Overhead Electric Supply along Shepherd Drive in the City of Sherman

Issue:

To consider a Discretionary Service Agreement with Oncor for the relocation of the existing distribution service along the south side of Shepherd Drive to accommodate the new roadway section and the new 36-inch water main.

Background:

With the growth and development of industry and neighborhoods in the area, Shepherd Dr. is being widened to accommodate the future traffic, along with a new 36-inch water main to support all of the development in the area. Approximately 4,350 feet of existing ONCOR distribution lines are in conflict with the roadway and utility improvements. Oncor has already designed and will start relocating their facilities to allow the construction and placement of the new City infrastructure.

Origination:

Engineering Department

Financial Consideration:

The cost of this relocation is \$409,069.07 and is funded by the 2023 Certificates of Obligation and Impact Fees.

Staff Recommendation:

It is recommended the Discretionary Service Agreement to relocate the Oncor distribution service be approved.

Alternatives:

As may be directed by City Council

Attachments:

1. Resolution No. 7250
2. Agreement - Signed - Oncor
3. Location Map

RESOLUTION NO. 7250

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A DISCRETIONARY SERVICE AGREEMENT WITH ONCOR ELECTRIC DELIVERY COMPANY, LLC FOR THE RELOCATION OF OVERHEAD ELECTRIC SUPPLY ALONG SHEPHERD DRIVE, IN THE CITY OF SHERMAN; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form and content by the City Attorney, to execute a Discretionary Service Agreement with Oncor Electric Delivery Company, LLC for the relocation of overhead electric supply along Shepherd Drive, in the City of Sherman.

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 5th day of February 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

**Tariff for Retail Delivery Service
Oncor Electric Delivery Company LLC**



6.3 Agreements and Forms

Applicable: Entire Certified Service Area
Effective Date: September 21, 2009

Page 1 of 2

6.3.5 Discretionary Service Agreement

WR #: 21269046

Transaction ID: _____

This Discretionary Service Agreement ("Agreement") is made and entered into this 12th day of January, 2024, by Oncor Electric Delivery Company LLC ("Oncor Electric Delivery Company" or "Company"), a Delaware limited liability company and distribution utility, and City of Sherman ("Customer"), a governmental municipal entity, each hereinafter sometimes referred to individually as "Party" or both referred to collectively as the "Parties". In consideration of the mutual covenants set forth herein, the Parties agree as follows:

1. **Discretionary Services to be Provided** -- Company agrees to provide, and Customer agrees to pay for, the following discretionary services in accordance with this Agreement.

The City of Sherman has requested that any Oncor relocate facilities in conflict with their Shepherd Drive Expansion or Water Line Installation Project. 31 wood poles and 1 concrete pole will be removed. 34 new wood poles and 5 new concrete poles will be installed.

Total cost of this relocation: \$409,069.07

2. **Nature of Service and Company's Retail Delivery Service Tariff** -- Any discretionary services covered by this Agreement will be provided by Company, and accepted by Customer, in accordance with applicable Public Utility Commission of Texas ("PUCT") Substantive Rules and Company's Tariff for Retail Delivery Service (including the Service Regulations contained therein), as it may from time to time be fixed and approved by the PUCT ("Company's Retail Delivery Tariff"). During the term of this Agreement, Company is entitled to discontinue service, interrupt service, or refuse service initiation requests under this Agreement in accordance with applicable PUCT Substantive Rules and Company's Retail Delivery Tariff. Company's Retail Delivery Tariff is part of this Agreement to the same extent as if fully set out herein. Unless otherwise expressly stated in this Agreement, the terms used herein have the meanings ascribed thereto in Company's Retail Delivery Tariff.

3. **Discretionary Service Charges** -- Charges for any discretionary services covered by this Agreement are determined in accordance with Company's Retail Delivery Tariff. Company and Customer agree to comply with PUCT or court orders concerning discretionary service charges.

4. **Term and Termination** -- This Agreement becomes effective upon acceptance by Customer and continues in effect until work is complete. Termination of this Agreement does not relieve Company or Customer of any obligation accrued or accruing prior to termination.

5. **No Other Obligations** -- This Agreement does not obligate Company to provide, or entitle Customer to receive, any service not expressly provided for herein. Customer is responsible for making the arrangements necessary for it to receive any further services that it may desire from Company or any third party.

6. **Governing Law and Regulatory Authority** -- This Agreement was executed in the State of Texas and must in all respects be governed by, interpreted, construed, and enforced in accordance with the laws thereof. This Agreement is subject to all valid, applicable federal, state, and local laws, ordinances, and rules and regulations of duly constituted regulatory authorities having jurisdiction.

7. **Amendment** -- This Agreement may be amended only upon mutual agreement of the Parties, which amendment will not be effective until reduced to writing and executed by the Parties. But changes to applicable PUCT Substantive Rules and Company's Retail Delivery Tariff are applicable to this Agreement upon their effective date and do not require an amendment of this Agreement.

8. **Entirety of Agreement and Prior Agreements Superseded** -- This Agreement, including all attached Exhibits, which are expressly made a part hereof for all purposes, constitutes the entire agreement and understanding between the Parties with regard to the service(s) expressly provided for in this Agreement. The Parties are not bound by or liable for any statement, representation, promise, inducement, understanding, or undertaking of any kind or nature (whether written or oral) with regard to the subject matter hereof not set forth or provided for herein. This Agreement replaces all prior agreements and undertakings, oral or written, between the Parties with regard to the subject matter hereof, including without limitation N/A, and all such agreements and undertakings are agreed by the Parties to no longer be of any force or effect. It is expressly acknowledged that the Parties may have other agreements covering other services not expressly provided for herein, which agreements are unaffected by this Agreement.

9. **Notices** -- Notices given under this Agreement are deemed to have been duly delivered if hand delivered or sent by United States certified mail, return receipt requested, postage prepaid, to:

(a) If to Company:
Oncor Electric Delivery
Elizabeth Craven
777 Main St
Fort Worth, TX 76102

Tariff for Retail Delivery Service
Oncor Electric Delivery Company LLC



6.3 Agreements and Forms

Applicable: Entire Certified Service Area

Effective Date: September 21, 2009

Page 2 of 2

(b) If to Customer:
City of Sherman
Wayne Lee, PE
220 W. Mulberry St
Sherman, TX 75090

The above-listed names, titles, and addresses of either Party may be changed by written notification to the other.

10. **Invoicing and Payment** – Invoices for any discretionary services covered by this Agreement will be mailed by Company to the following address (or such other address directed in writing by Customer), unless Customer is capable of receiving electronic invoicing from Company, in which case Company is entitled to transmit electronic invoices to Customer.

City of Sherman
Wayne Lee, PE
220 W. Mulberry St
Sherman, TX 75090

If Company transmits electronic invoices to Customer, Customer must make payment to Company by electronic funds transfer. Electronic invoicing and payment by electronic funds transfer will be conducted in accordance with Company's standard procedures. Company must receive payment by the due date specified on the invoice. If payment is not received by the Company by the due date shown on the invoice, a late fee will be calculated and added to the unpaid balance until the entire invoice is paid. The late fee will be 5% of the unpaid balance per invoice period.

11. **No Waiver** – The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered to waive the obligations, rights, or duties imposed upon the Parties.

12. **Taxes** -- All present or future federal, state, municipal, or other lawful taxes (other than federal income taxes) applicable by reason of any service performed by Company, or any compensation paid to Company, hereunder must be paid by Customer.

13. **Headings** – The descriptive headings of the various articles and sections of this Agreement have been inserted for convenience of reference only and are to be afforded no significance in the interpretation or construction of this Agreement.

14. **Multiple Counterparts** -- This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

15. **Other Terms and Conditions** –
(i) Customer has disclosed to Company all underground facilities owned by Customer or any other party that is not a public utility or governmental entity, that are located within real property owned by Customer. In the event that Customer has failed to do so, or in the event of the existence of such facilities of which Customer has no knowledge, Company, its agents and contractors, shall have no liability, of any nature whatsoever, to Customer, or Customer's agents or assignees, for any actual or consequential damages resulting from damage to such undisclosed or unknown facilities.

(ii)

The cost outlined in this document will expire in 60 days on 3/12/2024.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their respective duly authorized representatives.

Oncor Electric Delivery Company LLC


Signature

Elizabeth Craven
Printed Name

Engineer
Title

1/12/2024
Date

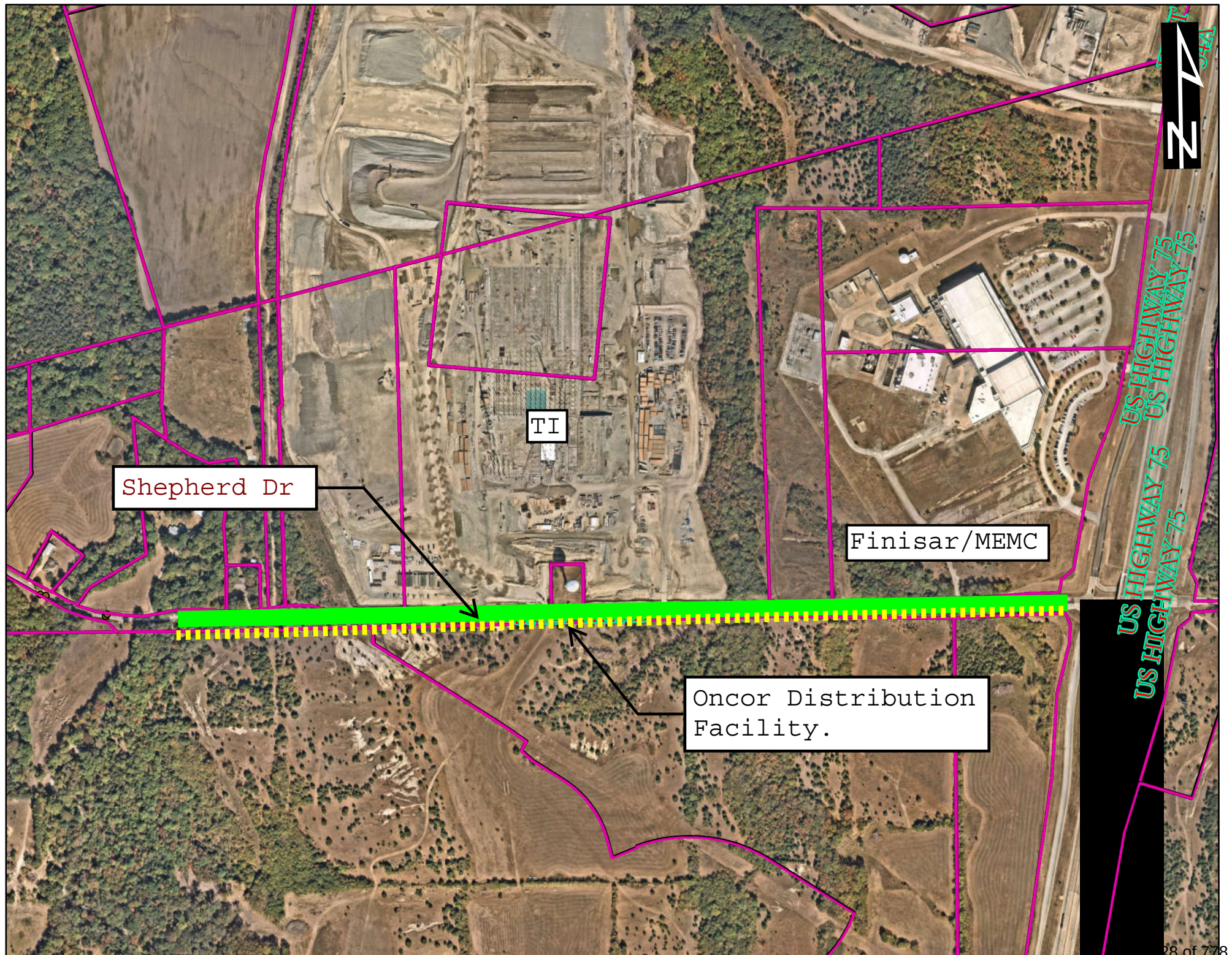
City of Sherman
Customer / Company Name

Signature

Printed Name

Title

Date





City Council Regular Meeting

Agenda Item No. H.5.

Meeting Date: 2/5/2024

Prepared By: Tom Pruitt, Utility Engineer

Approved By: Robby Hefton, City Manager

Caption:

RESOLUTION NO. 7251

Authorizing Execution of a Professional Services Agreement with Mead & Hunt, Inc. for the Post Oak Wastewater Treatment Facility TPDES Permitting Assistance

Issue:

To consider a Professional Services Agreement with Mead & Hunt, Inc. for the Post Oak Wastewater Treatment Facility TPDES Permitting Assistance.

Background:

The Wastewater Treatment Plant TPDES - TCEQ permit has to be renewed every 5 years. The permit is a time extensive effort, so it is undertaken 1-year before it expires. This permit will include a minor amendment to account for the next and subsequent phases of the new South MBR Plant.

Origination:

Wastewater Treatment Department

Financial Consideration:

Funding for this contract is \$101,713.00 and will be funded through the Utility Fund.

Staff Recommendation:

It is recommended that the professional services agreement with Mead & Hunt, Inc. for the Post Oak Wastewater Treatment Facility TPDES Permitting Assistance be approved.

Alternatives:

As may be directed by City Council

Attachments:

1. Resolution No. 7251
2. Agreement - Signed - Mead & Hunt
3. Location Map

RESOLUTION NO. 7251

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH MEAD & HUNT, INC. FOR THE POST OAK WASTEWATER TREATMENT FACILITY TPDES PERMITTING ASSISTANCE; 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 Mead & Hunt, Inc. for the Post Oak Wastewater Treatment Facility TPDES Permitting Assistance, 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 5th day of February 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**

AGREEMENT
BETWEEN
THE CITY OF SHERMAN, TEXAS AND
MEAD & HUNT, INC.
FOR
PROFESSIONAL SERVICES

Made as of the _____ day of _____, 2024:

Between City: **The City of Sherman, Texas**
220 W. Mulberry Street
Sherman, Texas 75090
Telephone: (903) 892-7208

and Consultant: **Mead & Hunt, Inc.**
6001 Interstate 20 West, Suite 219
Arlington, Texas 76017
Telephone: (817) 719-0372

for the following Project: **Post Oak Wastewater Treatment Facility TPDES
Permitting Assistance**

THIS AGREEMENT ("Agreement") is made and entered into by and between the City of Sherman, Texas, a home-rule municipality ("City"), and Mead & Hunt, 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 Post Oak Wastewater Treatment Facility TPDES Permitting Assistance 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, and 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, may be authorized from time to time by City ("**Amendment(s)**").
- 121 **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 the subcontracts. A duly executed, written Amendment requiring additional funding of \$50,000 or more of the original contract price shall be preceded by the Sherman City Council's authorization for the Sherman City Manager to execute said Amendment.
- 122 **CONSULTANT SHALL NOT PERFORM ANY "EXTRA" WORK AND/OR ADDITIONAL SERVICES WITHOUT A DULY EXECUTED, WRITTEN AMENDMENT ISSUED BY THE CITY OF SHERMAN.**
- 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 time and materials basis in an amount not to exceed one hundred one thousand seven hundred thirteen dollars (\$101,713.00) ("Consultant's Fee"); and (b) 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 obtain all 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.

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:

331 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**.

332 Additional drafts and revisions to the Project which are not provided for or contemplated in the Scope of Services as described in **Exhibit A**.

- 333 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**.
- 334 Photography, professional massing models which are not provided for or contemplated in the Scope of Services as described in **Exhibit A**.
- 335 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.
- 336 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

Position	Hourly Rate
Principal	\$275
Senior Project Manager	\$245
Project Scientist	\$190
Technician	\$120
Admin	\$81

- 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.

- 3.10 **Fixed Budget Limit for Construction Cost** - If a fixed budget limit for the Construction Cost has been established, the Consultant shall be permitted to make reasonable adjustments in the scope of the Project and to include alternate bid items in the Bid Proposal to adjust the Construction Cost to the fixed limit. However, this paragraph shall not operate to increase the fixed budget limit of the Construction Cost established in the following paragraph. All adjustments in the scope of the Project shall be approved by the City and documented in writing. Should the lowest bona fide bid for construction of the Project be in excess of 130% of \$(Not Applicable – This contract does not involve design or construction) due to the negligence of the Consultant, the City may (1) give written approval of an increase in such fixed limit, (2) authorize rebidding or re-negotiating of the Project, (3) terminate the Project and this Agreement in accordance herewith, or (4), require that the Consultant adjust the Project scope or quality, or both, as necessary to reduce the Construction Cost to within the budgetary constraints. In the case of (4) the Consultant, without additional charge to the City, shall consult with the City and shall revise and modify the drawings and specifications as necessary to achieve compliance with the fixed limitation on Construction Cost. These revisions and modifications may include splitting the Project into multiple Construction Phases that will fall within budget constraints. The Consultant shall provide the services defined in Exhibit A, as required, for each of the new phases created by splitting the Project. Absent negligence on the part of the Consultant in making its estimates of probable Construction Cost, providing services as defined in Exhibit A shall be the limit of the Consultant's liability arising from the establishment of such fixed limitation of Construction Costs. The Consultant shall be entitled to compensation for all other services performed in accordance with this Agreement.

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.

- 42 **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, non-renewal or material modification 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, non-renewal or material modification 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.

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, non-renewal or material modification 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 **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, non-renewal, or material modification 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:

Janet Sims

Senior Project Manager

Mead & Hunt, Inc.

6001 Interstate 20 West, Suite 219

Arlington, Texas 76017

Telephone: (817) 719-0372

Email: Janet.Sims@meadhunt.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 B**, **Exhibit C**, **Exhibit D**, **Exhibit E**, **Exhibit F** or **Exhibit A** shall prevail in that order.

- 12.2 **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.

- 12.3 **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.
- 12.4 **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.
- 12.5 **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 2023-2024 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 2023-2024 fiscal year unless and until such funds are budgeted.
- 12.23 **Certifications Required by Texas Law** – In accordance with Chapter 2270 of the Texas Government Code (to the extent applicable), Consultant hereby certifies that Consultant does not boycott Israel and will not boycott Israel during the term of any contract with City, including during the term of this Agreement. In accordance with Chapter 809 of the Texas Government Code (to the extent applicable), Consultant hereby certifies that Consultant does not boycott energy companies and will not boycott energy companies during the term of any contract with City, including during the term of this Agreement. In accordance with Chapter 2274 of the Texas Government Code (to the extent applicable), Consultant hereby certifies that Consultant does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of any contract with City, including during the term of this Agreement. The foregoing terms have the meanings ascribed to them in the referenced statutes if defined

therein

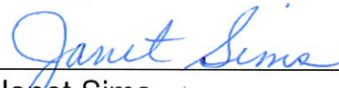
- 12.24 **Reference to Consultant** – When referring to “Consultant,” this Agreement shall refer to and be binding upon Consultant, and its officers, directors, partners, employees, representatives, contractors, subcontractors, licensees, invitees, agents, successors, assignees (as authorized herein), vendors, grantees, trustees, legal representatives and/or any other third parties for whom Consultant is legally responsible.
- 12.25 **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:
Mead & Hunt, Inc.

By: _____
Robby Hefton, City Manager

By:  _____
Janet Sims
Senior Project Manager

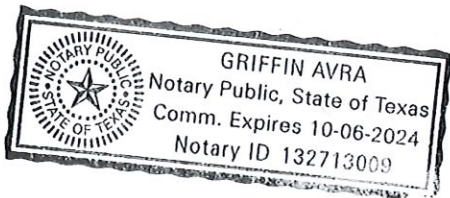
APPROVED AS TO FORM:

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 **JANET SIMS**, KNOWN TO ME TO BE ONE OF THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT; SHE ACKNOWLEDGED TO ME THAT SHE ACKNOWLEDGED TO ME THAT SHE IS A SENIOR PROJECT MANAGER AND IS A DULY AUTHORIZED REPRESENTATIVE FOR **MEAD & HUNT**, AND THAT SHE EXECUTED SAID INSTRUMENT FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 10th DAY OF January 2024.



Griffin Avra
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS
My commission expires: 10-06-2024

EXHIBIT A SCOPE OF SERVICES

I. **PROJECT DESCRIPTION**

- A. Mead & Hunt will assist with the acquisition of an amendment to the City's Texas Pollution Discharge Elimination System (TPDES) Permit for the Post Oak Wastewater Treatment Plant (TPDES Permit No. WQ0010329001). The objective of the project is to obtain a TPDES permit with practical requirements including clear and consistent requirements related to sludge reporting.
- B. It is recognized that the specific assignment under this agreement does not involve final design or construction-related services. Services are regulatory in nature; the provisions of this contract that address preparation of plans, specifications, and construction documents are not applicable to this specific assignment.
- C. **Scope of Services**
The Scope of Services that Mead & Hunt will provide for this project are the preparation of the permit applications and assistance during the processing of the applications by Texas Commission on Environmental Quality (TCEQ) to obtain a TPDES permit with practical requirements including clear and consistent sludge reporting requirements. The tasks associated with the basic activities for the preparation and processing of the permit application are described below.

Activity A. Preparation of Permit Application for Amendment

Mead & Hunt will complete the applicable application forms and prepare the required attachments for the application to amend the TPDES permit. An application pre-submittal meeting with TCEQ will be scheduled to discuss the proposed amendments to the TPDES permit. The tasks for the preparation of the application are as follows:

- Gather and review available information. Mead & Hunt will review the previous application and Fact Sheet associated with the permit issued on August 19, 2020.
- A list of additional information needed to complete the application forms and attachments will be provided to the Client.
- The data for the Pollutant Analyses of Treated Effluent that are requested in Technical Report 1.0 and Worksheet 4.0 will be reviewed to verify the data meet TCEQ requirements.
- Information related to the design of the constructed treatment facilities and the preliminary design of proposed treatment facilities will be collected and
- The Domestic Wastewater application forms that will be completed are the following:
 - Administrative Reports 1.0 and 1.1
 - Supplemental Permit Information Form (SPIF)
 - Core Data Form

EXHIBIT A SCOPE OF SERVICES

- Domestic Technical Report 1.0 and 1.1
- Worksheets 1.0, 2.0, 2.1, 4.0, 5.0, 6.0.
- Sewage Sludge Technical Report
- Attachments will be prepared. The USGS maps for Administrative Report and SPIF, flow diagram, site drawing, design calculations, photographs, justification, general highway map, USDA-NRSC soils map, FEMA map, well map, hydrologic characteristics information, and plain language summary will be prepared and included with the application as attachments.
- The draft application will be provided to the Client for review in electronic format.
- MEAD & HUNT will make appropriate revisions to the application based on the Client's comments.
- Copies of the final application will be prepared. Three hard copies of the final application will be delivered to TCEQ. One copy of the application will be provided to the Client for use during the public viewing period that is required after the permit notifications are published.

Activity B. Assistance During Processing of Permit Application

This activity involves the services that will be provided by MEAD & HUNT during the TCEQ processing of the permit application. TCEQ will conduct an administrative review and technical review of the application and develop a draft permit. MEAD & HUNT will assist with preparation of responses to TCEQ questions during the reviews and MEAD & HUNT will review the draft permit. If concerns or errors are found in the draft permit, in consultation with the Client, MEAD & HUNT will prepare a letter that presents comments and recommendations to resolve the issues.

After the Client agrees to the final draft permit developed by TCEQ, the final draft permit will be provided to EPA for review and approval. If an EPA objection is received on the permit and the Client requests MEAD & HUNT to provide services to help resolve EPA issues, additional compensation may be required.

The Client will be required to publish a Notice of Receipt of Application and Intent to Obtain Water Quality Permit Renewal (NORI) and Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater Renewal (NAPD) during the processing of the permit application. The Client will place the notices in the newspapers and pay publication costs.

MEAD & HUNT will periodically contact TCEQ to track the progress of the permit development. If necessary, MEAD & HUNT will assist with negotiations with TCEQ to obtain appropriate provisions in the permit. The issued permit will be reviewed by MEAD & HUNT to verify that it is the same as agreed to prior to publication of NAPD.

EXHIBIT A SCOPE OF SERVICES

- D. The completion of tasks associated with this project will be in accordance with the schedule agreed to with the City and in accordance with the schedule provided by TCEQ.

Activity A. - MEAD & HUNT will prepare the draft permit application for Client's review within three months after receiving authorization to proceed. MEAD & HUNT will finalize the permit application and make copies of the permit application before the applications are due to TCEQ.

Activity B. - The time to complete this activity is not within the control of MEAD & HUNT. However, the typical time that it takes TCEQ to process a permit application and issue a permit is 360 days.

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

EXHIBIT A SCOPE OF SERVICES

- functional designs meet City requirements.
- 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. ITEMS NOT INCLUDED IN THE EXISTING SCOPE OF SERVICES

- A. Additional Services not included in the existing Scope of Services – City and Consultant agree the following services are beyond the Scope of Services described in the tasks above. However, Consultant can provide these services, if needed, upon the City's written request. Any additional amounts paid to the Consultant as a result of any material change to the Scope of the Project shall be agreed upon in writing by both parties before the services are performed. These Additional Services include the following:

1. N/A

EXHIBIT B
PROJECT DESIGN BUDGET SUMMARY

I. Basic Services

Work described as Basic Services will be conducted on a time and materials basis. Mead & Hunt will provide services up to and will not exceed \$101,713. without prior approval from the City.

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, non-renewal or material modification 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
___	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, non-renewal, or material change required. 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 Date Received	
1 Name of vendor who has a business relationship with local governmental entity. N/A		
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. N/A _____ 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 9/29/2023 Date		

Form provided by Texas Ethics Commission

www.ethics.state.tx.us

Revised 1/1/2021



Sherman
CLASSIC TOWN. BROAD HORIZON.



City Council Regular Meeting

Agenda Item No. H.6.

Meeting Date: 2/5/2024

Prepared By: Tom Pruitt, Utility Engineer

Approved By: Robby Hefton, City Manager

Caption:

RESOLUTION NO. 7252

Approving the Greater Texoma Utility Authority's Intention to Award Bid Package 08-001 to Kiewit Water Facilities South for the Process Mechanical at the South Wastewater Treatment Plant.

Issue:

To consider approving the Greater Texoma Utility Authority's Intention to award the South Wastewater Treatment Plant - MBR Bid Package - BP08-001 Process Mechanical.

Background:

This agenda item is related to the fast-track wastewater treatment plant CMAR procurement, progressive GMP. It is for Bid Package 8 (BP08-001) which was advertised on Civcast and competitive bids sought on January 8 with the bids being opened on January 24th. One responsive bid was received by Kiewit Water Facilities South. Scoring activities were conducted by representatives from City of Sherman, GTUA, Project Management Team Pape-Dawson, and Engineers Plummer & Associates - Excellent scores were recognized throughout the criteria with the overall score of 96.09 out of 100.

Concurrent to GTUA award earlier today, this award resolution will allow the CMAR contractor to begin work on procuring and subsequent installation of process mechanical equipment necessary to construct the new Membrane Biological Reactor (MBR) wastewater treatment plant. Both Bid Package 08-001 for Process Mechanical and Bid Package 05-002 Underground Pipe and Appurtenances will be included in Contract Amendment 4.

Origination:

Engineering Department

Financial Consideration:

Funds needed for this package is \$36,267,286.19 and will be provided through the GTUA 2024 Open Market bonds.

Staff Recommendation:

It is recommended that the City Council approve GTUA's intention to Award the South Wastewater Treatment Plant - MBR Bid Package - BP08-001 Process Mechanical.

Alternatives:

As may be directed by the City Council

Attachments:

1. Resolution No. 7252
2. GMP Proposal
3. Letter of Recommendation
4. Location Map

RESOLUTION NO. 7252

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, APPROVING THE GREATER TEXOMA UTILITY AUTHORITY'S INTENTION TO AWARD BID PACKAGE 08-001 TO KIEWIT WATER FACILITIES SOUTH FOR THE PROCESS MECHANICAL AT THE SOUTH WASTEWATER TREATMENT PLANT; 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 Bid Package 08-001 to Kiewit Water Facilities South in the amount of Thirty-Six Million Two Hundred Sixty-Seven Thousand Two Hundred Eighty-Six Dollars and Nineteen Cents (\$36,267,286.19) for the Process Mechanical.

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 5th day of February 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**



South Wastewater Treatment Plant – MBR Project

GMP Proposal Submissions for:

GMPI – Process Mechanical

Submitted: January 30, 2024



January 30, 2024

Mr. Tom Pruitt, PE
City of Sherman
220 W. Mulberry Street
Sherman, TX 75090

RE: GMPI Process Mechanical

Dear Mr. Pruitt:

Kiewit Water Facilities South Co. is hereby submitting GMPI proposal for the South Wastewater Treatment Plant – MBR Project. The GMP proposal incorporates Bid Package 08-001 Process Mechanical.

RFP and Addenda for BP08-001 have been included in this proposal. The scope of work for BP08-001 includes installation of Aboveground Process Piping and Process Mechanical Equipment per the Process Mechanical Package ITB. Anticipated Work Start Date February 6, 2024 and Anticipated Finish Date January 28, 2025.

This scope is submitted as a lump sum to be billed against the proposed schedule of values. If the overall project schedule changes, this package may require additional funding that would be negotiated via the change management process.

Below is a table comparing the current proposed values to the overall project budget to help understand how this funding authorization fits within the overall projected construction budget.



GMP	GMP/Work Package Name	Previous	Current	Remaining	Forecast Value	Target
PCSA	Preconstruction Services	\$ 1,950,000.00	\$ -	\$ -	\$ 1,950,000.00	9/18/23
PCSB	Procurement Services	\$ 915,000.00	\$ -	\$ -	\$ 915,000.00	9/18/23
	Preconstruction Lump Sum	\$ 2,865,000.00	\$ -	\$ -	\$ 2,865,000.00	
GMPA	General Conditions	\$ 16,866,305.00	\$ -	\$ -	\$ 16,866,305.00	10/16/23
GMPB	Site Services	\$ 18,399,017.31	\$ -	\$ -	\$ 18,399,017.31	10/16/23
GMPC	Early Procurement	\$ 16,000,000.00	\$ -	\$ -	\$ 16,000,000.00	10/16/23
GMPD	Grading, Excavation, SOE, Dewatering	\$ 15,902,635.00	\$ -	\$ 2,700,000.00	\$ 18,602,635.00	11/20/23
GMPE	Backfill	\$ 5,068,000.00	\$ -	\$ -	\$ 5,068,000.00	12/18/23
GMPF	Underground Piping	\$ -	\$ -	\$ 41,784,737.61	\$ 41,784,737.61	12/18/23
GMPG	Concrete, Miscellaneous Metals	\$ 32,311,000.00	\$ -	\$ 3,500,000.00	\$ 35,811,000.00	12/18/23
GMPH	Electrical, Instrumentation	\$ 5,019,257.00	\$ -	\$ 30,511,608.34	\$ 35,530,865.34	12/18/23
GMPI	Process Mechanical	\$ -	\$ 28,860,624.00	\$ 1,580,000.00	\$ 30,440,624.00	1/15/24
GMPJ	Building Trades	\$ -	\$ -	\$ 7,813,865.58	\$ 7,813,865.58	1/15/24
GMPK	Site Finishes and Startup Support	\$ -	\$ -	\$ 3,794,221.44	\$ 3,794,221.44	5/20/24
	Cost of Work	\$ 109,566,214.31	\$ 28,860,624.00	\$ 91,684,432.97	\$ 230,111,271.28	
9%	Contingency	\$ 9,860,959.29	\$ 2,597,456.16	\$ 8,251,598.97	\$ 20,710,014.42	
	Cost of Work plus Contingency	\$ 119,427,173.60	\$ 31,458,080.16	\$ 99,936,031.94	\$ 250,821,285.70	
12.2%	~Additional GCs (12.2% When >\$155M)	\$ -	\$ 1,527,173.31	\$ 12,192,195.90	\$ 13,719,369.21	
	Subtotal Cost of Work	\$ 119,427,173.60	\$ 32,985,253.47	\$ 112,128,227.83	\$ 264,540,654.90	
9.95%	CMAR Fee	\$ 11,883,003.77	\$ 3,282,032.72	\$ 11,156,758.67	\$ 26,321,795.16	
	Construction Total	\$ 131,310,177.37	\$ 36,267,286.19	\$ 123,284,986.50	\$ 290,862,450.07	
	Preconstruction Plus Construction Total	\$ 134,175,177.37	\$ 36,267,286.19	\$ 123,284,986.50	\$ 293,727,450.07	

*Note: Remaining Values for Partial Packages (D,F,G, H,I) are approximations not supported by design or estimates.

*Note: The additional GCs are only calculating on Cost of Work plus Contingency above \$138,367,439.73 per Amendment 01.

Respectfully,

James Goyer
Kiewit Water Facilities South Co.
Project Executive

Table Of Contents

- 1) **Executive Summary**
- 2) **Bid Form**
- 3) **BP08-001 Process Mechanical Bid Package Comments**
- 4) **Schedule**

South Wastewater Treatment Plant – MBR Project

TO: City of Sherman/GTUA/Pape-Dawson

DATE: 1/30/2024

FROM: Kiewit

SUBJECT: Executive Summary – Process Mechanical

COPIES: Transmitted Electronically via Email

GMP Overview

The following proposal includes Process Mechanical. Each Work Package is comprised of various Bid Packages that are described in Table 1.

Table 1: Work Packages

Work Package ID	Work Package Name	Associated Bid Packages
GMPA	General Conditions	BP02-001, BP03-001, 003, 011 to 017, 029-032, 039-045
GMPB	Site Services	BP03-All (Except those listed above)
GMPC	Early Procurement	BP01-All
GMPD	Early Grading, Excavation, SOE, Dewatering	BP04-001
GMPE	Backfill	BP04-002
GMPF	Underground Piping	BP05-001
GMPF2	Underground Piping Rebid	BP05-002
GMPG	Concrete	BP06-001
GMPH	Underground Electrical	BP07-001
GMPH2	Aboveground Electrical	BP07-002
GMPI	Process Mechanical	BP08-001
GMPJ	Building Trades	TBD
GMPK	Site Finishes and Startup Support	TBD

BP08-001 Overview

This scope of work includes Installation of Process Piping and Process Mechanical Equipment per the Process Mechanical Package ITB.

The services listed and provided are critical to the CMAR's ability to manage the project per the Contract documents, procedural requirements as outlined in the project management documents, and to satisfy best management practices. Any variation in these services could affect the CMARs ability to manage to the contract documents and best management practices standards.

The CMAR solicited, coordinated, and executed this GMP development per the CMAR Agreement and specifications. The speed of project execution has limited our ability to collaborate in depth but there has been discussion and review of certain scopes during task force meetings.

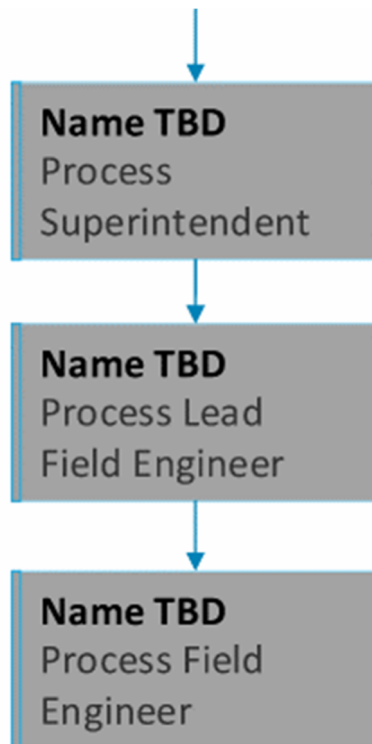
Bid Schedule & Results

BP08-001 Process Mechanical was issued for Notice to Bid on December 27, 2023. The Bid Package was due on January 24, 2024. Only one bidder, Kiewit Water Facilities South Co. submitted a proposal for the Base Bid in the amount of \$25,572,800.00. Alternative for 80 hours of Additional Startup Services was also submitted in the proposal for an amount of \$48,000.00. Bid was submitted in a sealed package to the City of Sherman and was evaluated by a committee including the City of Sherman, Pape-Dawson, and Plummer. The committee recommended approval and award to Kiewit Water Facilities South Co..

Pape-Dawson issued BP08-001 Process Mechanical Bid Package Comments dated January 26, 2024 requesting further clarification. Our response to Comment No. 4 regarding Air and Instrument Tubing is to include an Allowance in the amount of \$100,000. Our response to Comment No. 7 regarding Chemicals is to include an Allowance in the amount of \$300,000.

CMAR support staff for BP08-001 consists of a Process Mechanical Superintendent and two (2) Process Field Engineers for 50 Weeks (2/13/24 – 1/28/25) has also been included consistent with the positions identified as future scopes on the initial GMP submittals. The cost for support staff is \$1,150,000. In agreement with Owner, CMAR to carry 8% Owner's contingency to address design development from the current Bid Packages to IFC. CMAR recommends contingency in the amount of \$2,137,824 (includes Base Bid and CMAR support staff). CMAR recommends a GMPI cost of \$28,860,624 (includes Owner's Contingency; excludes 9% Contingency & CMAR Fee).

Figure 1: GMPI Support (Org Chart)



Assumptions and Clarifications

1. HVAC, Plumbing, Fire Protection and Bridge Cranes were excluded from BP08-001 Process Mechanical and the expectation is these items will be included in the Building Trades Bid Package.

South Wastewater Treatment Plant – MBR Project
GMP Scope of Work

2. All misc. metals such as handrail, stairs and landings, gratings, hatches, structural steel and associated embeds are excluded from this Bid Package.
3. Lifting devices provided as shown otherwise not included in this Bid Package.
4. Ductile Iron Pipe Glass Lining not shown or indicated in the Pipe Material Schedule, excluded from this Bid Package.
5. Discrepancies between the Gate Schedule and the Mechanical Plans related to sizing have been identified. At this time, our suppliers have provided pricing based on the Gate Schedule and this is reflected in this Bid Package.
6. Currently assuming the (2) Submersible Mixers at the RAS Pump Station will be part of this Bid Package since this is not detailed as part of the Preselected Equipment Package.
7. Currently assuming the (1) Davit Crane at the Scum Box is not included with the Scum Pumps Preselected Equipment Package and is included in this Bid Package.
8. Currently assuming the (4) Davit Cranes at the Bioreactor Basins are not included in the Preselected Equipment Package and is included in this Bid Package.
9. Any grit and/or screenings containers at the Influent Pump Station and/or the Preliminary Treatment Unit are excluded from this Bid Package. Assumed to be provided by the Owner.
10. Supply of the Backpulse Tank in the Membrane Support Building is not included in this Bid Package. Supply assumed to be included in the MBR scope of supply. Installation is included in this Bid Package.
11. All labor beyond achieving COPI is excluded from this Bid Package. It is anticipated Allowance will cover this item.

30% Cost Model Pricing Comparison

The cost for the proposed GMPI as presented in the 30% Design Cost Model has changed. Revised Drawings were issued with BP08-001, with the following impacts to costs:

1. In the 30% Cost Model HVAC, Plumbing, Fire Protection and Bridge Cranes total cost amounted to \$1,580,000. These costs were excluded from BP08-001.
2. Piping reduction was noticeable at the Biological Reactor Basins, Membrane Basins and Membrane Support Building in comparison to the 30% Cost Model piping quantities.
3. Process Equipment installation costs were reduced, as well Equipment material costs were reduced based on quotes received, in comparison to the 30% Cost Model.

South Wastewater Treatment Plant – MBR Project
GMP Scope of Work

Figure 2: 30% Cost Model Site Plan

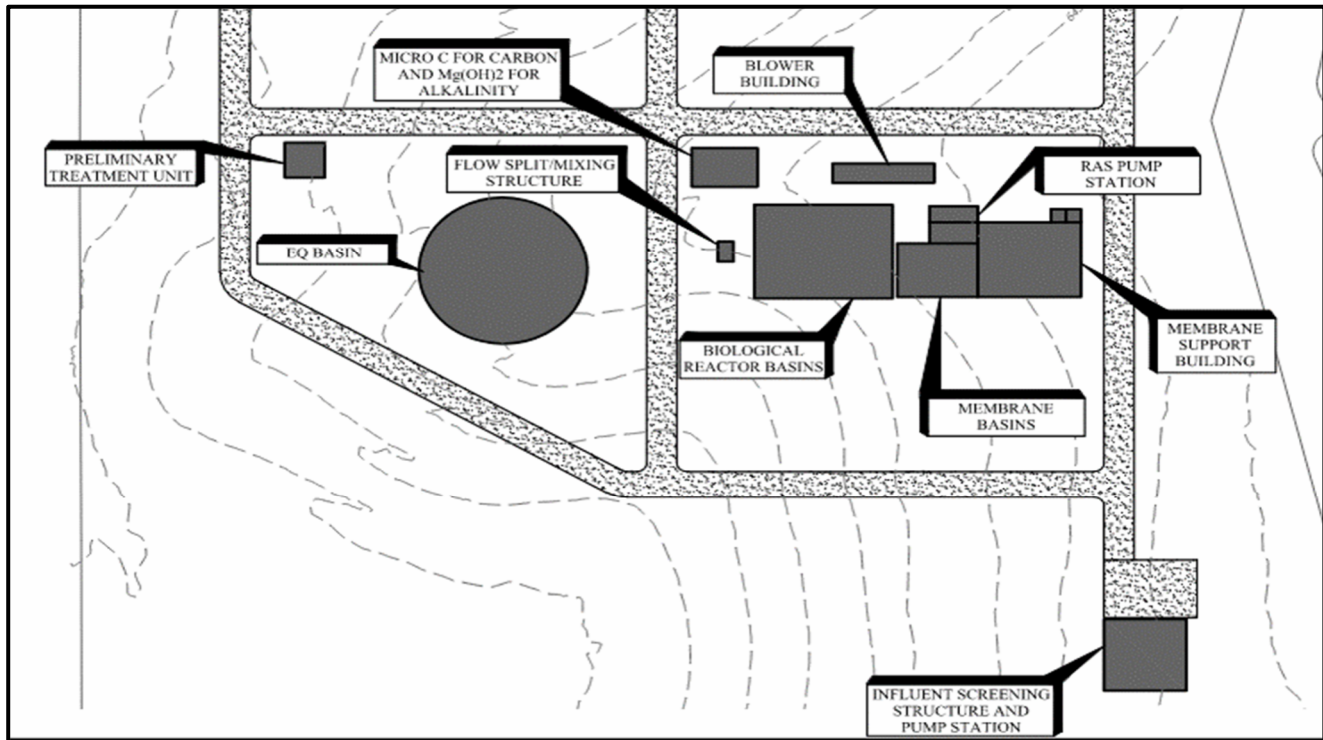
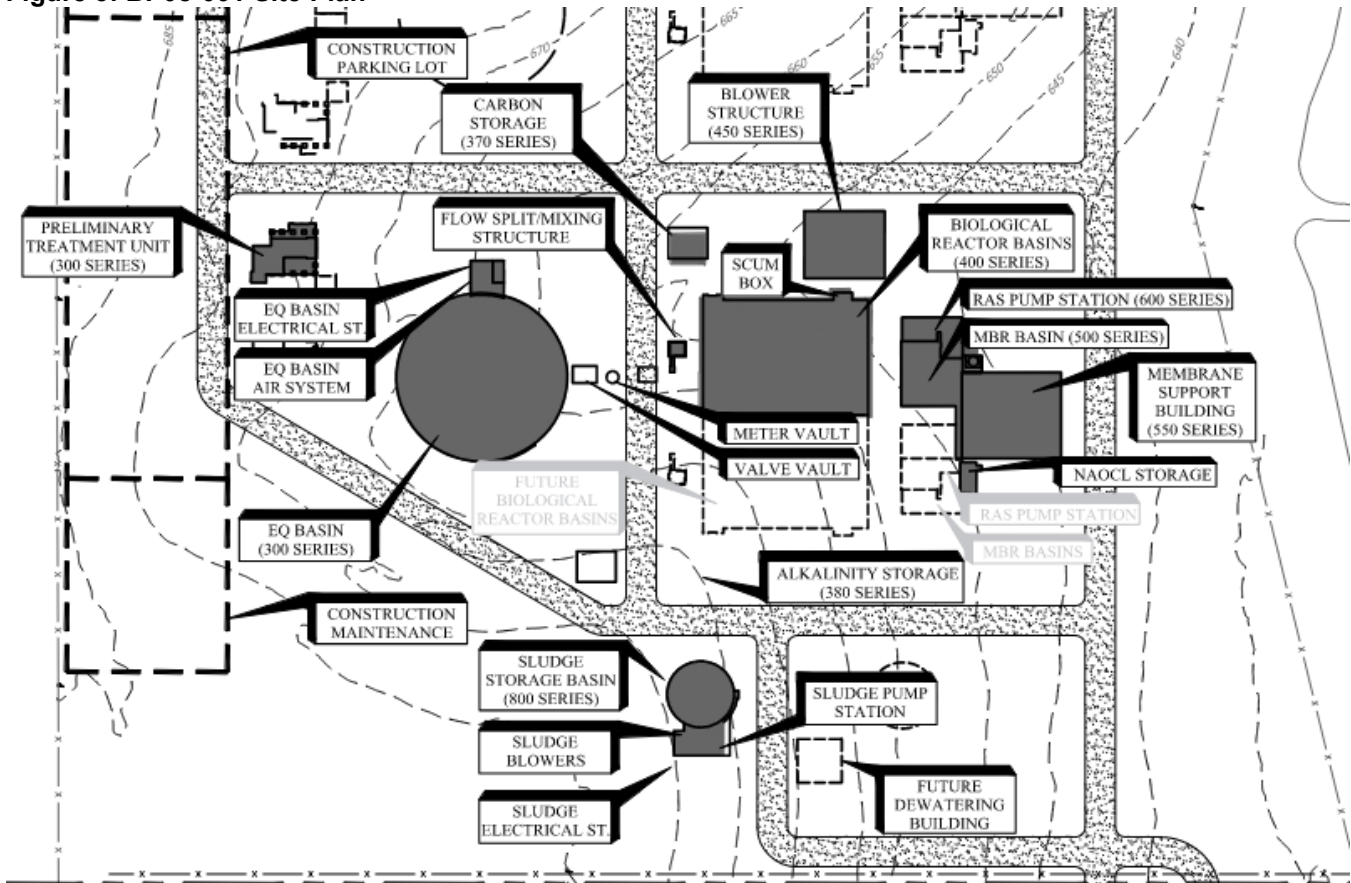


Figure 3: BP08-001 Site Plan



South Wastewater Treatment Plant – MBR Project
GMP Scope of Work

Figure 4: 30% Cost Model Versus Current Forecast GMPI Table \$294M

GMP	GMP/Work Package Name	30% Cost Model	Forecast Value
PCSA	Preconstruction Services	\$ 1,950,000.00	\$ 1,950,000.00
PCSB	Procurement Services	\$ 915,000.00	\$ 915,000.00
	Preconstruction Lump Sum	\$ 2,865,000.00	\$ 2,865,000.00
GMPA	General Conditions	\$ 16,866,305.00	\$ 16,866,305.00
GMPB	Site Services	\$ 18,399,017.31	\$ 18,399,017.31
GMPC	Early Procurement	\$ 10,000,000.00	\$ 16,000,000.00
GMPD	Grading, Excavation, SOE, Dewatering	\$ 12,453,579.16	\$ 18,602,635.00
GMPE	Backfill	\$ 2,312,395.16	\$ 5,068,000.00
GMPF	Underground Piping	\$ 41,784,737.61	\$ 41,784,737.61
GMPG	Concrete, Miscellaneous Metals	\$ 23,241,313.76	\$ 35,811,000.00
GMPH	Electrical, Instrumentation	\$ 35,530,865.34	\$ 35,530,865.34
GMPI	Process Mechanical	\$ 30,315,016.30	\$ 30,440,624.00
GMPJ	Building Trades	\$ 7,813,865.58	\$ 7,813,865.58
GMPK	Site Finishes and Startup Support	\$ 3,794,221.44	\$ 3,794,221.44
	Cost of Work	\$ 202,511,316.66	\$ 230,111,271.28
9%	Contingency	\$ 18,226,018.49	\$ 20,710,014.42
	Cost of Work plus Contingency	\$ 220,737,335.15	\$ 250,821,285.70
12.2%	~Additional GCs (12.2% When >\$155M)	\$ 11,445,475.22	\$ 13,719,369.21
	Subtotal Cost of Work	\$ 232,182,810.37	\$ 264,540,654.90
9.95%	CMAR Fee	\$ 23,102,189.63	\$ 26,321,795.16
	Construction Total	\$ 255,285,000.00	\$ 290,862,450.07
	Preconstruction Plus Construction Total	\$ 258,150,000.00	\$ 293,727,450.07

*Note: Remaining Values for Partial Packages (D,F,G, H,I) are approximations not supported by design or estimates.

*Note: The additional GCs are only calculating on Cost of Work plus Contingency above \$138,367,439.73 per Amendment 01.

Contract and Payment Mechanism

It is expected that the components of this work package approval will be invoiced as stated below:

1. BP08-001 – Process Mechanical: Will be invoiced a Lump Sum per agreed schedule of values.
2. Contingency: Contingency will be allocated to Cost of Work according to the change management process then invoiced accordingly, generally as a Lump Sum.
3. Construction Fee Insurance will be invoiced at the percentages defined in the Agreement.

Plans and Specifications

The following listing of plans, specifications, and documents were used in the development of vendor bid package for this GMP.

Table 2: Reference Specifications / Drawings

Technical Specification / Drawing Title	Specifications / Drawings
00 01 07	Engineer's Seals Page
09 91 00	Painting and Protective Coatings
09 96 00	Highly Protective Coatings
23 37 23	Gravity Ventilators
33 14 19	Drains, Cleanouts, Hydrants,

South Wastewater Treatment Plant – MBR Project
GMP Scope of Work

	and Hose Stations
40 05 05	Piping System, Basic Materials, and Methods
40 05 07	Hangers and Supports for Process Piping
40 05 19	Ductile Iron Pipe
40 05 23	Stainless Steel Process Pipe and Tubing
40 05 31.13	Polyvinyl Chloride and Chlorinated Polyvinyl Chloride Process Pipe
40 05 52	Miscellaneous Valves and Appurtenances
40 05 56	Gates, Slide and Weir
40 05 61	Gate Valves
40 05 61.43	Knife Gate Valves
40 05 62	Plug Valves
40 05 64	Butterfly Valves
40 05 78.29	Combination Air and Vacuum Release Valves
40 12 00	Compressed Air Process Piping
40 41 13	Process Piping Heat Tracing
40 42 13	Process Piping Insulation
41 22 17	Stationary Davit Cranes
43 21 40	Variable Speed Mixed Flow Propeller Pumps
43 25 13.31	Submersible Medium Capacity Centrifugal Pumps
46 25 44	Motorized Rotating Weir Skimming System
46 41 41	Top Entering Tank Mixers
46 51 15	Submersible Aeration Equipment
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C-038 VALVE SCHEDULE II	
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C-040 GATE SCHEDULE	
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South Wastewater Treatment Plant – MBR Project
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M-301 PRELIMINARY TREATMENT UNIT LOWER PLAN	
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M-330 EQUALIZATION BASIN PERSPECTIVE	
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M-370 CARBON STORAGE PLAN AND PERSPECTIVE	
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M-400 BIOLOGICAL REACTOR BASINS DRAINAGE PLAN	
M-401 BIOLOGICAL REACTOR BASINS LOWER PLAN	
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M-404 BIOREACTOR AERATION BASINS INSTRUMENTATION PLAN	
M-405 INFLUENT SPLITTER BOX PLAN & SECTIONS	
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M-451 BIOREACTORS BLOWER ROOM PLAN	
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M-453 MEMBRANE BLOWERS PLAN	
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M-501 MBR BASINS PLAN	
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M-550 MEMBRANE SUPPORT BUILDING PLAN	
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M-9000 MECHANICAL STANDARD DETAILS I	
M-9001 MECHANICAL STANDARD DETAILS II	
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I-403A BIOLOGICAL REACTOR BASINS ENLARGED SWAS PLAN	
I-404 AERATION BASINS AIR P&ID TRAIN 1	
I-405 AERATION BASINS AIR P&ID TRAIN 2	
I-406 AERATION BASINS AIR P&ID TRAIN 3	
I-407 AERATION BASINS AIR P&ID TRAIN 4	
I-450 BLOWER BUILDING P&ID I	
I-451 BLOWER BUILDING P&ID II	
I-452 BLOWER BUILDING P&ID III	
I-453 BLOWER BUILDING P&ID IV	
I-460 MBR AIR SCOUR P&ID	
I-500 MBR BASIN P&ID	
I-550 MBR PERMEATE COLLECTION SYSTEM P&ID	
I-560 MBR MEMBRANE CIP SYSTEM P&ID	
I-600 RAS-WAS PUMP STATION P&ID	
Addendum No. 1 Dated January 10, 2024	
Addendum No. 2 Dated January 18, 2024	

**BID SCHEDULE**

Bid Package: BP08-001 Process Mechanical

Bidder Name: Kiewit Water Facilities South

SCOPE DESCRIPTION

The South Wastewater Treatment Plant (WWTP) – MBR project includes the following major enhancements to the Post Oak WWTP (POWWTP). This project includes a new membrane bioreactor (MBR) treatment process along with improvements to the existing conventional treatment process. Work to be completed in this Bid Package shall include the Coordination and Installation of the Process Equipment, along with the Furnishing and Installation of the Aboveground Piping and associated components per the provided project Plans and Specifications. This Bid Package shall include, but is not limited to, the following:

1. Subcontractor is responsible for all work associated with the complete installation and successful operation of the Process Equipment for this project. Additionally, all piping and appurtenances shall be included in bid items for all applicable Division 40 specifications. All referenced specifications within Division 40 shall be included in the Scope of Work in the overall proposal.

2. Applicable equipment specifications shall include but are not limited to the following. All referenced supporting specifications within each of the below shall be adhered to and included in the overall proposal.

BP01-001 - (MBR) - Items in this Bid Package are included as Preselected Equipment to be installed by the Subcontractor. These items should not be procured by the Subcontractor.

BP01-003 - (Equipment Preselection Package No. 1) - Items in this Bid Package are included as Preselected Equipment to be installed by the Subcontractor. These items should not be procured by the Subcontractor.

BP01-004 - (Equipment Preselection Package No. 2) - Items in this Bid Package are included as Preselected Equipment to be installed by the Subcontractor. These items should not be procured by the Subcontractor.

BP08-001 - (Process Equipment Package) - Items in this Bid Package should be procured and installed by the Subcontractor.

Equipment Description:	BP01-001	BP01-003	BP01-004	BP08-001	Projected Delivery Dates
40 05 23 - Gates, Slide & Weir				X	
41 12 00 - Shafted Screw Conveyor			X		10/14/2024
41 22 23.16 - Portable Davit Cranes & Winch			X		5/27/2024
43 12 19.01 - Blowers, Rotary Screw Positive Displacement - Aeration Basin Blowers			X		10/28/2024
43 12 19.02 - Sludge Storage Blower, Rotary Screw Positive Displacement			X		10/28/2024
43 12 19 - Blowers, Rotary Screw Positive Displacement - MBR	X				8/15/2024
43 12 51 - Air Compressors & Accessories	X		X		8/15/2024
43 21 21.75 - Recessed Impeller Pumps			X		10/14/2024
43 21 40 - Variable-Speed Mixed Flow Propeller Pumps				X	
43 23 15 - Pumps, Heavy Duty Rotary Lobe			X		4/29/2024
43 25 00 - Pumps, Submersible Centrifugal		X			See Schedule
43 25 13.30 - Submersible Large Capacity Centrifugal Pumps			X		6/24/2024
46 21 16 - Bar Rake Screens & Washer Compactors		X			See Schedule
46 21 53 - Cylindrical Perforated Plate Screens			X		10/14/2024
46 23 23 - Vortex Grit Removal System & Classifier			X		10/14/2024
46 33 44-PS - Peristaltic Metering Pumps				X	
46 41 25 - Submersible Mixers - High Speed			X		7/8/2024
46 41 41 - Top Entering Tank Mixers				X	
46 51 21 - Aeration Systems, Coarse Bubble Membrane Diffusers			X		6/10/2024
46 51 33 - Flexible Membrane Disk Diffusers			X		6/10/2024
46 51 33 - Cloth Filter System		X			7/23/2024
46 51 47 - Fine Bubble Diffused Aeration System - Disk			X		6/10/2024
46 51 99 - Equalization Basin Large Bubble Mixing System			X		7/8/2024
46 53 49.10 - Membrane Biological Reactors, Hollow Fiber Type - (ALL Associated Equipment)	X				8/15/2024
XX XX 01 - Wet Well Wizard System				X	
XX XX 02 - Screenings Dumpster				X	
XX XX 03 - Grit Container				X	
XX XX 04 - Screenings Container				X	
XX XX 05 - FRP/Stainless Steel Chute				X	
XX XX 06 - Anti-Sway Supports - (FRP/Stainless Steel Chutes)				X	
XX XX 07 - SS Funnel - Rectangular to Round Transition				X	
XX XX 08 - Potable Water Duplex Booster Pump in Enclosure			X		8/9/2024
XX XX 09 - Booster Pump Skid				X	
XX XX 10 - Carbon Storage Tanks				X	
XX XX 11 - Magnesium Storage Tanks				X	
XX XX 12 - Scum Skimmers				X	
XX XX 13 - Scum Pumps				X	
XX XX 14 - Davit Crane - (For Scum Pumps ONLY. Davit Cranes for Submersible Mixers at Bioreactor Basin are included in 46 41 25)				X	
XX XX 15 - Backpulse Tank				X	
XX XX 16 - Sodium Hypochlorite Tank				X	
XX XX 17 - Citric Acid Tank				X	
XX XX 18 - Sodium Hypochlorite Skid	X				8/15/2024
XX XX 19 - Citric Acid Skid	X				8/15/2024
XX XX 20 - Turbidity Panel	X				8/15/2024
XX XX 21 - Submersible Mixers - (RAS Pump Station)				X	
XX XX 22 - Weirs				X	
XX XX 23 - Access Hatches - (Influent Pump Station ONLY)		X			See Schedule
XX XX 24 - Access Platform - (Effluent Filters ONLY)		X			7/23/2024

3. Any Bulk Commodities required for the successful installation and acceptance of the Process Mechanical system shall be furnished and installed by the Subcontractor. This includes but is not limited to anchor bolts, isolation bolts, grout, any required design outside of the equipment manufacturer's scope, etc...
4. Unless specifically excluded, Subcontractor's pricing should include all overhead and indirect costs including but not limited to Project Management, administrative work, field supervision, office rent & utilities, invoice preparation costs, insurance costs, financing costs, personal protective equipment (PPE), tools, supply purchases, fuel, maintenance, permits, inspections, and all related direct costs. Subcontractor is responsible for all construction means, methods, techniques, procedures, and sequences to fully comply with all Contract Documents. If exclusions apply, Subcontractor will be responsible for communicating those in their proposal. Escalation for the duration of the project is to be included in Subcontractor's price.
5. CMAR shall provide benchmark survey one time in the vicinity of subcontracted work. Additional survey will be at subcontractor expense. Survey request must be submitted 48 hours in advance. Subcontractor shall be responsible for necessary field measurements, verification of measurements, additional survey and layout as required for installation of their work. Subcontractor to create and maintain as-builts drawings as required. Subcontractor to request all needed as-builts of existing plant and work installed in previous bid packages to complete scope of work.
6. Cranes to be provided by CMAR. Subcontractor must provide their own OSHA compliant rigging from the hook down. Subcontractor must adhere to the CMAR's crane policies and information. Subcontractor must acknowledge crane pad layout. Must coordinate weekly crane schedule meetings with CMAR.
7. CMAR will provide portable toilets.

8. Subcontractor must provide notification of additional cost and a detailed change proposal within one-week from receiving any RFI, Change Request, Supplemental Instruction, or any other document that changes this Subcontractor's scope of work and results in a change in cost or time. The CMAR will assure that there is no additional cost if a proposal or notification of additional cost is not provided within one-week. Each proposal must include a breakdown of labor hours, labor rate, equipment rates and durations, a material list with quantities, and the associated material cost. Failure to provide detailed pricing per the requirements stated above shall be justification to withhold monthly payments for unapproved work.
9. Subcontractor is required to develop a P6 schedule and is required to participate in schedule meetings. Within 30 days from notice of award, Subcontractor shall integrate with project CPM schedule and coordinate with other successful bidders to achieve project schedule and milestones. Submission of a 4-week look-ahead schedule on a weekly basis will be required. Subcontractor is responsible for coordination with other trades and bid packages to ensure correct and timely installations. Pipe installations and testing may need to be segmented to accommodate other discipline's installations and CMAR schedule. Subcontractor has obligation to progress all available work fronts per the direction of the CMAR. Any work outside of normal hours needs to be scheduled and approved ahead of time with approval from CMAR. Premiums for overtime, night, and weekend work to maintain CMAR's schedule shall be included in Subcontractor's price. Subcontractor must be willing and able to supply and support additional crews as needed to maintain CMAR's schedule. Temporary lighting will be supplied by the Subcontractor for any work outside of normal working hours. Subcontractor is required to meet the overall schedule. Start dates may change, but durations shall not change.
10. Subcontractor to adhere to Davis-Bacon wage requirements.
11. All employees must attend a 4-hour minimum site orientation meeting prior to working onsite. Supervisors or foreman will attend weekly site coordination & scheduling meetings. All employees will attend monthly safety meetings.
12. Liquidated Damages will be assessed as applicable per the Contract Documents. Damages may also be assessed if adjacent scopes are impacted.
13. A schedule of submittals shall be completed by Subcontractor and sent to CMAR within 10 business days of NOA. Early submittals may be required at the CMAR's discretion to accommodate CMAR's schedule.
14. Subcontractor must provide a marked-up site plan with proposed and agreed upon laydown and trailer area for applicable work.
15. Subcontractor must acknowledge warehouse space required. CMAR cannot provide guarantees on available space.
16. Subcontractor to conform to the requirements of all rules, regulations and codes of local, state, and federal authorities having jurisdiction.
17. A 100% Payment and Performance Bond is required for this project and should be included in Subcontractor's price.
18. At a minimum, personal protective equipment (PPE) to include hard hats, safety glasses, safety vest, steel toe boots, and work gloves. PPE shall be worn 100% of the time while performing work onsite. Subcontractor will be back-charged for any PPE or other safety equipment that the CMAR supplies on their behalf. Subcontractor shall provide fall protection equipment and devices as applicable per CMAR Safety Plan. Note, requirements may be more strenuous than OSHA standards and adherence is mandatory.
19. Subcontractor will be required to comply with OSHA safety requirements and CMAR's site safety plan which includes post-incident and reasonable suspicion drug and alcohol testing.
20. Subcontractor is responsible to submit a TSCD (temporary structures and construction devices) plan and abide by all requirements per CMAR's Safety Plan. Items to be included with accompanied PE stamp includes but is not limited to access, fall protection, temporary handrail, line and grade, formwork, shoring, and any other pre-engineered or job-built structures or devices.
21. All equipment mobilized to the project site shall be in safe working order.
22. Subcontractor must perform and maintain a material receiving report. Subcontractor shall provide required quality and turnover documentation to the CMAR in an organized format as specified by CMAR and contract documents. Any electronic files must follow a naming convention and organization specified by CMAR.
23. Subcontractor is responsible for developing and adhering to the ITP (Inspection and Testing Plan) pertaining to this scope of work as a part of the overall CMAR's ITP. Subcontractor is responsible for all inspections and testing as required and must give CMAR 48-hours notice prior to any testing. All testing shall be per plans and specifications. Pipe testing and disposal of testing fluid shall be in accordance with all applicable laws, codes, standards, specifications, and CMAR guidelines. Subcontractor to include water purchase and disposal costs in their proposal.
24. Subcontractor will be responsible for Site Cleanup daily and may need to dedicate staff to help with cleanup. Subcontractor will be responsible for getting any waste to the dedicated waste disposal locations (locations provided by CMAR). Must supply incidental refuse collection and deliver to the CMAR's designated area in the appropriate containment. Subcontractor will be required to clean up any debris caused by overfilling.
25. Subcontractor responsible for protection of in-process and finished work from all other disciplines related to their work.
26. Work included in this bid package includes but not limited to supply and installation of all process equipment and above ground piping, tie-ins to existing pipe, valves with appurtenances, instruments/flow meters (installation only, supply is in another bid package), pipe supports, pipe labeling/tagging, welding, heat trace, insulation, cathodic protection, disinfection, & NSF-61 materials as required. Pipe testing and disposal of testing fluid shall be in accordance with all applicable laws, codes, standards, specifications, and CMAR guidelines. Subcontractor is not responsible for the supply of Pre-Negotiated Equipment with the Owner.
27. Subcontractor is responsible for heat trace and insulation per plans and specifications.
28. There are a mixture of concrete and metallic pipe supports are included in the design. Where concrete supports are shown, rebar and concrete will be supplied and installed in another bid package. Pipe strap, anchor bolts and grout at these concrete supports are to be included in this bid package. Subcontractor is responsible for all metallic pipe supports including anchor bolts and grout in this bid package.
30. Mobilization may be needed as early as 10 calendar days from notice of award or what is shown in the CMAR P6 schedule, whichever is earlier. Demobilization including clean up within two weeks of completion of work or notification by CMAR. Multiple mobilizations may be required.
31. The Subcontractor and/or its representatives shall be fully acquainted with the design and operation of the systems and equipment described in these specifications and on the drawings.
32. Contract Drawings are generally diagrammatic and all offsets, fittings, transitions, and accessories are not necessarily shown. Furnish and install all such items as may be required to fit the work to the conditions encountered. Arrange equipment and other work generally as shown on the contract drawings, providing proper clearance and access. The Engineer reserves the right to make reasonable changes in location of equipment, piping, and ductwork, prior to the time of rough-in or fabrication.
33. Where Contract Documents indicate field-routing, Subcontractor shall be responsible for providing all required components for the making of a complete and operable system. This shall include all required Redlined and As-Built Drawings associated with the field-routed system to include P&ID's and Mechanical Drawings. These documents must be maintained at all times and must be located on the project site. These shall be available upon request from the CMAR. Upon completion and acceptance of scope, submit a minimum of one (1) electronic set and four (4) hard copies unless Contract Documents require more.
34. Subcontractor is responsible for access to work.
35. Supply and install of piping and appurtenances inside manholes and vaults shall be included in pricing. Embedded components will be supplied and installed in BP05-002.
36. Floor pipes and wall pipes on exterior walls connecting to underground piping will be installed in BP05-002. BP08-001 Subcontractor is responsible for coordinating and connecting to pipe including the supply and installation of gaskets or other joining materials as specified. In general, the transition will happen at the first interior pipe connection. Inspections and testing must be coordinated and completed either separate or in conjunction with the other Bid Packages at the CMAR's and Engineer's discretion. Temporary testing materials may be required.
37. Pipe tie-ins and bypass shall be performed in manner that maintains and does not interrupt existing plant operations. Subcontractor is responsible for all associated costs at each tie-in and bypass location. Submittals and work plans shall be approved before commencement of work.
38. Subcontractor is responsible for all finish interior pipe linings as required. Exterior coatings shall be manufacturer's prime coat; finish coatings will be in future bid package.
39. Subcontractors are required to submit daily reports on a daily basis on a form prescribed by the CMAR. These reports must include a detailed description of the work performed, problems encountered, manpower and equipment levels, and deliveries.
40. For all equipment/material being installed under this Subcontract, whether being furnished and installed or just installed, this Subcontractor shall be responsible for offloading, preservation or maintenance, and storage in accordance with all material and equipment requirements.
41. The CMAR must be notified of any extra work that is being performed on a Time and Material basis prior to beginning the work. T&M slips must be submitted and signed by the CMAR Superintendent on the same day that the work is performed. The CMAR will not accept T&M slips that are not submitted on the same day that the work is performed.
42. The Subcontractor must have a full time Supervisor onsite at all times, fully qualified and knowledgeable in the scope of work pertaining to this Subcontract. In addition, the Supervisor shall be an OSHA defined "Competent Person" who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has the authorization to take prompt corrective action to eliminate them.
43. The Subcontractor shall provide all Spare Parts per the Contract Documents for any equipment and/or material furnished by the Subcontractor under this scope.
44. CMAR will be performing the work outlined in the Work Change Directive (WCD). Subcontractor will be responsible for completing all work within the scope documents that is not outlined as part of the WCD. Please reference included WCD Scope document to understand boundaries.

LIST OF SPECIFIC ITEMS TO BE INCLUDED WITH PROPOSAL TO BE CONSIDERED RESPONSIVE					
Item	Description				
1	Completed Bid Form				
2	Subcontractor P6 Schedule				
3	Clarifications, Assumptions, & Exclusions				
4					
5					
LIST OF INCLUDED SUPPORTING DOCUMENTS					
Item	Document Description	Revision No.			
1	Mechanical Drawings - (BP08-001)				
2	P&ID's - (BP08-001)				
3	Specifications - (BP08-001)				
4	CMAR Project Schedule (P6)				
5	Draft Subcontract				
6	CMAR Written Site Specific Safety Plan				
7	CMAR Written Site Specific Quality Plan				
8	Preselected Equipment Proposals				
9	WCD-001 Scope Definition 1.10.2024				
10	DN Tanks Scope - (Equalization Basin)				
11	DN Tanks Scope - (Sludge Storage Tank)				
PROCESS EQUIPMENT & PROCESS PIPING (Consisting of but not limited to:)					
BID ITEM	DESCRIPTION	QUANTITY	UNIT OF MEASURE	UNIT PRICE	EXTENDED PRICE
1	Process Equipment Installation and Testing	1	LS	\$ -	\$ -
1.01	Mobilization	1	LS	\$ 500,000.00	\$ 500,000.00
1.02	Diversion Structure	1	LS	\$ 166,000.00	\$ 166,000.00
1.03	Influent Pump Station	1	LS	\$ 578,000.00	\$ 578,000.00
1.04	Preliminary Treatment Unit	1	LS	\$ 600,000.00	\$ 600,000.00
1.05	Equalization Basin	1	LS	\$ 129,000.00	\$ 129,000.00
1.06	Biological Reactor Basins	1	LS	\$ 1,295,000.00	\$ 1,295,000.00
1.07	Blower Building	1	LS	\$ 85,000.00	\$ 85,000.00
1.08	Carbon Storage Structure	1	LS	\$ 273,000.00	\$ 273,000.00
1.09	Alkalinity Storage Structure	1	LS	\$ 550,000.00	\$ 550,000.00
1.10	Membrane Basins	1	LS	\$ 260,000.00	\$ 260,000.00
1.11	Membrane Support Building	1	LS	\$ 185,000.00	\$ 185,000.00
1.12	RAS Pump Station	1	LS	\$ 100,000.00	\$ 100,000.00
1.13	Sludge Storage Tank	1	LS	\$ 347,000.00	\$ 347,000.00
1.14	Tertiary Filters	1	LS	\$ 97,000.00	\$ 97,000.00
1.15	Relift Pump Station	1	LS	\$ 511,000.00	\$ 511,000.00
1.16	Startup Services	1	LS	\$ 160,000.00	\$ 160,000.00
1.17	Demobilization	1	LS	\$ 250,000.00	\$ 250,000.00
Process Equipment Subtotal					\$ 6,086,000.00
2	Process Piping	1	LS	\$ -	\$ -
2.01	Mobilization	1	LS	\$ 500,000.00	\$ 500,000.00
2.02	Diversion Structure	1	LS	\$ 5,800.00	\$ 5,800.00
2.03	Influent Pump Station	1	LS	\$ 3,424,000.00	\$ 3,424,000.00
2.04	Preliminary Treatment Unit	1	LS	\$ 341,000.00	\$ 341,000.00
2.05	Equalization Basin	1	LS	\$ 71,000.00	\$ 71,000.00
2.06	EQ Basin Flow Control Valve Structure	1	LS	\$ 192,000.00	\$ 192,000.00
2.07	EQ Flow Meter Structure	1	LS	\$ 41,000.00	\$ 41,000.00
2.08	Carbon Storage Area	1	LS	\$ 180,000.00	\$ 180,000.00
2.09	Magnesium Storage Structure	1	LS	\$ 312,000.00	\$ 312,000.00
2.10	Influent Splitter Box	1	LS	\$ 127,000.00	\$ 127,000.00
2.11	Biological Reactor Basin	1	LS	\$ 5,025,000.00	\$ 5,025,000.00
2.12	Blower Building	1	LS	\$ 1,410,000.00	\$ 1,410,000.00
2.13	Effluent Filters	1	LS	\$ 254,000.00	\$ 254,000.00
2.14	Relift Pump Station	1	LS	\$ 604,000.00	\$ 604,000.00
2.15	Sludge Storage Tank	1	LS	\$ 359,000.00	\$ 359,000.00
2.16	Membrane Basins	1	LS	\$ 1,582,000.00	\$ 1,582,000.00
2.17	Membrane Support Building	1	LS	\$ 2,925,000.00	\$ 2,925,000.00
2.18	RAS Pump Station	1	LS	\$ 1,835,000.00	\$ 1,835,000.00
2.19	Startup Services	1	LS	\$ 49,000.00	\$ 49,000.00
2.20	Demobilization	1	LS	\$ 250,000.00	\$ 250,000.00
Process Piping Subtotal					\$ 19,486,800.00
SUBTOTAL BASE BID SCOPE =					\$ 25,572,800.00
PAYMENT AND PERFORMANCE BOND RATE =					

Alternatives

BID ITEM	DESCRIPTION	QUANTITY	UNIT OF MEASURE	UNIT PRICE	EXTENDED PRICE
1	80 Hours of Additional Startup Services (Include Rate Sheet)	80	Hours	\$ 600.00	\$ 48,000.00
				SUBTOTAL ADDITIVE ALTERNATES =	\$ 48,000.00
				TOTAL BID PRICE (Subtotal Base Bid Scope + Subtotal Additive Alternates) =	\$ 25,620,800.00

Total Bid Price (Subtotal Base Bid Scope + Subtotal Additive Alternates) is the Price used in the Best Value Scoring Matrix evaluation of the Bid.

Questions for Bidders	Answer (Yes/NO)	Additional/Clarifying Notes
Do you have experience working with the City of Sherman?	YES	
Do you have experience with Alternative Delivery Projects?	YES	
Bidder will be responsible for coordinating/scheduling with other trades. Do you agree to coordinate with CMAR and other trades to complete work within schedule?	YES	
A performance bond will be required for this work. Will you be able to obtain a performance bond within 15 days of notice of award?	N/A	
Will you require warehouse space? Include needs in additional/clarifying notes. Bidder will be responsible for their own forklifts and other equipment to perform the work.	YES	
Is Bidder capable and willing to support multiple shift operations if requested by CMAR?	YES	
Bidder should include a copy of their rate sheet for startup services. Is a copy of your rate sheet included with your proposal?	NO	EXCEPTIONS SHEET
Have you completed the exceptions and assumptions tabs of this document and included in your submittal?	YES	
Do you agree to the commercial terms in the draft subcontract?	YES	
Do you agree to liquidated damages of \$1,000 day will apply to P6 Schedule, quality and turnover documents, integration into Project CPM within 30 days of NOA, submittal of schedule of submittals within 10 days of NOA, delays caused to other subcontractors.	YES	

Bidder acknowledges receipt of the listed Addenda to the RFP. Such Addenda were received prior to submittal of this bid and are made part of Bidder's pricing.

Addendum No: 1
Date: 10-Jan-24

Addendum No: 2
Date: 1/18/2024

Addendum No: _____
Date: _____

Addendum No: _____
Date: _____

Addendum No: _____
Date: _____

Addendum No: _____
Date: _____

SUBMITTED BY

Name: Terry J. Carlsgaard
Signature: 
Title: President
Date: 1/24/2023
FOR
Company: Kiewit Water Facilities South Co.
Address: 2050 Roanoke Rd., Suite 250
Westlake, TX 76262
Phone: 469-276-3800
E-Mail: Terry.Carlsgaard@Kiewit.com

VALUE ENGINEERING CONCEPTS:

As part of the bid, if Subcontractor has ideas on cost savings and value engineering while meeting the specifications and the required quality for the Project, please include any potential concepts and the reduction in price in the below table. Additional rows can be added as required. All value engineering ideas will need to be evaluated by the CM/GC, the Client, and the Engineer of Record. Additional information may be required from the Subcontractor.

	DESCRIPTION	QUANTITY	UNIT OF MEASURE	UNIT PRICE	REDUCTION IN PRICE
VE1	Value Engineering - Concept 1 <u>1 1/2" PIRERGLASS IN LIEU OF 1"</u>	<u>1</u>	<u>LS</u>	<u>+50,000</u>	<u>+50,000</u>
VE2	Value Engineering - Concept 2 <u>EXISTING ROOF OVER NPW, PW, SW, HP</u>				

Commercial Bid Form Exceptions Tab		
Number	Section	Exception Notes
1	Schedule	All Process Mechanical Equipment supplied by others will be supplied in time to achieve the schedule.
2	DN Tanks Scope of Work: Equalization Basin and Sludge Storage Tank.	At Equalization Basin: Air Receiver, Compressor and Stainless Steel Pipe not in DN Tanks scope of work. Booster Pump, Washdown Nozzle, Washdown Piping and Overflow Pipe in DN Tanks scope of work. At Sludge Storage Tank: Blower, Pumps and Stainless Steel Pipe not in DN Tanks scope of work. Overflow Pipe in DN Tanks scope of work. Washdown System for the Sludge Storage Tank is not included in this Bid Package.
3	Plans and Specifications	Our bid is based on the current plans and details and does not include any contingency for design progression or changes in scope.
4	Specification 01 31 00 - 1.5 A. Permits and Permit Fees	Permits and Permit Fees are excluded from this Bid Package.
5	Specification 01 31 00 - 1.24 Maintenance of Roads	Maintenance of roads are excluded from this Bid Package.
6	Specification 01 78 36-PS Warranties	Warranty period 12 months from Substantial Completion per Schedule provided in the ITB.
7	General Construction Notes Drawing G-012 Note 5.	TPDES SWPPP excluded from this Bid Package.
8	General Construction Notes Drawing G-012 Note 13.	Security excluded from this Bid Package.
9	Hazardous Waste Note 8 Drawing G-012	Hazardous Waste excluded from this Bid Package.
10	General and Mechanical Notes Drawing G-012 Note 9. A.	Equipment Pads excluded from this Bid Package.
11	General and Mechanical Notes Drawing G-012 Note 12.	Mow Strips excluded from this Bid Package.
12	Eye Wash Stations	Eye Wash Stations provided as shown on the Drawings, if not shown excluded from this Bid Package.
13	Coatings	All coatings including high performance coatings is excluded from this Bid Package. Shop prime coatings for piping as specified is included in this Bid Package.
14	Misc Metals & Structural Steel	All misc. metals such as handrail, stairs and landings, gratings, hatches, structural steel and associated embeds are excluded from this Bid Package.
15	Pipe Routing	Piping not shown on the Drawings is excluded from this Bid Package.
16	I&C Panels	Panels required for I&C are excluded from this Bid Package.
17	Bridge Cranes	Bridge Cranes are excluded from this Bid Package.
18	Lifting Devices	Lifting devices provided as shown otherwise not included in this Bid Package.
19	Screenings Dumpster	Screenings Dumpster at the Influent Pump Station excluded from this Bid Package.
20	HVAC, Plumbing, Fire Sprinklers	HVAC, Plumbing, Fire Sprinklers excluded from this Bid Package.
21	Ductile Iron Pipe Glass Lining	Ductile Iron Pipe Glass Lining not shown or indicated in the Pipe Material Schedule, excluded from this Bid Package.
22	Air or Instrument Tubing	Air or Instrument Tubing excluded from this Bid Package.
23	Hydrotest Water	Water for hydrotesting provided by the Owner, costs for purchasing hydrotesting water excluded from this Bid Package.
24	COPI	All labor beyond achieving COPI is excluded from this Bid Package. It is anticipated Allowance will cover this item.
25	Pre-selected Process Equipment	Any scope gaps between this Bid Package and Pre-Selected Process Equipment are excluded from this Bid Package.
26	Startup Chemicals and First Chemical Fill	Startup Chemicals and First Chemical Fills are excluded from this Bid Package.
27	Concrete Pipe Supports	Concrete Pipe Supports excluded from this Bid Package.
28	Startup Services Rate Sheet	Rate Sheet not provided, Startup & Commissioning not clearly defined in this Bid Package.
29	Backpulse Tank Membrane Support Building	Taking exception to furnishing the Backpulse Tank in the Membrane Support Building if it is not included within Veolia's scope of supply. There is currently no specification or design criteria within this Bid Package to furnish this item.
30	Grit and/or Screenings Containers	Taking exception to any grit and/or screenings containers at the Influent Pump Station and/or the Preliminary Treatment Unit. This is assumed to be provided by the Owner.
31	Discharge Chutes & Supports - (Influent Pump Station)	Assuming the Discharge Chutes and Supports for the Barscreens are included with the Barscreen "Preselection Package".
32	Davit Cranes - (Bioreactor Basins)	Currently assuming the (4) Davit Cranes at the Bioreactor Basins are not included in the Preselection Package and should be included in this package.

33	Davit Crane - (Scum Box)	Currently assuming the (1) Davit Crane at the Scum Box is not included with the Scum Pumps and should be included in this package.
34	Submersible Mixers - (RAS Pump Station)	Currently assuming the (2) Submersible Mixers at the RAS Pump Station will be part of BP08-001 since this is not detailed as part of the Preselected equipment.
35	Peristaltic Metering Pumps - (Chemical Pumps)	The Mechanical Plans indicate the Peristaltic Metering Pumps are stand-alone horizontal chemical pumps with interconnecting PVC piping. The specification details a chemical feed skid design and is what the suppliers have quoted.
36	Startup Services	Startup Services includes Craft and Staff to perform functional testing up until COPI. All labor beyond achieving COPI is excluded from this Bid Package. Startup and Commissioning is not included and is assumed to be covered in an allowance.
37	Valves	Valves not shown on the Drawings are excluded from this Bid Package.
38	Expansion Joints	Expansion joints not shown on the Drawings are excluded from this Bid Package.
39	Small Bore Ductile Iron Pipe	Services calling for DIP 3" and below will be provided as PVC.
40	Instrument Air	Instrument Air is not included in this Bid Package.
41	PVC Pipe	Per the pipe schedule, CPVC or double contained piping is not included in this Bid Package.
42	Dielectric Unions	Dielectric BNGs, Unions, couplings, or otherwise are not included in this Bid Package.
43	Air piping	Grade 304 stainless steel is used for the ALP services.
44	Pipe Testing	Pipe testing to be to AWWA pipe testing standards in respect to pipe shown on sheet G-024.
45	Pipe Routing	Piping not shown on the Drawings are excluded from this Bid Package.
46	Gates	Discrepancies between the Gate Schedule and the Mechanical Plans related to sizing have been identified. At this time, our suppliers have provided pricing based on the Gate Schedule and this will be reflected in our bid.
47	Scum Skimmer	In this Bid Package, the Scum Skimmer supplier has listed Rotork and Limitorque as potential Actuator suppliers for the Skimmers.
48		
49		
50		

COSK - South WWTP - MBR - Design

DATE SUBMITTED: 1/26/2024

BP08-001 Process Mechanical Bid Package Comments

Comment No.	Page No.	Comment	CMAR Response / Resolution	Final PgM Response / Resolution	PgM Comments Resolved (Yes/No)
1	5	Exclusion 2. Clarify what this exclusion means. It appears as written that some required equipment may not be provided under any package.	Exclusion is specific to DN Tank scope of supply. Per Equipment Preselection Package No. 4, the Washdown Nozzles and associated piping at the Equalization Basin is included in DN Tank's Scope of Supply. Therefore, these items will not be furnished or installed in BP08-001 and will be the responsibility of DN Tanks. All other equipment at the Equalization Basin and/or Sludge Storage Tank is captured per Equipment Preselection Package No. 4 or to be Furnished/Installed within BP08-001.		
2	5	Exclusion 6. Warranty period is intended to be 24 months. The exclusion indicates only a 12 month warranty will be provided. Explain how the gap in warranty will be handled.	Reference GMPA-C General Conditions Assumptions Log Item 58, assumed Warranty period of one (1) year. Specification 01 78 36PS Section 1.4 A. 2. Special Equipment Warranty states 24-month period. Does the Client want all equipment with a 24-month Warranty? If so, additional monies will need to be added to the bid for equipment furnished in this Bid Package. An Allowance could be established, please advise.		
3	5	Exclusion 21. Verify that this exclusion does not apply to epoxy lined DI pipe.	Glass lined pipe is not included in this Bid Package. Epoxy lined DIP is included as indicated on the Pipe Schedule.		
4	5	Exclusion 22. Air or instrument tubing that is excluded. An allowance is to be included in the GMP package that will account for this tubing.	Will include an Allowance of \$100K for Air or Instrument Tubing in this Bid Package. Allowance based on similar project with tubing.		
5	5	Exclusion 24. This package is intended to include full startup required for equipment installed that is included in the package. Verify that startup services will be included.	Equipment Supplier Services and System Startup per the Specifications for equipment provided in this Bid Package is included. All labor beyond achieving COPI is excluded from this Bid Package as noted.		
6	5	Exclusion 25. How does the CMAR intend to account for scope gaps between this package and equipment bid packages?	For Preselected Equipment suggest a Change Order to the selected manufacturer scope of supply upon discovery of scope gaps. An Allowance could be established, please advise.		
7	5	Exclusion 26. Initial chemicals needed for equipment startup are intended to be included in this bid package.	Chemicals for functional testing of equipment and initial fill are an adder, will include an Allowance of \$300,000 in this Bid Package. City has existing contracts for chemicals it would be more cost effective for the city to procure the chemicals.		
8	5	Exclusion 27. How does the CMAR intend to account for concrete pipe supports?	Concrete pipe supports are to be included in a Balance of Concrete Bid Package or a Change Order to the Concrete Bid Package.		
9	5	Exclusion 28. A rate sheet for startup & commissioning of equipment included in this package is needed for this package. How will the CMAR provide this?	Upon clear definition of Commissioning CMAR will provide a rate sheet.		
10	5	Exclusion 31. Verify that discharge chutes and supports for all screening facilities are provided. How will the CMAR account for this if it is a scope gap?	Per Equipment Preselection Package No. 3, the discharge piping is included in Huber's scope of supply for the Bar screens at the Influent Pump Station. However, per Equipment Preselection Package No. 4, the grit/screening discharge piping and supports are not included within Smith & Loveless' scope of supply. The grit/screenings discharge piping and supports at the Preliminary Treatment Unit will be Furnished and Installed within this Bid Package.		
11	6	Exclusion 40. How will instrument are be accounted for?	Reference CMAR Response to Comment No. 4 above, will include an Allowance of \$100K for Air or Instrument Tubing in this Bid Package. Allowance based on similar project with tubing. Instruments are included in the Electrical Bid Packages.		
12	6	Exclusion 43. Specifications for this package require 316 SS. Verify that 316 SS will be provided.	Confirmed 316 SS is provided in this Bid Package.		

South WWTP - MBR - CMAR Update Schedule #04 - 28JAN24 LIVE Bid Packages DRAFT			ALL ACTIVITIES W/TF						DATA DATE: 31-Dec-23																															
Activity ID	Activity Name	OD	RD	% Comp	Start	Finish	TF						2024										2025																	
								A	S	O	N	D	J	F	M	A	M	J	Jul	A	S	O	N	D	J	F	M	A	M	J	Jul	A	S	O						
South WWTP - MBR - CMAR Update Schedule #04 - 28JAN24 LIVE Bid Packages DRAFT							254	254		24-Jan-24	28-Jan-25	125																												
Preconstruction							24	24		24-Jan-24	26-Feb-24	355																												
Procurement Services							24	24		24-Jan-24	26-Feb-24	355																												
BID PACKAGES							24	24		24-Jan-24	26-Feb-24	355																												
BP08-001 Process Mechanical							24	24		24-Jan-24	26-Feb-24	355																												
BP08-001.1030	BP08-001 Bid Process Mechanical	1	1	0%	24-Jan-24*	24-Jan-24	355	BP08-001 Bid Process Mechanical																																
BP08-001.1040	BP08-001 Board Approval Process Mechanical	8	8	0%	25-Jan-24	05-Feb-24	355	BP08-001 Board Approval Process Mechanical																																
BP08-001.1050	BP08-001 Contract Amendment Process Mechanical	5	5	0%	06-Feb-24	12-Feb-24	355	BP08-001 Contract Amendment Process Mechanical																																
BP08-001.1060	BP08-001 Issue Purchase Agreement Process Mechanical	10	10	0%	13-Feb-24	26-Feb-24	355	BP08-001 Issue Purchase Agreement Process Mechanical																																
Submittals							33	33		26-Feb-24	12-Apr-24	26																												
Underslab and Wall Piping (Non-Critical)							33	33		26-Feb-24	12-Apr-24	26																												
PRO-504	Prepare & Submit Underslab and Wall Piping Package (Remaining Pieces)	15	15	0%	26-Feb-24	18-Mar-24	28	Prepare & Submit Underslab and Wall Piping Package (Remaining Pieces)																																
PRO-494	Review & Approve Underslab and Wall Piping Package (Remaining Pieces)	10	10	0%	18-Mar-24	02-Apr-24	28	Review & Approve Underslab and Wall Piping Package (Remaining Pieces)																																
PRO-484	Fabricate & Deliver Underslab and Wall Piping (Remaining Pieces)	10	10	0%	02-Apr-24	12-Apr-24	39	Fabricate & Deliver Underslab and Wall Piping (Remaining Pieces)																																
Construction							172	172		12-Apr-24	28-Jan-25	13																												
Existing Plant Upgrades							93	93		12-Apr-24	09-Sep-24	58																												
Effluent Tertiary Filters							28	28		12-Apr-24	29-May-24	122																												
Mechanical							28	28		12-Apr-24	29-May-24	122																												
RPS-350	Install U/S Piping (30IN FCE/ 6IN D/ and 30IN FE)	8	8	0%	12-Apr-24	25-Apr-24	122	Install U/S Piping (30IN FCE/ 6IN D/ and 30IN FE)																																
RPS-360	Install Filter Equipment	3	3	0%	03-May-24	10-May-24	123	Install Filter Equipment																																
RPS-150	Install Piping - Effluent Tert Filters	11	11	0%	10-May-24	29-May-24	122	Install Piping - Effluent Tert Filters																																
Relift Pump Station							40	40		08-Jul-24	09-Sep-24	58																												
Mechanical							40	40		08-Jul-24	09-Sep-24	58																												
RPS-280	Install Mechanical Equipment - Relift Pump Station/Tert Filter PS	10	10	0%	08-Jul-24	23-Jul-24	65	Install Mechanical Equipment - Relift Pump Station/Tert Filter PS																																
RPS-210	Install Piping - Relift Pump Station/Tert Filter PS	23	23	0%	02-Aug-24	09-Sep-24	58	Install Piping - Relift Pump Station/Tert Filter PS																																
Area 2							83	83		20-Aug-24	14-Jan-25	15																												
Equalization Basin / Tank							52	52		14-Oct-24	14-Jan-25	15																												
Mechanical							52	52		14-Oct-24	14-Jan-25	15																												
EQT-190	Install Supply/Exhaust Fans - EQ Tank	4	4	0%	14-Oct-24	18-Oct-24	63	Install Supply/Exhaust Fans - EQ Tank																																
EQT-210	Install Large Bubble-Pulse Mixing System - EQ Tank	10	10	0%	01-Nov-24	19-Nov-24	15	Install Large Bubble-Pulse Mixing System - EQ Tank																																
EQT-220	4"/ALP/SS to Large Bubble-Pulse Mixing System - EQ Tank	29	29	0%	21-Nov-24	14-Jan-25	15	4"/ALP/SS to Large Bubble-Pulse Mixing System - EQ Tank																																
EQT-250	Install Washdown Nozzels	4	4	0%	21-Nov-24	26-Nov-24	36	Install Washdown Nozzels																																
EQT-260	2"/PW/SS to Washdown Nozzels	4	4	0%	27-Nov-24	06-Dec-24	36	2"/PW/SS to Washdown Nozzels																																
EQ Basin Electrical St / Air System							12	12		12-Sep-24	01-Oct-24	44																												
Mechanical							12	12		12-Sep-24	01-Oct-24	44																												
EQT-490	Install Air Compressors - EQ Elec / Air System	2	2	0%	12-Sep-24	13-Sep-24	44	Install Air Compressors - EQ Elec / Air System																																
EQT-500	Install Air Reciever Tanks - EQ Elec / Air System	2	2	0%	13-Sep-24	17-Sep-24	44	Install Air Reciever Tanks - EQ Elec / Air System																																
EQT-390	4"/ALP/SS to Large Bubble-Pulse Mixing System to EQ Tank - EQ Elec / Air System	9	9	0%	17-Sep-24	01-Oct-24	44	4"/ALP/SS to Large Bubble-Pulse Mixing System to EQ Tank - EQ Elec / Air System																																
Preliminary Treatment							73	73		20-Aug-24	27-Dec-24	8																												
Mechanical							73	73		20-Aug-24	27-Dec-24	8																												
PTRT-150	Install Gates (Typ 7) - Prelim Treatment Unit (PTU)	4	4	0%	20-Aug-24	27-Aug-24	23	Install Gates (Typ 7) - Prelim Treatment Unit (PTU)																																
PTRT-170	Install Fine Screens (Typ 2) - Prelim Treatment Unit (PTU)	15	15	0%	13-Sep-24	10-Oct-24	8	Install Fine Screens (Typ 2) - Prelim Treatment Unit (PTU)																																
Remaining Level of Effort Actual Work Remaining Work Critical Remaining Work Milestone					KIEWIT WATER FACILITIES SOUTH Page 1 of 4																																			

South WWTP - MBR - CMAR Update Schedule #04 - 28JAN24 LIVE Bid Packages DRAFT			ALL ACTIVITIES W/TF						DATA DATE: 31-Dec-23																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																												
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	MBR-380	Filtrate Header Pipe - Membrane Basins	31	31	0%	28-Jun-24	19-Aug-24	40																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		

January 26, 2024

GTUA/City of Sherman
220 W Mulberry St.
P.O. Box 1106
Sherman, TX 75091
(903) 892-7208

Re: COSK South Wastewater Treatment Plant - MBR Project
BP05-002 Underground Piping & Appurtenances Re-Bid Recommendation
BP08-001 Process Mechanical Bid Recommendation

Dear GTUA/City of Sherman:

To support construction of the South Wastewater Treatment Plant – MBR Project the Construction Manager At Risk (CMAR), Kiewit, publicly advertised a request for proposals two early works packages. The Early Works Packages include:

- BP05-002 Underground Piping & Appurtenances Re-Bid, Advertised on 1/11/2024.
- BP08-001 Process Mechanical, Advertised on 12/27/2023.

Kiewit notified the City of the CMAR's intention to bid on each of these packages before the advertisement. Therefore, responses to the advertisement were received by the City of Sherman on January 24, 2024 and publicly read aloud as indicated in the advertisements. A summary of the bid results follows:

BP05-002 Underground Piping Re-Bid

One bid was received for this package from Kiewit Water Facilities South Co. (Kiewit). All required documents were provided with the bid.

BP08-001 Process Mechanical

One bid was received for this package from Kiewit Water Facilities South Co. (Kiewit). All required documents were provided with the bid.

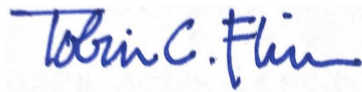
The City, GTUA, Design Engineer, and Program Management team have reviewed the proposal based on criteria established in the advertisement and prepared selection worksheet materials. Based on review of the proposal and evaluation discussions with the CMAR, GTUA, City staff, and the Design Engineer; the Program Management Team evaluated the bids with respect to the evaluation criteria and weighting described in the RFP as indicated in the following table.

Early Works Package	Bidder	Bid Amount	Weighted Evaluation Score	Recommend Bid
BP05-002 UG Piping Re-Bid	Kiewit	\$36,946,465.00	94.97	Yes
BP08-001 Process Mechanical	Kiewit	\$25,620,800.00	96.09	Yes

It is the opinion of the Program Management Team that Kiewit is qualified to perform this work associated with BP05-002, and BP08-001. For these two packages, Kiewit has the necessary equipment and personnel to carry out the intended work in a manner that will enable the completion of the project within the required time period.

We recommend approval of bids from Kiewit for BP05-002 and BP08-001. The review team developed a list of bid clarifications for each package that we recommend the CMAR respond to along with the development, by the CMAR, of early works GPM packages to carry out the work associated with each of these bid packages.

Sincerely,



Toby Flinn, PE
Program Manager

Attachments:

1. BP05-002
 - a. Bid Tabulations
 - b. Bid Evaluation Worksheets
 - c. Bid Clarification Comments
2. BP08-001
 - a. Bid Tabulations
 - b. Bid Evaluation Worksheets
 - c. Bid Clarification Comments

**Sherman South WWTP-MBR - BP05-002 Underground Piping and Appurtenances Re-Bid
Bid Opening January 24, 2024**

	Bidder #1	Bidder #2	Bidder #3
DESCRIPTION	Kiewit		
Acknowledgement of Addenda (2 total)	yes		
Completed & Signed Bid Form	yes		
Total Price	\$36,946,465.00		

Project	COSK South WWTP MBR
CMAR:	Kiewit
Work Package:	BP05-002 UG Piping Re-Bid

SUBCONTRACTOR SCORECARD TEMPLATE

CRITERIA CHECKLIST

CRITERIA SCORES	WEIGHT	Kiewit AVG WEIGHTED SCORE	NOTES
Proposal ¹	1	0.96	
1. Pricing	30	27.19	
2. Commercial / Technical	30	29.53	
3. Ability to meet Schedule	40	38.25	
Total Score	100	94.97	

- Notes
- 1 Proposal are tabulated to determine responsiveness. However, this was not indicated in the advertisement as a scoring criteria so will not be counted as a weighted component.

2 Weighted Score includes individual scores of the evaluation team that includes GTUA, COS, Designer, Prog. Mgr.



DATE SUBMITTED: 1/26/2024

[illegible]

Comment No.	Page No.	Comment	CMAR Response / Resolution	Final PgM Response / Resolution	PgM Comments Resolved (Yes/No)
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Sherman South WWTP-MBR - BP08-001 Process Mechanical
Bid Opening January 24, 2024

	Bidder #1	Bidder #2	Bidder #3
DESCRIPTION	Kiewit		
Acknowledgement of Addenda (2 total)	yes		
Completed & Signed Bid Form	yes		
Total Price	\$25,620,800.00		

Project	COSK South WWTP MBR
CMAR:	Kiewit
Work Package:	BP08-001 Process Mechanical

SUBCONTRACTOR SCORECARD TEMPLATE

CRITERIA CHECKLIST

CRITERIA SCORES	WEIGHT	Kiewit AVG WEIGHTED SCORE	NOTES
Proposal ¹	1	0.95	
1. Pricing	30	27.00	
2. Commercial / Technical	30	29.34	
3. Ability to meet Schedule	40	39.75	
Total Score	100	96.09	

Notes

- 1 Proposal are tabulated to determine responsiveness. However, this was not indicated in the advertisement as a scoring criteria so will not be counted as a weighted component.
- 2 Weighted Score includes individual scores of the evaluation team that includes GTUA, COS, Designer, Prog. Mgr.

COSK - South WWTP - MBR - Design

DATE SUBMITTED: 1/26/2024

BP08-001 Process Mechanical Bid Package Comments

Comment No.	Page No.	Comment	CMAR Response / Resolution	Final PgM Response / Resolution	PgM Comments Resolved (Yes/No)
1	5	Exclusion 2. Clarify what this exclusion means. It appears as written that some required equipment may not be provided under any package.			
2	5	Exclusion 6. Warranty period is intended to be 24 months. The exclusion indicates only a 12 month warranty will be provided. Explain how the gap in warranty will be handled.			
3	5	Exclusion 21. Verify that this exclusion does not apply to epoxy lined DI pipe.			
4	5	Exclusion 22. Air or instrument tubing that is excluded. An allowance is to be included in the GMP package that will account for this tubing.			
5	5	Exclusion 24. This package is intended to include full startup required for equipment installed that is included in the package. Verify that startup services will be included.			
6	5	Exclusion 25. How does the CMAR intend to account for scope gaps between this package and equipment bid packages?			
7	5	Exclusion 26. Initial chemicals needed for equipment startup are intended to be included in this bid package.			
8	5	Exclusion 27. How does the CMAR intend to account for concrete pipe supports?			
9	5	Exclusion 28. A rate sheet for startup & commissioning of equipment included in this package is needed for this package. How will the CMAR provide this?			
10	5	Exclusion 31. Verify that discharge chutes and supports for all screening facilities are provided. How will the CMAR account for this if it is a scope gap?			
11	6	Exclusion 40. How will instrument be accounted for?			
12	6	Exclusion 43. Specifications for this package require 316 SS. Verify that 316 SS will be provided.			



Sherman
CLASSIC TOWN. BROAD HORIZON.



City Council Regular Meeting

Agenda Item No. H.7.

Meeting Date: 2/5/2024

Prepared By: Tom Pruitt, Utility Engineer

Approved By: Robby Hefton, City Manager

Caption:

RESOLUTION NO. 7253

Approving the Greater Texoma Utility Authority's Intention to Award Bid Package 05-002 to Kiewit Water Facilities South for the Underground Piping and Appurtenances at the South Wastewater Treatment Plant.

Issue:

To consider approving the Greater Texoma Utility Authority's Intention to Award the South Wastewater Treatment Plant - MBR Bid Package - BP05-002 Underground Piping and Appurtenances

Background:

This agenda item is related to the fast-track wastewater treatment plant CMAR procurement, progressive GMP. It is for Re-Bid Package 5 (BP05-002) which was advertised on Civcast and competitive bids sought on January 8th with the bids being opened on January 24th. One responsive bid was received by Kiewit Water Facilities South. Scoring activities were conducted by representatives from City of Sherman, GTUA, Project Management Team Pape-Dawson, and Engineers Plummer & Associates - excellent scores were recognized throughout the criteria with the overall score of 94.97 out of 100.

Concurrent to GTUA award earlier today, this award resolution will allow the CMAR contractor to begin work on procuring and subsequent installation of underground piping necessary to construct the new Membrane Biological Reactor (MBR) wastewater treatment plant. Both Bid Bid Package 05-002 Underground Pipe and Appurtenances and Package 08-001 for Process Mechanical will be included in Contract Amendment 4.

Origination:

Engineering Department

Financial Consideration:

Funds needed for this package is \$53,723,445.27 and will be provided by the GTUA through the 2024 Open Market Bonds

Staff Recommendation:

It is recommended that the City Council approve GTUA's intention to award the South Wastewater Treatment Plant - MBR Bid Package - BP05-002 Underground Piping and Appurtenances

Alternatives:

As may be directed by the City Council

Attachments:

1. Resolution No. 7253
2. GMP Proposal
3. Letter of Recommendation
4. Location Map

RESOLUTION NO. 7253

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, APPROVING THE GREATER TEXOMA UTILITY AUTHORITY'S INTENTION TO AWARD BID PACKAGE 05-002 TO KIEWIT WATER FACILITIES SOUTH FOR THE UNDERGROUND PIPING AND APPURTENANCES AT THE SOUTH WASTEWATER TREATMENT PLANT; 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 Bid Package 05-002 to Kiewit Water Facilities South in the amount of Fifty-Three Million Seven Hundred Twenty-Three Thousand Four Hundred Forty-Five Dollars and Twenty-Seven Cents (\$53,723,445.27) for the Underground Piping and Appurtenances.

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 5th day of February 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**



South Wastewater Treatment Plant – MBR Project

GMP Proposal Submissions for:

GMPF2 – Underground Piping

Submitted: January 30, 2024



January 30, 2024

Mr. Tom Pruitt, PE
City of Sherman
220 W. Mulberry Street
Sherman, TX 75090

RE: GMPF2 Underground Piping

Dear Mr. Pruitt:

Kiewit Water Facilities South Co. is hereby submitting GMPF2 proposal for the South Wastewater Treatment Plant – MBR Project. The GMP proposal incorporates Bid Package 05-002 Underground Piping.

RFP and Addenda for BP05-002 have been included in this proposal. The scope of work for BP05-002 includes installation of Underground Piping and appurtenances per the Underground Piping Package ITB. Anticipated Work Start Date February 6, 2024 and Anticipated Finish Date April 7, 2025.

This scope is submitted as a lump sum to be billed against the proposed schedule of values. If the overall project schedule changes, this package may require additional funding that would be negotiated via the change management process.

Below is a table comparing the current proposed values to the overall project budget to help understand how this funding authorization fits within the overall projected construction budget.



GMP	GMP/Work Package Name	Previous	Current	Remaining	Forecast Value	Target
PCSA	Preconstruction Services	\$ 1,950,000.00	\$ -	\$ -	\$ 1,950,000.00	9/18/23
PCSB	Procurement Services	\$ 915,000.00	\$ -	\$ -	\$ 915,000.00	9/18/23
	Preconstruction Lump Sum	\$ 2,865,000.00	\$ -	\$ -	\$ 2,865,000.00	
GMPA	General Conditions	\$ 16,866,305.00	\$ -	\$ -	\$ 16,866,305.00	10/16/23
GMPB	Site Services	\$ 18,399,017.31	\$ -	\$ -	\$ 18,399,017.31	10/16/23
GMPC	Early Procurement	\$ 16,000,000.00	\$ -	\$ -	\$ 16,000,000.00	10/16/23
GMPD	Grading, Excavation, SOE, Dewatering	\$ 15,902,635.00	\$ -	\$ 2,700,000.00	\$ 18,602,635.00	11/20/23
GMPE	Backfill	\$ 5,068,000.00	\$ -	\$ -	\$ 5,068,000.00	12/18/23
GMPF	Underground Piping	\$ -	\$ 39,952,988.25	\$ 7,741,611.75	\$ 47,694,600.00	12/18/23
GMPG	Concrete, Miscellaneous Metals	\$ 32,311,000.00	\$ -	\$ 3,500,000.00	\$ 35,811,000.00	12/18/23
GMPH	Electrical, Instrumentation	\$ 5,019,257.00	\$ -	\$ 30,511,608.34	\$ 35,530,865.34	12/18/23
GMPI	Process Mechanical	\$ 28,860,624.00	\$ -	\$ 1,580,000.00	\$ 30,440,624.00	1/15/24
GMPJ	Building Trades	\$ -	\$ -	\$ 7,813,865.58	\$ 7,813,865.58	1/15/24
GMPK	Site Finishes and Startup Support	\$ -	\$ -	\$ 3,794,221.44	\$ 3,794,221.44	5/20/24
	Cost of Work	\$ 138,426,838.31	\$ 39,952,988.25	\$ 57,641,307.11	\$ 236,021,133.67	
9%	Contingency	\$ 12,458,415.45	\$ 3,595,768.94	\$ 5,187,717.64	\$ 21,241,902.03	
	Cost of Work plus Contingency	\$ 150,885,253.76	\$ 43,548,757.19	\$ 62,829,024.75	\$ 257,263,035.70	
12.2%	~Additional GCs (12.2% When >\$155M)	\$ 1,527,173.31	\$ 5,312,948.38	\$ 7,665,141.02	\$ 14,505,262.71	
	Subtotal Cost of Work	\$ 152,412,427.07	\$ 48,861,705.57	\$ 70,494,165.77	\$ 271,768,298.41	
9.95%	CMAR Fee	\$ 15,165,036.49	\$ 4,861,739.70	\$ 7,014,169.49	\$ 27,040,945.69	
	Construction Total	\$ 167,577,463.56	\$ 53,723,445.27	\$ 77,508,335.26	\$ 298,809,244.10	
	Preconstruction Plus Construction Total	\$ 170,442,463.56	\$ 53,723,445.27	\$ 77,508,335.26	\$ 301,674,244.10	

*Note: Remaining Values for Partial Packages (D,G, H) are approximations not supported by design or estimates.

*Note: The additional GCs are only calculating on Cost of Work plus Contingency above \$138,367,439.73 per Amendment 01.

Respectfully,

James Goyer
Kiewit Water Facilities South Co.
Project Executive

Table Of Contents

- 1) **Executive Summary**
- 2) **Bid Form**
- 3) **BP05-002 Underground Piping Re-Bid Comments**
- 4) **Schedule**

South Wastewater Treatment Plant – MBR Project

TO: City of Sherman/GTUA/Pape-Dawson

DATE: 1/30/2024

FROM: Kiewit

SUBJECT: Executive Summary – Underground Piping and Appurtenances

COPIES: Transmitted Electronically via Email

GMP Overview

The following proposal includes Underground Piping. Each Work Package is comprised of various Bid Packages that are described in Table 1.

Table 1: Work Packages

Work Package ID	Work Package Name	Associated Bid Packages
GMPA	General Conditions	BP02-001, BP03-001, 003, 011 to 017, 029-032, 039-045
GMPB	Site Services	BP03-All (Except those listed above)
GMPC	Early Procurement	BP01-All
GMPD	Early Grading, Excavation, SOE, Dewatering	BP04-001
GMPE	Backfill	BP04-002
GMPF	Underground Piping	BP05-001
GMPF2	Underground Piping Rebid	BP05-002
GMPG	Concrete	BP06-001, BP06-002
GMPH	Underground Electrical	BP07-001
GMPH2	Aboveground Electrical	BP07-002
GMPI	Process Mechanical	BP08-001
GMPJ	Building Trades	TBD
GMPK	Site Finishes and Startup Support	TBD

BP05-002 Overview

This scope of work includes Underground Piping for the piping shown in the Underground Piping Package ITB.

The services listed and provided are critical to the CMAR's ability to manage the project per the Contract documents, procedural requirements as outlined in the project management documents, and to satisfy best management practices. Any variation in these services could affect the CMARs ability to manage to the contract documents and best management practices standards.

The CMAR solicited, coordinated, and executed this GMP development per the CMAR Agreement and specifications. The speed of project execution has limited our ability to collaborate in depth but there has been discussion and review of certain scopes during task force meetings.

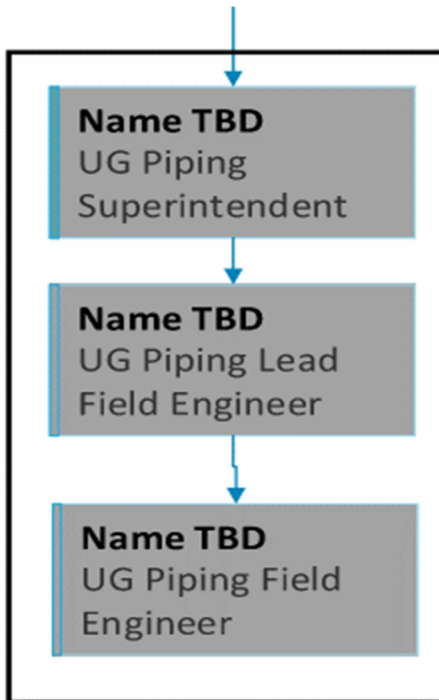
Bid Schedule & Results

BP05-002 Underground Piping was issued for Notice to Bid on January 11, 2024. The Bid Package was due on January 24, 2024. Only one bidder, Kiewit Water Facilities South Co. submitted a proposal for the Base Bid in the amount of \$36,946,465.00. Bid was submitted in a sealed package to the City of Sherman and was evaluated by a committee including the City of Sherman, Pape-Dawson, and Plummer. The committee recommended approval and award to Kiewit Water Facilities South Co..

Pape-Dawson issued BP05-002 Underground Piping Re-Bid Bid Package Comments dated January 26, 2024 requesting further clarification. Our response to Comment No. 3 regarding Plant and Potable Water is to include an Allowance in the amount of \$250,000. Our response to Comment No. 5 regarding Valves is to include an Allowance in the amount of \$250,000. Our response to Comment No. 7 regarding Corrosion Protection is to include an Allowance in the amount of \$125,000.

CMAR support staff for BP05-002 consists of an Underground Piping Superintendent and two (2) Underground Piping Field Engineers for 48 Weeks (5/6/24 – 4/7/25) has also been included consistent with the positions identified as future scopes on the initial GMP submittals. The cost for support staff is \$1,104,000. In agreement with Owner, CMAR to carry 5% Owner's contingency to address design development from the current Bid Packages to IFC. CMAR recommends contingency in the amount of \$1,902,523 (includes Base Bid and CMAR support staff). CMAR recommends a GMPF2 cost of \$39,952,988 (includes Owner's Contingency; excludes 9% Contingency & CMAR Fee).

Figure 1: GMPF2 Support (Org Chart)



Assumptions and Clarifications

1. WCD No. 001 Furnish and install piping critical to project schedule is not included in this Bid Package
2. Bidder reserves the right to re-evaluate pricing once as-builts, constraints and existing conditions have been provided.
3. Permits and Permit Fees are excluded from this Bid Package.

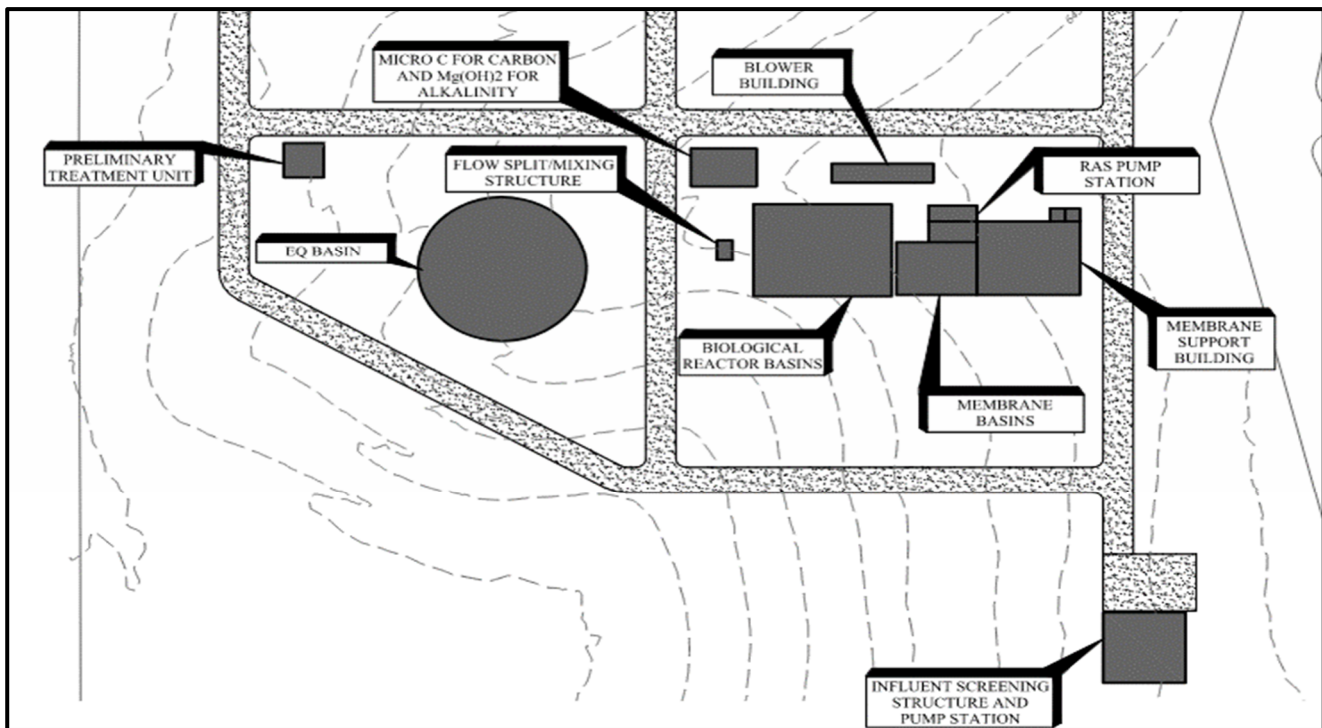
4. Excavation of rock for UG pipe installation is not foreseen in the Geotech, therefore is excluded from this Bid Package.
5. All excess excavated material and spoils will be stockpiled on site for this Bid Package. Bid assumes no material will have to be hauled off-site.
6. Per the pipe schedule, CPVC or double contained piping is not included in this Bid Package.
7. Services calling for DIP 3" and below will be provided as PVC.
8. Expansion joints not shown on the Drawings are excluded from this Bid Package.
9. Piping not shown on the Drawings are excluded from this Bid Package.
10. Pipe testing to be to AWWA pipe testing standards in respect to pipe shown on sheet G-024.
11. Pipe materials shown on the Pipe Material Schedule was the basis of estimate.

30% Cost Model Pricing Comparison

The cost for the proposed GMPF2 as presented in the 30% Design Cost Model has changed. Revised Drawings were issued with BP05-002, with the following impacts to costs:

1. WCD No. 001 scope of work is not included in this Bid Package.
2. Under slab piping at the Carbon and Magnesium was not previously shown in the BP05-001 Underground Piping Package, this piping is included in this Bid Package.

Figure 2: 30% Cost Model Site Plan



South Wastewater Treatment Plant – MBR Project
GMP Scope of Work

Figure 3: BP05-002 Site Plan

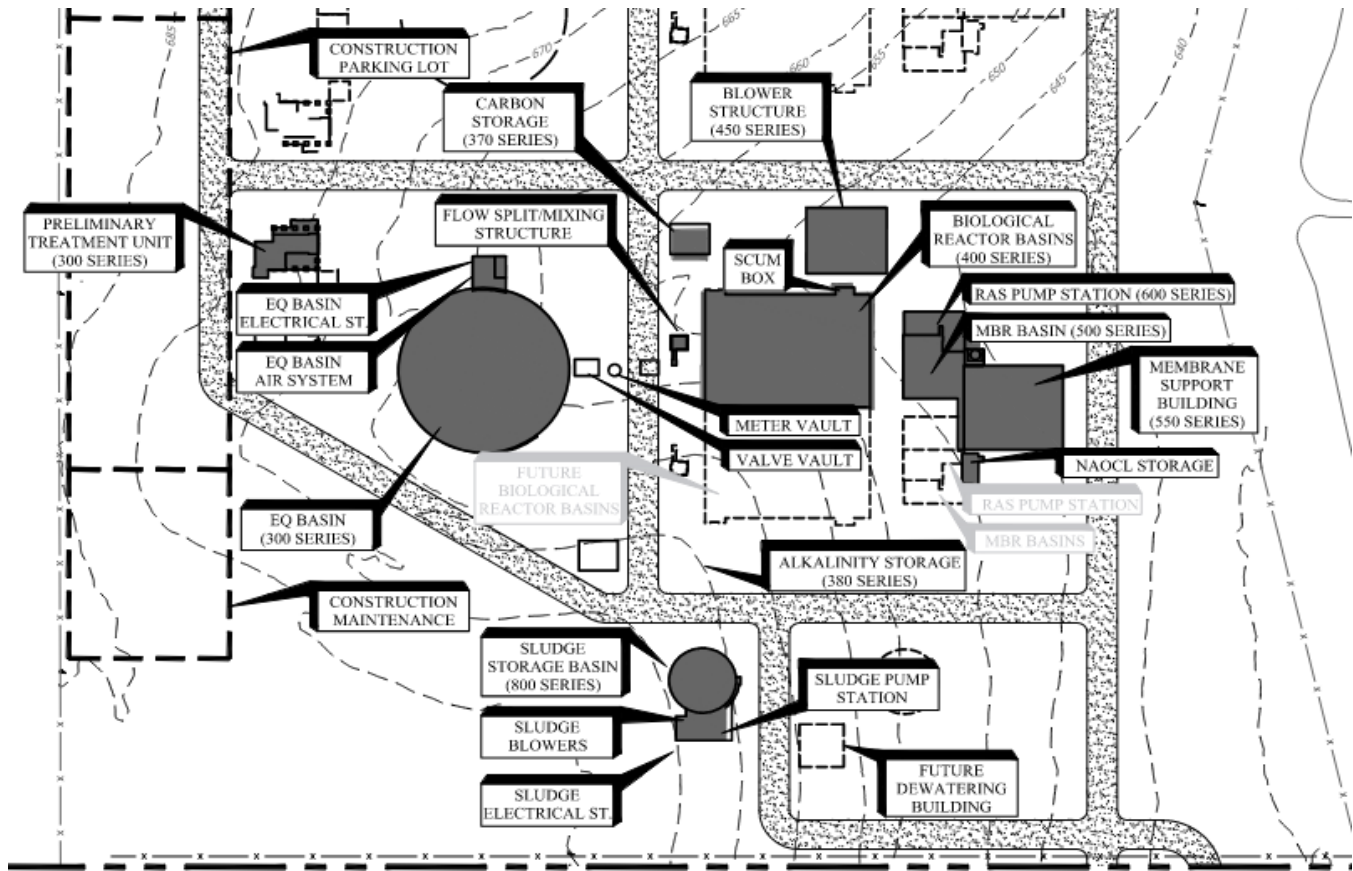


Figure 4: 30% Cost Model Versus Current Forecast GMPF2 Table \$302M

GMP	GMP/Work Package Name	30% Cost Model	Forecast Value
PCSA	Preconstruction Services	\$ 1,950,000.00	\$ 1,950,000.00
PCSB	Procurement Services	\$ 915,000.00	\$ 915,000.00
	Preconstruction Lump Sum	\$ 2,865,000.00	\$ 2,865,000.00
GMPA	General Conditions	\$ 16,866,305.00	\$ 16,866,305.00
GMPB	Site Services	\$ 18,399,017.31	\$ 18,399,017.31
GMPC	Early Procurement	\$ 10,000,000.00	\$ 16,000,000.00
GMPD	Grading, Excavation, SOE, Dewatering	\$ 12,453,579.16	\$ 18,602,635.00
GMPE	Backfill	\$ 2,312,395.16	\$ 5,068,000.00
GMPF	Underground Piping	\$ 41,784,737.61	\$ 47,694,600.00
GMPG	Concrete, Miscellaneous Metals	\$ 23,241,313.76	\$ 35,811,000.00
GMPH	Electrical, Instrumentation	\$ 35,530,865.34	\$ 35,530,865.34
GMPI	Process Mechanical	\$ 30,315,016.30	\$ 30,440,624.00
GMPJ	Building Trades	\$ 7,813,865.58	\$ 7,813,865.58
GMPK	Site Finishes and Startup Support	\$ 3,794,221.44	\$ 3,794,221.44
	Cost of Work	\$ 202,511,316.66	\$ 236,021,133.67
9%	Contingency	\$ 18,226,018.49	\$ 21,241,902.03
	Cost of Work plus Contingency	\$ 220,737,335.15	\$ 257,263,035.70
12.2%	~Additional GCs (12.2% When >\$155M)	\$ 11,445,475.22	\$ 14,505,262.71
	Subtotal Cost of Work	\$ 232,182,810.37	\$ 271,768,298.41
9.95%	CMAR Fee	\$ 23,102,189.63	\$ 27,040,945.69
	Construction Total	\$ 255,285,000.00	\$ 298,809,244.10
	Preconstruction Plus Construction Total	\$ 258,150,000.00	\$ 301,674,244.10

*Note: Remaining Values for Partial Packages (D,G,H) are approximations not supported by design or estimates.

*Note: The additional GCs are only calculating on Cost of Work plus Contingency above \$138,367,439.73 per Amendment 01.

South Wastewater Treatment Plant – MBR Project
GMP Scope of Work

Contract and Payment Mechanism

It is expected that the components of this work package approval will be invoiced as stated below:

1. BP05-002 – Underground Piping: Will be invoiced a Lump Sum per agreed schedule of values.
2. Contingency: Contingency will be allocated to Cost of Work according to the change management process then invoiced accordingly, generally as a Lump Sum.
3. Construction Fee Insurance will be invoiced at the percentages defined in the Agreement.

Plans and Specifications

The following listing of plans, specifications, and documents were used in the development of vendor bid package for this GMP.

Table 2: Reference Specifications / Drawings

Technical Specification / Drawing Title	Specifications / Drawings
00 01 07	Engineer's Seals Page
02 41 00	Demolition
02 41 19	Selective Demolition
05 05 23-PS	Metal Fastenings and Anchor Bolts
09 91 00	Painting and Protective Coatings
10 90 00	Identification, Stenciling, and Tagging
26 05 43	Underground Ducts and Raceways for Electrical Systems
31 02 00	Trench Excavation Safety Protection System
31 05 13	Soils for Earthwork
31 05 16	Aggregates for Earthwork
31 10 00	Site Clearing
31 20 00	Earthwork
31 23 00	Excavation Trenching and Backfilling for Utilities
31 23 10	Structural Excavation and Backfill
31 23 19	Dewatering
31 23 23.34	Flowable Fill
31 41 33	Excavation Support and Protection
32 11 34	Cement Stabilized Sand
33 05 61	Manholes
33 14 19	Drains, Cleanouts, Hydrants and Host Stations
40 01 05	Field Testing of Piping Systems
40 05 05	Piping Systems, Basic Materials and Methods

South Wastewater Treatment Plant – MBR Project
GMP Scope of Work

40 05 07	Hangers and Supports for Process Piping
40 05 19	Ductile Iron Pipe
40 05 23	Stainless Steel Process Pipe and Tubing
40 05 31.13	Polyvinyl Chloride and Chlorinated Polyvinyl Chloride Process Pipe
40 05 33	High Density Polyethylene (HDPE) Process Pipe
40 05 37	Fiberglass Reinforced Polymer Mortar Gravity Sewer Pipe
40 05 52	Miscellaneous Valves and Appurtenances
40 05 56	Gates, Slide and Weir
40 05 61	Gate Valves
40 05 62	Plug Valves
40 05 64	Butterfly Valves
40 05 78.29	Combination Air and Vacuum Release Valves
40 12 00	Compressed Air Process Piping
Appendix A	Drawings
Appendix B	Reference Specifications
C-001 YARD PIPING OVERALL PLAN I	
C-002 YARD PIPING OVERALL PLAN II	
C-003 YARD PIPING I	
C-004 YARD PIPING II	
C-005 YARD PIPING III	
C-006 YARD PIPING IV	
C-007 POTABLE WATER LINE COORDINATES	
C-009 PLAN AND PROFILE II	
C-010 PLAN AND PROFILE III	
C-011 PLAN AND PROFILE IV	
C-012 PLAN AND PROFILE V	
C-013 PLAN AND PROFILE VI	
C-014 PLAN AND PROFILE VII	
C-015 PLAN AND PROFILE VIII	
C-016 PLAN AND PROFILE IX	
C-017 PLAN AND PROFILE X	
C-018 PLAN AND PROFILE XI	
C-021 PLAN AND PROFILE XIV	
C-023 PLAN AND PROFILE XVI	
C-025 PLAN AND PROFILE XVIII	
C-026 PLAN AND PROFILE XIX	

South Wastewater Treatment Plant – MBR Project
GMP Scope of Work

C-027 PLAN AND PROFILE XX	
C-028 PLAN AND PROFILE XXI	
C-029 PLAN AND PROFILE XXII	
C-030 PLAN AND PROFILE XXIII	
C-031 PLAN AND PROFILE XXIV	
C-034 PLAN AND PROFILE XXVII	
C-037 VALVE SCHEDULE I	
C-038 VALVE SCHEDULE II	
C-039 VALVE SCHEDULE III	
C-9000 CIVIL STANDARD DETAILS I	
C-9001 CIVIL STANDARD DETAILS II	
C-9002 CIVIL STANDARD DETAILS III	
C-9003 CIVIL STANDARD DETAILS IV	
C-9004 CIVIL STANDARD DETAILS V	
G-004 ABBREVIATIONS	
G-018 PROCESS FLOW	
G-023 HYDRAULIC PROFILE	
G-024 PIPE SCHEDULE	
I-001 INSTRUMENTATION LEGEND	
I-200 INFLUENT PUMP STATION (COARSE SCREENS) P&ID	
I-201 INFLUENT PUMP STATION (WET WELL) P&ID	
I-300 PRELIMINARY TREATMENT UNIT P&ID	
I-330 EQUALIZATION BASIN P&ID	
I-370 CARBON STORAGE P&ID	
I-380 MAGNESIUM HYDROXIDE STORAGE P&ID	
I-400 BIOLOGICAL REACTOR BASINS TRAIN 1	
I-401 BIOLOGICAL REACTOR BASINS TRAIN 2	
I-402 BIOLOGICAL REACTOR BASINS TRAIN 3	
I-403 BIOLOGICAL REACTOR BASINS TRAIN 4	
I-403A BIOLOGICAL REACTOR BASINS ENLARGED SWAS PLAN	
I-404 AERATION BASINS AIR P&ID TRAIN 1	
I-405 AERATION BASINS AIR P&ID TRAIN 2	
I-406 AERATION BASINS AIR P&ID TRAIN 3	
I-407 AERATION BASINS AIR P&ID TRAIN 4	
I-450 BLOWER BUILDING P&ID I	
I-451 BLOWER BUILDING P&ID II	
I-452 BLOWER BUILDING P&ID III	
I-453 BLOWER BUILDING P&ID IV	
I-460 MBR AIR SCOUR P&ID	
I-500 MBR BASIN P&ID	

South Wastewater Treatment Plant – MBR Project
GMP Scope of Work

I-550 MBR PERMEATE COLLECTION SYSTEM P&ID	
I-560 MBR MEMBRANE CIP SYSTEM P&ID	
I-600 RAS-WAS PUMP STATION P&ID	
I-700 FILTERS P&ID	
I-800 SLUDGE STORAGE P&ID	
Addendum No. 1 Dated January 18, 2024	
Addendum No. 2 Dated January 19, 2024	

**BID FORM**

Bid Package: BP05-002 Underground Piping and Appurtenances

Bidder Name: Kiewit Water Facilities South

SCOPE DESCRIPTION

The South Wastewater Treatment Plant (WWTP) – MBR project includes the following major enhancements to the Post Oak WWTP (POWWTP). This project includes a new membrane bioreactor (MBR) treatment process along with improvements to the existing conventional treatment process. Work to be completed in this Bid Package shall include the Coordination and Installation of Underground Piping and Appurtenances per the provided project Plans and Specifications. This Bid Package shall include, but is not limited to, the following:

1. Subcontractor is responsible for all work associated with the complete installation and successful operation of all piping and appurtenances included in bid items for all applicable specifications and referenced specifications.
2. Unless specifically excluded, Subcontractor's pricing should include all overhead and indirect costs including but not limited to Project Management, administrative work, field supervision, office rent & utilities, invoice preparation costs, insurance costs, financing costs, personal protective equipment (PPE), tools, supply purchases, fuel, maintenance, permits, inspections, and all related direct costs. Subcontractor is responsible for all construction means, methods, techniques, procedures, and sequences to fully comply with all Contract Documents. If exclusions apply, Subcontractor will be responsible for communicating those in their proposal. Escalation for the duration of the project is to be included in Subcontractor's price.
3. All employees must attend a 4-hour site orientation meeting prior to working onsite. Supervisors or foreman will attend daily & weekly site coordination meetings. All employees will attend monthly safety meetings.
4. Subcontractor to adhere to Davis-Bacon wage requirements.
5. Subcontractor is responsible for developing and adhering to the ITP (Inspection and Testing Plan) pertaining to this scope of work as a part of the overall CMAR's ITP. Subcontractor is responsible for all inspections and testing as required and must give CMAR 48-hours notice prior to any testing. All testing shall be per plans and specifications. Pipe testing and disposal of testing fluid shall be in accordance with all applicable laws, codes, standards, specifications, and CMAR guidelines. Subcontractor to include water purchase and disposal costs in their proposal.
6. At a minimum, personal protective equipment (PPE) to include hard hats, safety glasses, safety vest, steel toe boots, and work gloves. PPE shall be worn 100% of the time while performing work onsite. Subcontractor will be back-charged for any PPE or other safety equipment that the CMAR supplies on their behalf. Subcontractor shall provide fall protection equipment and devices as applicable per CMAR Safety Plan. Note, requirements may be more strenuous than OSHA standards and adherence is mandatory. Subcontractor shall comply with the dig permitting, LOTO, confined space and other procedures required by the site specific safety plan.
7. Subcontractor will be required to comply with OSHA safety requirements and CMAR's site safety plan which includes post-incident and reasonable suspicion drug and alcohol testing. Subcontractor responsible for adherence to CMAR's environmental plans and procedures.
8. Subcontractor is responsible to submit a TSCD (temporary structures and construction devices) plan and abide by all requirements per CMAR safety plan. Items to be included with accompanied PE stamp includes but is not limited to access, fall protection, temporary handrail, line and grade, formwork, shoring, and any other pre-engineered or job-built structures or devices.
9. All equipment mobilized to the project site shall be in safe working order.
10. Subcontractor is required to develop a P6 schedule and is required to participate in schedule meetings. Within 30 days from notice of award, Subcontractor shall integrate with project CPM schedule and coordinate with other successful bidders to achieve project schedule and milestones. Submission of a 4-week look-ahead schedule on a weekly basis will be required. Subcontractor is responsible for coordination with other trades and bid packages to ensure correct and timely installations. Pipe installations and testing may need to be segmented to accommodate other discipline's installations and CMAR schedule. Subcontractor has obligation to progress all available work fronts per the direction of the CMAR. Any work outside of normal hours needs to be scheduled and approved ahead of time with approval from CMAR. Premiums for overtime, night, and weekend work to maintain CMAR's schedule shall be included in Subcontractor's price. Subcontractor must be willing and able to supply and support additional crews as needed to maintain CMAR's schedule. Temporary lighting will be supplied by the Subcontractor for any work outside of normal working hours. Subcontractor is required to meet the overall schedule. Start dates may change, but durations shall not change.
11. Subcontractor must follow CMAR's Quality Plan and must perform and maintain a material receiving report. Subcontractor shall provide required quality and turnover documentation to the CMAR in an organized format as specified by CMAR and contract documents. Any electronic files must follow a naming convention and organization specified by CMAR.
12. Subcontractor will be responsible for Site Cleanup daily and may need to dedicate staff to help with cleanup. Subcontractor will be responsible for getting any waste to the dedicated waste disposal locations (locations provided by CMAR). Must supply incidental refuse collection and deliver to the CMAR's designated area in the appropriate containment. Subcontractor will be required to clean up any debris caused by overfilling. CMAR will provide portable toilets.
13. Subcontractor must acknowledge warehouse space required. CMAR cannot provide guarantees on available space.
14. Subcontractor must provide a marked-up site plan with proposed and agreed upon laydown and trailer area for applicable work.
15. Subcontractor to conform to the requirements of all rules, regulations and codes of local, state, and federal authorities having jurisdiction.
16. CMAR shall provide benchmark survey one time in the vicinity of subcontracted work. Additional survey will be at subcontractor expense. Survey request must be submitted 48 hours in advance. Subcontractor shall be responsible for necessary field measurements, verification of measurements, additional survey and layout as required for installation of their work. Subcontractor to create and maintain as-builts drawings as required. Subcontractor to request all needed as-builts of existing plant and work installed in previous bid packages to complete scope of work.
17. Subcontractor responsible for protection of in-process and finished work from all other disciplines and follow-on work.
18. Subcontractor is responsible for access to work, as well as all lifting and handling of materials for a complete installation. This includes offloading material deliveries. Subcontractor must adhere to the CMAR's crane policies and information.
19. A schedule of submittals shall be completed by Subcontractor and sent to CMAR within 10 business days of NOA. Early submittals may be required at the CMAR's discretion to accommodate CMAR's schedule.
20. Subcontractor must provide notification of additional cost and a detailed change proposal within one-week from receiving any RFI, Change Request, Supplemental Instruction, or any other document that changes this Subcontractor's scope of work and results in a change in cost or time. The CMAR will assure that there is no additional cost if a proposal or notification of additional cost is not provided within one-week. Each proposal must include a breakdown of labor hours, labor rate, equipment rates and durations, a material list with quantities, and the associated material cost. Failure to provide detailed pricing per the requirements stated above shall be justification to withhold monthly payments for unapproved work.
21. Liquidated Damages will be assessed as applicable per the Contract Documents. Damages may also be assessed if adjacent scopes are impacted.
22. A 100% Payment and Performance Bond is required for this project and should be included in Subcontractor's price. Subcontractor should be able to furnish bonds within 15 days of notice of award.
23. Work included in this bid package includes but not limited to supply and installation of all below ground and under slab piping and appurtenances, concrete encasement, tie-ins to existing pipe, valves and accessories, instruments/flow meters (installation only), pipe and appurtenances within underground vaults, pipe supports, pipe labeling/tagging, manholes, welding, tracer wire, marking tape, cathodic protection, disinfection, & NSF-61 materials as required. Pipe testing and disposal of testing fluid shall be in accordance with all applicable laws, codes, standards, specifications, and CMAR guidelines.
24. Mobilization may be needed as early as 10 calendar days from notice of award or what is shown in the CMAR P6 schedule, whichever is earlier. Demobilization including clean up within two weeks of completion of work or notification by CMAR. Multiple mobilizations may be required.
25. Contract Drawings are generally diagrammatic and all offsets, fittings, transitions, and accessories are not necessarily shown. Furnish and install all such items as may be required to fit the work to the conditions encountered. Arrange equipment and other work generally as shown on the contract drawings, providing proper clearance and access. The Engineer reserves the right to make reasonable changes in location of equipment, piping, and ductwork, prior to the time of rough-in or fabrication.
26. Where Contract Documents indicate field-routing, Subcontractor shall be responsible for providing all required components for the making of a complete and operable system. This shall include all required Redlined and As-Built Drawings associated with the field-routed system to include P&ID's and Mechanical Drawings. These documents must be maintained at all times and must be located on the project site. These shall be available upon request from the CMAR. Upon completion and acceptance of scope, submit a minimum of one (1) electronic se and four (4) hard copies unless Contract Documents require more.
27. All embedded piping and appurtenances located in underground vaults shall be included in scope of work.
- 28.

29. All piping located under slabs and buildings shall be concrete encased and included in scope of work. Subcontractor to coordinate with other disciplines to schedule and install all embedded items. Subcontractor should review schedule to ensure that early mobilization dates can be achieved.
30. Underground pipe tie-ins and bypass shall be performed in manner that maintains and does not interrupt existing plant operations. Subcontractor is responsible for all support of excavation, excavation, backfill, and dewatering at each tie-in and bypass location. Submittals and work plans shall be approved before commencement of work.
31. Underground piping shall include support of excavation, excavation, backfill and support of existing utilities per plans and specifications. All excavations must follow CMAR's Dig Permit process and work plans shall require approval from CMAR to ensure their excavation methodology won't impact adjacent scopes.
32. Subcontractor to perform potholing of all existing utility and electrical ductbank crossings per CMAR Safety Plan.
33. Where underground piping penetrates through a wall, Subcontractor to supply and install yard piping 5 feet from exterior face of wall and cap the end of pipe to accommodate hydrotesting. Subcontractor is also responsible for cap removal, connecting to, and continuation of pipe into structure per applicable detail, backfill and all other work required for a complete installation. Additional mobilizations and coordination with other disciplines and Bid Packages may be required. Subcontractor to coordinate work with other disciplines and bid packages.
34. Where underground piping penetrates through a floor, Subcontractor is responsible for pipe encasement and floor penetration supply/installation so the pipe stubs to first connection, no less than 1 foot past finished floor elevation, including a cap to accommodate hydrotesting. Temporary support of vertical pipe penetrations for accurate vertical alignment shall be included. Subcontractor to coordinate work with other disciplines.
35. Subcontractor to test all wall and floor penetrations as required by specifications, project schedule, and coordination with other disciplines. This test may be separate from the connecting pipelines. Pricing should include all water purchase and disposal costs for testing.
36. Subcontractor is responsible for the purchase and installation of wall sleeves, wall pipes, and all other pipe penetrations not outlined in WCD-001.
37. Subcontractor is responsible for all finish coatings and linings as required. Piping in underground vaults shall be provided with final linings and exterior shop prime coatings only.
38. Subcontractors are required to submit daily reports on a daily basis on a form prescribed by the CMAR. These reports must include a detailed description of the work performed, problems encountered, manpower and equipment levels, and deliveries.
39. The CMAR must be notified of any extra work that is being performed on a Time and Material basis prior to beginning the work. T&M slips must be submitted and signed by the CMAR Superintendent on the same day that the work is performed. The CMAR will not accept T&M slips that are not submitted on the same day that the work is performed.
40. The Subcontractor must have a full time Supervisor onsite at all times, fully qualified and knowledgeable in the scope of work pertaining to this Subcontract. In addition, the Supervisor shall be an OSHA defined "Competent Person" who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has the authorization to take prompt corrective action to eliminate them.
41. Finished concrete around valve boxes will be included in a later bid package.
42. Pipe excavation quantities shall be based on proposed grade elevations.
43. CMAR will be performing the work outlined in the Work Change Directive (WCD). Subcontractor will be responsible for completing all work within the scope documents that is not outlined as part of the WCD. Please reference included WCD Scope document to understand boundaries.
44. CMAR WCD installed pipe will be tested and capped. Subcontractor will be responsible for connecting to WCD scope and retesting the entire system including WCD scope. WCD testing reports will be available upon request.
45. Time is of the Essence for this Work. Subcontractor will be responsible for maintaining schedule including working outside of the normal working hours, and bringing in additional resources to complete the work on time, if needed.
46. Bidder must provide the following with their bid to be deemed responsive:
- A. Completed Bid Form
 - B. Subcontractor P6 Schedule
 - C. Lower Tier Subcontractor List
 - D. Maintenance of Plant Operation Plan - Including Tie-Ins
 - E. Clarifications, Assumptions, Exclusions

LIST OF SCOPE-SPECIFIC SUPPORTING DOCUMENTS					
Item	Technical Specification / Drawing Title	Specification / Drawing No.		Revision No.	
1	GC-GC-PLA-KWT-0068- Piping Pkg BP05-002_comb				
2	GC-GC-PLA-KWT-0076- Addendum No. 1_Piping Pkg BP05-002 ADD-1_comb				
3	WCD-001 Scope Definition 1.10.2024				
4	CMAR Project Schedule (P6)				
5	Geotechnical Report				
6	Draft Subcontract				
7	Redacted Prime Agreement				
8	Rigging Manual				
9	TSCD Manual				
10	CMAR Written Site Specific Safety Plan				
11	CMAR Written Site Specific Quality Plan				
BID ITEM	DESCRIPTION	QUANTITY	UNIT OF MEASURE	UNIT PRICE	EXTENDED PRICE
1	Mobilization	1	LS	\$ 286,000.00	\$ 286,000.00
2	Design and Install Support of Excavation, Support of Existing Utilities, and Ductbanks at Utility Crossings	1	LS	\$ 280,000.00	\$ 280,000.00
3	Pothole of Existing Utility Lines and Ductbanks	1	LS	\$ 220,000.00	\$ 220,000.00
4	Tie-ins and Bypasses of Utility Connections to Ensure Existing Plant Operations	1	LS	\$ 2,100,000.00	\$ 2,100,000.00
5	RS System	2,084	LF	\$ 2,398.00	\$ 4,997,432.00
6	OF System	1,516	LF	\$ 3,119.00	\$ 4,728,404.00
7	D System Not Covered in WCD	853	LF	\$ 4,725.00	\$ 4,030,425.00
8	SRS System	1,986	LF	\$ 2,880.00	\$ 5,719,680.00
9	PW System	4,216	LF	\$ 1,291.00	\$ 5,442,856.00
10	WAS System	1,016	LF	\$ 1,961.00	\$ 1,992,376.00
11	SC System	564	LF	\$ 1,228.00	\$ 692,592.00
12	FE System	1,014	LF	\$ 3,084.00	\$ 3,127,176.00
13	BR-INF System	202	LF	\$ 1,812.00	\$ 366,024.00
14	CS System	179	LF	\$ 1,166.00	\$ 208,714.00
15	RAS System	374	LF	\$ 4,243.00	\$ 1,586,882.00
16	MGOH System	1,144	LF	\$ 916.00	\$ 1,047,904.00
17	Pipe Demolition	1	LS	\$ 12,000.00	\$ 12,000.00
18	Fence Removal & Reinstall	1	LS	\$ 8,000.00	\$ 8,000.00
19	Repair of All Road Crossings	1	LS	\$ 12,000.00	\$ 12,000.00
20	Demobilization Within 2 Weeks of Completion or Notice from CMAR	1	LS	\$ 88,000.00	\$ 88,000.00
21	Payment and Performance Bond	1	LS	NA	NA
				SUBTOTAL BASE BID SCOPE =	
				\$ 36,946,465.00	
				PAYMENT AND PERFORMANCE BOND RATE =	
				NA	

Alternatives

BID ITEM	DESCRIPTION	QUANTITY	UNIT OF MEASURE	UNIT PRICE	EXTENDED PRICE
ALT. 1	Pipe Not in Other Line Items		LF	N/A	N/A
SUBTOTAL ADDITIVE ALTERNATES =					N/A
TOTAL BID PRICE (Subtotal Base Bid Scope + Subtotal Additive Alternates) =					\$36,946,465.00

Total Bid Price (Subtotal Base Bid Scope + Subtotal Additive Alternates) is the Price used in the Best Value Scoring Matrix evaluation of the Bid.

Questions for Bidders	Answer (Yes/NO)	Additional/Clarifying Notes
Do you have experience working with the City of Sherman?	YES	
Do you have experience with Alternative Delivery Projects?	YES	
Bidder will be responsible for coordinating/scheduling with other trades. Do you agree to coordinate with CMAR and other trades to complete work within schedule?	YES	
The awarded vendor will be required to get payment and performance bonds within 15 day of Notice of Award. Will you be able to achieve a performance bond for this project within that timeline.	N/A	
Will you require warehouse space? Include needs in additional/clarifying notes. Bidder will be responsible for their own forklifts and other equipment to perform the work.	YES	
Is Bidder capable and willing to support multiple shift operations if requested by CMAR?	YES	
Have you completed the exceptions and assumptions tabs of this document and included in your submittal?	YES	
Do you agree to the commercial terms in the draft Subcontract attached to this RFP?	YES	
Do you agree to liquidated damages of \$1,000 day will apply to P6 Schedule, quality and turnover documents, integration into Project CPM within 30 days of NOA, submittal of schedule of submittals within 10 days of NOA, delays caused to other subcontractors?	YES	

Bidder acknowledges receipt of the listed Addenda to the RFP. Such Addenda were received prior to submittal of this bid and are made part of Bidder's pricing.

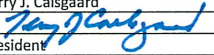
Addenda No: 1
Date: 1/18/2024

Addenda No: 2
Date: 1/19/2024

Addenda No:
Date:

Addenda No:
Date:

SUBMITTED BY

Name: Terry J. Carlsgaard
Signature: 
Title: President
Date: 1/24/2023

FOR

Company: Kiewit Water Facilities South Co.
Address: 2050 Roanoke Rd., Suite 250
Westlake, TX 76262
Phone: 469-276-3800
E-Mail: Terry.Carlsgaard@Kiewit.com

VALUE ENGINEERING CONCEPTS:

As part of the bid, if Subcontractor has ideas on cost savings and value engineering while meeting the specifications and the required quality for the Project, please include any potential concepts and the reduction in price in the below table. Additional rows can be added as required. All value engineering ideas will need to be evaluated by the CM/GC, the Client, and the Engineer of Record. Additional information may be required from the Subcontractor.

	DESCRIPTION	QUANTITY	UNIT OF MEASURE	UNIT PRICE	REDUCTION IN PRICE
VE1	Value Engineering - Concept 1				
VE2	Value Engineering - Concept 2				

Commercial Bid Form Exceptions Tab		
Number	Section	Exception Notes
1	Plans and Specifications	Our bid is based on the current plans and details and does not include any contingency for design progression or changes in scope.
2	Specification 01 31 00 - 1.5 A. Permits and Permit Fees	Permits and Permit Fees are excluded from this Bid Package.
3	Specification 01 31 00 - 1.24 Maintenance of Roads	Maintenance of roads are excluded from this Bid Package.
4	Specification 01 78 36-PS Warranties	Warranty period 12 months from Substantial Completion per Schedule provided in the ITB.
5	General Construction Notes Drawing G-012 Note 5.	TPDES SWPPP excluded from this Bid Package.
6	General Construction Notes Drawing G-012 Note 13.	Security excluded from this Bid Package.
7	Hazardous Waste Note 8 Drawing G-012	Hazardous Waste excluded from this Bid Package.
8	General and Mechanical Notes Drawing G-012 Note 9. A.	Equipment Pads excluded from this Bid Package.
9	General and Mechanical Notes Drawing G-012 Note 12.	Mow Strips excluded from this Bid Package.
10	General and Mechanical Notes Drawing G-012 Note 3, 5, 6, 7, 8, 9, 10, 11, 13, 16 and 17.	Notes excluded from this Bid Package.
11	UG Pipe Excavation	Excavation of rock for UG pipe installation is not foreseen in the Geotech, therefore is excluded from this Bid Package.
12	Removal and disposal of contaminated soil	Handling and removal of contaminated soil is excluded from this Bid Package.
13	Purging of existing pipe lines	Shutting down lines, all handling, and disposal of material contained in existing pipe lines is excluded from this Bid Package.
14	Cathodic Protection	DIP pipe and fittings will be polywrapped encased. Additional cathodic protection is not included in this Bid Package.
15	Corrosion Protection	Corrosion Protection specified in specification 40 05 05 3.8. will be accomplished by polywrap as specified in other sections.
16	Pipe Demo	Removal or disposal of liquids or materials inside existing pipelines is excluded from this Bid Package.
17	Maintenance of Plant Operations plan to be provided to establish the bidders assumptions.	Bidder reserves the right to re-evaluate pricing once as-builts, constraints and existing conditions have been provided.
18	Take exception to the 24-month warranty period stated in Specification 01 78 36-PS Warranties Section 1.4 A. 2.	Instructions To Bidders Section 17 states Warranty duration 12 months. Take exception to 24 month Warranty period, not included in this Bid Package.
19	Specification 01 75 00 Starting and Adjusting of Equipment and Systems	All labor beyond achieving COPI is excluded from this Bid Package.
20	Specification 01 79 00-PS Demonstration and Training	All labor beyond achieving COPI is excluded from this Bid Package.
21	Pipe Coatings	Other than buried pipes, pipe final coatings will be in a future Bid Package.
22	Welding Restrained Joints	Take exception to Ductile Iron Pipe joint restraint by welding as specified in section 40 05 19 3.1.C. No ductile iron welding in this Bid Package.
23	C900 Colors	This bid assumes that Blue C900 pipe will be acceptable color for all services calling for C900 pipe. Colored marking tape can be provided.
24	Overhead electrical power line	Relocation of existing overhead electrical power line is excluded from this Bid Package. Assumed overhead electrical power lines are removed prior to work in the area.
25	Excess material and spoils	All excess excavated material and spoils will be stockpiled on site for this Bid Package. Bid assumes no material will have to be hauled off-site.
26	UG Pipe Reducing Fittings	All pipe reducers will be concentric in shape.
27	Manholes	Manholes to be precast concrete.
28	Pipe Materials	Pipe materials shown on the Pipe Material Schedule was the basis of estimate.
29	Pipe Encasement	Concrete encasement excluded as it is part of WCD scope of work.
30	Pipe welding	Onsite welding will be permitted.

31	Valves	Valves not shown on the Drawings are excluded from this Bid Package.
32	Concrete Paving	Concrete Paving or lime stabilization excluded from this Bid Package.
33	Pipe Testing	Pipe testing to be to AWWA pipe testing standards in respect to pipe shown on sheet G-024.
34	Pipe Routing	Piping not shown on the Drawings are excluded from this Bid Package.
35	Glass Lining	Glass lining of pipe is not included in this Bid Package.
36	Expansion Joints	Expansion joints not shown on the Drawings are excluded from this Bid Package.
37	Small Bore Ductile Iron Pipe	Services calling for DIP 3" and below will be provided as PVC.
38	Instrument Air	Instrument Air is not included in this Bid Package.
39	PVC Pipe	Per the pipe schedule, CPVC or double contained piping is not included in this Bid Package.
40	Dielectric Unions	Dielectric BNGs, Unions, couplings, or otherwise are not included in this Bid Package.
41		
42		
43		
44		

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South WWTP - MBR - CMAR Update Schedule #04 - 28JAN24 LIVE Bid Packages DRAFT			ALL ACTIVITIES W/TF						DATA DATE: 31-Dec-23																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																															
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January 26, 2024

GTUA/City of Sherman
220 W Mulberry St.
P.O. Box 1106
Sherman, TX 75091
(903) 892-7208

Re: COSK South Wastewater Treatment Plant - MBR Project
BP05-002 Underground Piping & Appurtenances Re-Bid Recommendation
BP08-001 Process Mechanical Bid Recommendation

Dear GTUA/City of Sherman:

To support construction of the South Wastewater Treatment Plant – MBR Project the Construction Manager At Risk (CMAR), Kiewit, publicly advertised a request for proposals two early works packages. The Early Works Packages include:

- BP05-002 Underground Piping & Appurtenances Re-Bid, Advertised on 1/11/2024.
- BP08-001 Process Mechanical, Advertised on 12/27/2023.

Kiewit notified the City of the CMAR's intention to bid on each of these packages before the advertisement. Therefore, responses to the advertisement were received by the City of Sherman on January 24, 2024 and publicly read aloud as indicated in the advertisements. A summary of the bid results follows:

BP05-002 Underground Piping Re-Bid

One bid was received for this package from Kiewit Water Facilities South Co. (Kiewit). All required documents were provided with the bid.

BP08-001 Process Mechanical

One bid was received for this package from Kiewit Water Facilities South Co. (Kiewit). All required documents were provided with the bid.

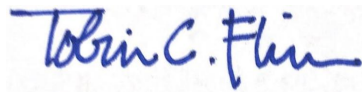
The City, GTUA, Design Engineer, and Program Management team have reviewed the proposal based on criteria established in the advertisement and prepared selection worksheet materials. Based on review of the proposal and evaluation discussions with the CMAR, GTUA, City staff, and the Design Engineer; the Program Management Team evaluated the bids with respect to the evaluation criteria and weighting described in the RFP as indicated in the following table.

Early Works Package	Bidder	Bid Amount	Weighted Evaluation Score	Recommend Bid
BP05-002 UG Piping Re-Bid	Kiewit	\$36,946,465.00	94.97	Yes
BP08-001 Process Mechanical	Kiewit	\$25,620,800.00	96.09	Yes

It is the opinion of the Program Management Team that Kiewit is qualified to perform this work associated with BP05-002, and BP08-001. For these two packages, Kiewit has the necessary equipment and personnel to carry out the intended work in a manner that will enable the completion of the project within the required time period.

We recommend approval of bids from Kiewit for BP05-002 and BP08-001. The review team developed a list of bid clarifications for each package that we recommend the CMAR respond to along with the development, by the CMAR, of early works GPM packages to carry out the work associated with each of these bid packages.

Sincerely,



Toby Flinn, PE
Program Manager

Attachments:

1. BP05-002
 - a. Bid Tabulations
 - b. Bid Evaluation Worksheets
 - c. Bid Clarification Comments
2. BP08-001
 - a. Bid Tabulations
 - b. Bid Evaluation Worksheets
 - c. Bid Clarification Comments

**Sherman South WWTP-MBR - BP05-002 Underground Piping and Appurtenances Re-Bid
Bid Opening January 24, 2024**

	Bidder #1	Bidder #2	Bidder #3
DESCRIPTION	Kiewit		
Acknowledgement of Addenda (2 total)	yes		
Completed & Signed Bid Form	yes		
Total Price	\$36,946,465.00		

Project	COSK South WWTP MBR
CMAR:	Kiewit
Work Package:	BP05-002 UG Piping Re-Bid

SUBCONTRACTOR SCORECARD TEMPLATE

CRITERIA CHECKLIST

CRITERIA SCORES	WEIGHT	Kiewit AVG WEIGHTED SCORE	NOTES
Proposal ¹	1	0.96	
1. Pricing	30	27.19	
2. Commercial / Technical	30	29.53	
3. Ability to meet Schedule	40	38.25	
Total Score	100	94.97	

- Notes
- 1 Proposal are tabulated to determine responsiveness. However, this was not indicated in the advertisement as a scoring criteria so will not be counted as a weighted component.
 - 2 Weighted Score includes individual scores of the evaluation team that includes GTUA, COS, Designer, Prog. Mgr.

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Comment No.	Page No.	Comment	CMAR Response / Resolution	Final PgM Response / Resolution	PgM Comments Resolved (Yes/No)
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Sherman South WWTP-MBR - BP08-001 Process Mechanical
Bid Opening January 24, 2024

	Bidder #1	Bidder #2	Bidder #3
DESCRIPTION	Kiewit		
Acknowledgement of Addenda (2 total)	yes		
Completed & Signed Bid Form	yes		
Total Price	\$25,620,800.00		

Project	COSK South WWTP MBR
CMAR:	Kiewit
Work Package:	BP08-001 Process Mechanical

SUBCONTRACTOR SCORECARD TEMPLATE

CRITERIA CHECKLIST

CRITERIA SCORES	WEIGHT	Kiewit AVG WEIGHTED SCORE	NOTES
Proposal ¹	1	0.95	
1. Pricing	30	27.00	
2. Commercial / Technical	30	29.34	
3. Ability to meet Schedule	40	39.75	
Total Score	100	96.09	

Notes

- 1 Proposal are tabulated to determine responsiveness. However, this was not indicated in the advertisement as a scoring criteria so will not be counted as a weighted component.
- 2 Weighted Score includes individual scores of the evaluation team that includes GTUA, COS, Designer, Prog. Mgr.

COSK - South WWTP - MBR - Design

DATE SUBMITTED: 1/26/2024

BP08-001 Process Mechanical Bid Package Comments

Comment No.	Page No.	Comment	CMAR Response / Resolution	Final PgM Response / Resolution	PgM Comments Resolved (Yes/No)
1	5	Exclusion 2. Clarify what this exclusion means. It appears as written that some required equipment may not be provided under any package.			
2	5	Exclusion 6. Warranty period is intended to be 24 months. The exclusion indicates only a 12 month warranty will be provided. Explain how the gap in warranty will be handled.			
3	5	Exclusion 21. Verify that this exclusion does not apply to epoxy lined DI pipe.			
4	5	Exclusion 22. Air or instrument tubing that is excluded. An allowance is to be included in the GMP package that will account for this tubing.			
5	5	Exclusion 24. This package is intended to include full startup required for equipment installed that is included in the package. Verify that startup services will be included.			
6	5	Exclusion 25. How does the CMAR intend to account for scope gaps between this package and equipment bid packages?			
7	5	Exclusion 26. Initial chemicals needed for equipment startup are intended to be included in this bid package.			
8	5	Exclusion 27. How does the CMAR intend to account for concrete pipe supports?			
9	5	Exclusion 28. A rate sheet for startup & commissioning of equipment included in this package is needed for this package. How will the CMAR provide this?			
10	5	Exclusion 31. Verify that discharge chutes and supports for all screening facilities are provided. How will the CMAR account for this if it is a scope gap?			
11	6	Exclusion 40. How will instrument be accounted for?			
12	6	Exclusion 43. Specifications for this package require 316 SS. Verify that 316 SS will be provided.			



Sherman
CLASSIC TOWN. BROAD HORIZON.



City Council Regular Meeting

Agenda Item No. H.8.

Meeting Date: 2/5/2024

Prepared By: Mary Lawrence, Chief Financial Officer

Approved By: Robby Hefton, City Manager

Caption:

RESOLUTION NO. 7254

Reauthorizing Guidelines and Criteria for the City of Sherman's Industrial and Commercial Tax Abatement Program to Promote Development/Redevelopment in Certain Areas of the City

Issue:

Reauthorizing the City's Industrial and Commercial Tax Abatement Program

Background:

Tax Code, Chapter 312, Section 312.002 requires the City to reauthorize its Industrial Tax Abatement Program guidelines and criteria every two years. The last renewal was approved at the February 7, 2022, City Council meeting. This program, which began on July 18, 1988, with the City Council's adoption of Resolution No. 2455, is intended to promote commercial and industrial development and the creation of jobs.

The updates to the guidelines and criteria are wording changes for clarity, and clarifications of the information needed from the applicant.

Origination:

City Manager Robby Hefton

Financial Consideration:

There is no immediate impact to reauthorizing the guidelines and criteria for the City's Industrial and Commercial Tax Abatement Program. The impact of a particular abatement is evaluated when the abatement agreement is presented to the City Council.

Staff Recommendation:

The staff recommends the City Council approve the resolution.

Alternatives:

Council could decline to reauthorize the tax abatement program.

Attachments:

1. Resolution No. 7254
2. Amended Industrial_and_Commercial_Tax_Reinvestment_Procedures_Manual_and_Application 2024-02-05 (ID 365123)

3. Amended Industrial_and_Commercial_Tax_Reinvestment_Procedures_Manual_and_Application Redline
(ID 365122)

RESOLUTION NO. 7254

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, REAUTHORIZING GUIDELINES AND CRITERIA FOR THE CITY OF SHERMAN'S INDUSTRIAL AND COMMERCIAL TAX ABATEMENT PROGRAM TO PROMOTE DEVELOPMENT/REDEVELOPMENT IN CERTAIN AREAS OF THE CITY; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, by Resolution No. 6846 passed and approved on February 7, 2022, the City of Sherman declared its eligibility and intention to participate in the Tax Abatement Program to promote development/redevelopment in certain areas of the City and adopted Tax Abatement Guidelines and Criteria for use in all Tax Abatement Programs; and

WHEREAS, the City of Sherman is required to renew the guidelines and criteria adopted for this program every two years;

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

SECTION 1. That the City Council of the City of Sherman, Texas, hereby renews the following Tax Abatement Guidelines and Criteria for use in all Industrial and Commercial Tax Abatement Programs, as required by law:

CITY OF SHERMAN'S RENEWED INDUSTRIAL AND COMMERCIAL TAX ABATEMENT GUIDELINES AND CRITERIA

Criteria for Reinvestment Zone. An area to be designated as a reinvestment zone must:

1. Substantially arrest or impair the sound growth of the City, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:
 - a. a substantial number of substandard, slum, deteriorated, or deteriorating structures;
 - b. the predominance of defective or inadequate sidewalks or streets;
 - c. faulty size, adequacy, accessibility, or usefulness of lots;
 - d. unsanitary or unsafe conditions;
 - e. the deteriorating of site or other improvements;
 - f. tax or special assessment delinquency exceeding the fair value of the land;
 - g. defective or unusual conditions of title;
 - h. conditions that endanger life or property by fire or other cause; or
 - i. any combination of these factors;
2. be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality;

3. be in a federally assisted new community located in a home-rule municipality or in an area located in a home-rule municipality;
 4. be located entirely in an area that meets the requirements for federal assistance under Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5318);
 5. encompass signs, billboards, or other outdoor advertising structures designated by the governing body of the municipality for relocation, reconstruction, or removal for the purpose of enhancing the physical environment of the municipality, which the legislature declares to be a public purpose; or
 6. be reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the municipality.
2. A tax abatement agreement will not be entered into where a company is only changing its location within Grayson County, without increasing the number of employees, significantly expanding the facilities, or unless failure to grant such abatement would mean the loss of the business operation in Grayson County.
3. Tax abatement agreements will be considered for both new facilities and structures and for the expansion or modernization of existing facilities and structures.
4. The City Council of the City of Sherman will approve or deny a tax abatement request based upon the subjective evaluation of the following guidelines and criteria. The Council may consider any advisory recommendations received from the Tax Reinvestment Advisory Committee as it may choose:

- **Employment Impact**

How many jobs will be brought to Sherman?

What types of jobs will be created?

List the number of jobs by class that will be created and the wage range of each class of job.

What will the total annual payroll be? Include current and increase factors.

Expectation for jobs filled by transfers from other company locations vs. locally-filled jobs.

- **Fiscal Impact**

How much real and personal property ~~value~~ will be added to the tax rolls, in square footage and in estimated value?

What is the economic life of the personal property?

What is the expected depreciation of the taxable value of the real and personal property?

How much direct sales tax will be generated for the City of Sherman during construction and after operations have commenced?

How will this project affect existing businesses and/or office facilities?

What infrastructure construction would be required?

What is the total annual operating budget of this facility projected to be? (For expansion, state current and projected increase.)

What is the estimated water use?

- **Community Impact**

What effect would the project have on the local housing market?

Is the project compatible with existing long-range or comprehensive plans?

What is the environmental impact of the project?

SECTION 2. That these Industrial and Commercial Tax Abatement Guidelines and Criteria shall be effective immediately upon the passage of this resolution.

SECTION 3. 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 5th day of February 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 PITMAN, CITY ATTORNEY**

**INDUSTRIAL AND COMMERCIAL
TAX REINVESTMENT
PROCEDURES MANUAL
AND
APPLICATION**



SHERMAN, TEXAS

Adopted February 5, 2024

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GENERAL PURPOSE AND OBJECTIVES

The City of Sherman is committed to the promotion of high-quality development, long-term revenue growth, job creation, and an ongoing improvement in the quality of life for its citizens. As these objectives are generally served by the enhancement and expansion of the local economy, the City of Sherman will, on a case-by-case basis, consider providing a tax abatement to stimulate economic development in Sherman. It is the policy of the City of Sherman that consideration will be provided in accordance with the procedures and criteria outlined in this document. Nothing herein shall imply or suggest that the City of Sherman is under any obligation to provide tax abatement to any applicant. All applicants shall be considered on a case-by-case basis.

The following process shall pertain to review of tax abatement requests for the City of Sherman only. The City of Sherman shall not be responsible for providing information to or seeking responses from other taxing entities on the behalf of any applicant.

DEFINITION OF TERMS

Act – The Property Redevelopment and Tax Abatement Act, Texas Tax Code 312.001, et seq., as amended from time to time.

Agreement – A contractual agreement between a property owner and/or lessee and taxing entity for the purpose of tax abatement.

Applicant – An owner of real property located in a reinvestment zone who requests tax abatement in accordance with these guidelines.

Economic Life – The number of years a property improvement is expected to be in service in a facility.

Depreciation – reduction in the appraised and or taxable value (before abatement), of an asset with the passage of time.

Expansion – The addition or enlargement of buildings, structures, fixed machinery or equipment for the purposes of increasing production capacity.

Facility – Property improvements completed or in the process of construction which together comprise an integral whole.

Modernization – The replacement and upgrading of existing facilities which increases the productive input or output, updates the technology, or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration, or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing.

New Facility – A property previously undeveloped that is placed into service by means other than or in conjunction with expansion or modernization.

Reinvestment Zone – An area designated in accordance with the Act by the City of Sherman, or if outside the city limits of Grayson County. Only property in a Reinvestment Zone is eligible for tax abatement.

Total Facility – All buildings and structures including fixed machinery and equipment at the site(s) where the “abatement facility” is located.

APPLICANT ELIGIBILITY

A Facility may be eligible for abatement if it is in a Reinvestment Zone.

As provided in the Act, abatement may only be granted for the value of eligible property subsequent to and listed in an abatement agreement between the taxing entity and the property owner and lessee (if required), subject to such limitations as the taxing entity may require.

Abatement may be granted for new facilities and improvements to existing facilities and structures and for the expansion or modernization of existing facilities and structures.

Eligible Property – Abatement may be extended to the value of real and tangible personal property for both new facilities and structures, and for the expansion or modernization of existing facilities and structures that are reasonably likely as a result of being granted abatement to contribute to the retention or expansion of primary employment or to attract major investment in the reinvestment zone that would be a benefit to the property and that would contribute to the economic development within the City of Sherman.

Ineligible Property – The following types of property shall be fully taxable and ineligible for abatement: land, existing improvements, real property and tangible personal property used primarily to provide retail sales or services to the public, real property used for residential purposes, real property with a productive life of less than 10 years, tangible personal property that the Grayson Central Appraisal District classifies as inventory or supplies, real or tangible personal property located in the reinvestment zone prior to the effective date of the tax abatement agreement, or any other property for which abatement is not allowed by law.

Owned/Leased Facilities – If a leased facility is granted an abatement, the agreement shall be executed with the lessor and the lessee. Further constraints will be considered under any lease hold facility.

Value and Term of Abatement – Upon determination that a Tax Abatement should be offered to the applicant, the value, and terms of the abatement to be considered will be up to ten (10) years and up to 100% abatement including the construction period as provided by Texas State Law.

Required Investment – Generally, a project must include at least \$5,000,000 in investment to be considered for a tax abatement.

COMMITTEE

The Tax Reinvestment Committee may be convened on a case-by-case basis to advise the City Council on an application for a tax abatement, or to include a certain geographic area in a Reinvestment Zone.

CRITERIA

Any request for tax abatement shall be evaluated based upon a subjective review of the following criteria which each applicant may be requested to address in narrative format in the application:

Employment Impact

- How many jobs will be brought to Sherman?
- What types of jobs will be created?
- List the number of jobs by class that will be created and the wage range of each class of job.
- What will the total annual payroll be? Include current and increase factors.
- Expectation for jobs filled by transfers from other company locations vs. locally filled jobs.

Fiscal Impact

- How much real and personal property will be added to the tax rolls, in square footage and in estimated value?
- What is the economic life of the personal property?
- What is the expected depreciation of the taxable value of the real and personal property?
- How much direct sales tax will be generated for the City of Sherman during construction and after operations have commenced?
- How will this project affect existing businesses and/or office facilities?
- What infrastructure construction would be required?
- What is the total annual operating budget of this facility projected to be? (For expansion, state current and projected increase.)
- What is the estimated water use?

Community Impact

- What effect would the project have on the local housing market?
- How compatible is the project with the City's Comprehensive Plan?
- What environmental impact, if any, will be created by the project?

PROCEDURES

Any person, partnership, organization, corporation, or other entity desiring that the City of Sherman consider providing tax abatement to encourage location of operations within the city

limits of Sherman may be required to comply with the following procedural guidelines. Nothing within these guidelines shall imply or suggest that Sherman be under any obligation to provide a tax abatement in any amount of value to any applicant.

1. Preliminary Application Steps. The Applicant may be required to submit a written request to the attention of the City Manager, City of Sherman, Texas, 220 W. Mulberry Street, Sherman, TX 75090. The request should include all necessary information to evaluate the request, and should contain the following information, if required:
 - A. Applicant shall submit an "Application for Tax Abatement."
 - B. Applicant shall address all criteria questions outlined in Section II in narrative form.
 - C. Applicant shall prepare a survey map showing the precise location of the property, all roadways within five hundred (500) feet of the site, all existing land uses and zoning within five hundred (500) feet of the site, and the kind, number and location of all proposed improvements.
 - D. City may request applicant to provide substantiation of the economic feasibility of the overall project to assist in determining the long-term benefit to the City.
 - E. A complete legal description shall be provided.
 - F. Applicant shall complete all forms and information detailed in Items A through B above and submit them to the City of Sherman or the Sherman Economic Development Corporation (SEDCO).

Once a request has been submitted to the City Manager, it shall be regarded as public information and will be available for inspection by the public as allowed by the Texas Public Information Act. Any proprietary information included as a part of the request should be so indicated, marked in advance and supplied in such a manner to be readily separated from the remainder of the materials.

2. All information in the application package detailed above will be reviewed for completeness and accuracy. Additional information may be required as needed.

Applicant may be asked to meet with representatives of the City and SEDCO to discuss the details of the application and prepare it for a presentation of proposal to the Tax Reinvestment Committee. These meetings are held in confidence.

3. The representatives of each taxing entity are responsible for requesting this item be placed on their respective agendas for discussion.

If the Applicant's facility is not in a Reinvestment Zone, the City of Sherman's representatives will propose an ordinance to the City Council, designating the Tax Reinvestment Zone and approving the terms of percentage and duration of tax abatement. If the Applicant is located outside the Sherman city limits, and is within Grayson County, the Tax Reinvestment Zone would be designated by Grayson County.

The governing bodies of the Sherman Independent School District, Grayson College, and Grayson County may consider participation in the tax abatement agreement between the City of Sherman and the Applicant.

LEGAL DOCUMENTATION PREPARATION

The governing body eligible for initiating the designation of the Reinvestment Zone (City or County) will be responsible for drafting the proposed agreement pursuant to the approved Tax Abatement, as well as all collateral documentation.

The legal document is to include the following:

1. Estimated value of expansion or new construction to be abated.
2. Percent of value to be abated each year.
3. Commencement date and the termination date of abatement.
4. Proposed use of the facility, nature of construction, time schedule, map, property description and improvements list as provided in the application.
5. Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture and administration.

EXECUTION OF AGREEMENT

TAX ABATEMENT APPLICATION

SECTION I

1. Property Owner: _____
Mailing Address: _____
Telephone Numbers: _____
2. Property Owner's Representative: _____
Mailing Address: _____
Telephone Numbers: _____
3. Physical Property Address: _____
4. Property Legal Description (include as an attachment with metes and bounds)
5. Property is located within: City of Sherman? _____
Sherman I.S.D.? _____
Grayson County? _____
6. Description of Project: _____

7. Date of projected occupation of project/initiation of operations: _____
8. Narrative response to criteria questions in Section II of application? _____
(Yes or No, and include attachment)

SECTION II

Employment Impact

How many jobs will be brought to Sherman?

What types of jobs will be created?

List the number of jobs that will be created and the wage range of each class of job.

What will the total annual payroll be? Include current and increase factors.

Expectation for jobs filled by transfers from other company locations vs. locally-filled jobs.

Fiscal Impact

How much real and personal property will be added to the tax rolls, in square footage and in estimated value?

What is the economic life of the personal property?

What is the expected depreciation of the taxable value of the real and personal property?

How much direct sales tax will be generated for the City of Sherman during construction and after operations have commenced?

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What is the estimated water use?

Community Impact

What effect would the project have on the local housing market?

How compatible is the project with the City's Comprehensive Plan?

What environmental impact, if any, will be created by the project?

**INDUSTRIAL AND COMMERCIAL
TAX REINVESTMENT
PROCEDURES MANUAL
AND
APPLICATION**



SHERMAN, TEXAS

Adopted February 5, 2024

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The City of Sherman is committed to the promotion of ~~high-quality~~high-quality development, ~~long-term revenue growth, job creation, and in all parts of the City and to~~ an ongoing improvement in the quality of life for its citizens. As these objectives are generally served by the enhancement and expansion of the local economy, the City of Sherman will, on a case-by-case basis, ~~give consideration-consider~~to providing a tax abatement ~~as a stimulation for to stimulate~~ economic development in Sherman. It is the policy of the City of Sherman that ~~said~~ consideration will be provided in accordance with the procedures and criteria outlined in this document. Nothing herein shall imply or suggest that the City of Sherman is under any obligation to provide tax abatement to any applicant. All applicants shall be considered on a case-by-case basis.

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APPLICANT ELIGIBILITY

A Facility may be eligible for abatement if it ~~is located in~~ is in a Reinvestment Zone.

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Abatement may be granted for new facilities and improvements to existing facilities and structures and for the expansion or modernization of existing facilities and structures. ~~for purposes of modernization or expansion.~~

Eligible Property – Abatement may be extended to the value of real and tangible personal property for both new facilities and structures, and for the expansion or modernization of existing facilities and structures that are reasonably likely as a result of being granted abatement to contribute to the retention or expansion of primary employment or to attract major investment in the reinvestment zone that would be a benefit to the property and that would contribute to the economic development within the City of Sherman.

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Fiscal Impact

- How much real and personal property will be added to the tax rolls, in square footage and in estimated value?
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- What is the estimated water use?

Community Impact

- What effect would the project have on the local housing market?
- How compatible is the project with the City's Comprehensive Plan?
- What environmental impact, if any, will be created by the project?

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 - D. City may request applicant to provide substantiation of the economic feasibility of the overall project to assist in determining the long-term benefit to the City.
 - E. A complete legal description shall be provided.
 - F. Applicant shall complete all forms and information detailed in Items A through B above and submit them to the City of Sherman or the Sherman Economic Development Corporation (SEDCO).

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2. All information in the application package detailed above will be reviewed for completeness and accuracy. Additional information may be required as needed.

Applicant may be asked to meet with representatives of the City and SEDCO to discuss the details of the application and prepare it for a presentation of proposal to the Tax Reinvestment Committee. These meetings are held in confidence.

3. The representatives of each taxing entity are responsible for requesting this item be placed on their respective agendas for discussion.

If the Applicant's facility is not in a Reinvestment Zone, the City of Sherman's representatives will propose an ordinance to the City Council, designating the Tax Reinvestment Zone and approving the terms of percentage and duration of tax abatement. If the Applicant is located outside the Sherman city limits, and is within Grayson County, the Tax Reinvestment Zone would be designated by Grayson County.

The governing bodies of the Sherman Independent School District, Grayson College, and Grayson County may consider participation in the tax abatement agreement between the City of Sherman and the Applicant.

LEGAL DOCUMENTATION PREPARATION

The governing body eligible for initiating the designation of the Reinvestment Zone (City or County) will be responsible for drafting the proposed agreement pursuant to the approved Tax Abatement, as well as all collateral documentation.

The legal document is to include the following:

1. Estimated value of expansion or new construction to be abated.
2. Percent of value to be abated each year.
3. Commencement date and the termination date of abatement.
4. Proposed use of the facility, nature of construction, time schedule, map, property description and improvements list as provided in the application.
5. Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture and administration.

EXECUTION OF AGREEMENT

~~TAX REINVESTMENT ZONE~~TAX ABATEMENT APPLICATION

~~INDUSTRIAL AND COMMERCIAL APPLICATION~~

SECTION I

1. Property Owner: _____
Mailing Address: _____
Telephone Numbers: _____
2. Property Owner's Representative: _____
Mailing Address: _____
Telephone Numbers: _____
3. Physical Property Address: _____
4. Property Legal Description (include as an attachment with metes and bounds)
5. Property is located within: City of Sherman? _____
Sherman I.S.D.? _____
Grayson County? _____
6. Description of Project: _____

7. Date of projected occupation of project/initiation of operations: _____
8. Narrative response to criteria questions in Section II of application? _____
(Yes or No, and include attachment)

SECTION II

Employment Impact

How many jobs will be brought to Sherman?

What types of jobs will be created?

List the number of jobs that will be created and the wage range of each class of job.

What will the total annual payroll be? Include current and increase factors.

Expectation for jobs filled by transfers from other company locations vs. locally-filled jobs.

Fiscal Impact

How much real and personal property will be added to the tax rolls, in square footage and in estimated value?

What is the economic life of the personal property?

What is the expected depreciation of the taxable value of the real and personal property?

How much direct sales tax will be generated for the City of Sherman during construction and after operations have commenced?

How will this project affect existing businesses and/or office facilities?

What infrastructure construction would be required?

What is the total annual operating budget of this facility projected to be? (For expansion, state current and projected increase.)

What is the estimated water use?

Community Impact

What effect would the project have on the local housing market?

How compatible is the project with the City's Comprehensive Plan?

What environmental impact, if any, will be created by the project?



City Council Regular Meeting

Agenda Item No. H.9.

Meeting Date: 2/5/2024

Prepared By: Teri Fine, Assistant to the City Manager

Approved By: Teri Fine, Assistant to the City Manager

Caption:

RESOLUTION NO. 7255

Appointing and Authorizing the City Manager to Negotiate an Agreement with Pattillo, Brown & Hill, LLP to Perform the Fiscal Year 2023 Audit and Authorizing the City Manager to Negotiate a Termination Agreement with FORVIS

Issue:

Independent Audit Services for fiscal year (FY) 2023

Background:

On the July 5, 2023 agenda, the City Council authorized the City Manager to negotiate an agreement with FORVIS to perform the FY2023 audit. FORVIS and the City have been unable to come to an agreement on the application of a pronouncement issued by the Governmental Accounting Standards Board requiring governments to record certain transactions as financed purchases. The transactions in question are the City's contractual payments for utility debt to the Greater Texoma Utility Authority. The City's stance, supported by our financial advisor and bond counsel, is that the payments are contractual payments and not debt service. In the GTUA bond covenants, the City covenanted the expenses will remain an operating expense of the City in the bond documents. Classifying the payments as debt service moves the payments out of operating expenses, thereby subordinating the pledge. FORVIS believes the standard must be applied, nonetheless. The implications of potentially violating bond covenants could be disastrous to the City's ability to issue utility bonds in the future.

Pattillo, Brown and Hill, LLP (PBH) has performed the City's audit for the past five years and is willing to step in and perform the FY2023 audit. For last fiscal years' audit, PBH construed the transactions consistent with how the City and its other consultants are viewing the accounting issues.

Origination:

Council Audit Committee

Financial Consideration:

The City will negotiate a termination agreement with FORVIS and an engagement agreement with Pattillo, Brown and Hill, LLP.

Staff Recommendation:

The staff recommends the City Council accept the recommendation of the Council Audit Committee to appoint Pattillo, Brown and Hill, LLP to perform the annual audit for the fiscal year ending September 30 and terminate the agreement with FORVIS for their services.

Alternatives:

As directed by the City Council.

Attachments:

1. Resolution No. 7255
2. Audit Committee Memo - Independent Auditor Appointment for FY 2023 Audit

RESOLUTION NO. 7255

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, APPOINTING AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AN AGREEMENT WITH FORVIS TO PERFORM THE FISCAL YEAR 2023 AUDIT AND TERMINATE THE AGREEMENT WITH FORVIS FOR SAME; 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 Council hereby appoints Pattillo, Brown and Hill, LLP to perform the annual audit for the City of Sherman for fiscal year ending September 30, 2023.

SECTION 2. That the City Manager be and is hereby authorized and directed, to negotiate an agreement with Pattillo, Brown and Hill, LLP to perform the annual audit for the City of Sherman for the fiscal year ending September 30, 2023.

SECTION 3. That the City Manager be and is hereby authorized and directed, to negotiate a termination agreement with FORVIS according to the terms of the Agreement for Audit Services.

SECTION 3. 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 5th day of February 2024.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY,
CITY CLERK

BY: _____
DAVID PLYLER, MAYOR

APPROVED AS TO FORM
AND CONTENT:
ABERNATHY, ROEDER, BOYD, & HULLET P.C.

BY: _____
RYAN D. PITTMAN, CITY ATTORNEY

memorandum

DATE: Friday, February 2, 2024

TO: The Council Audit Committee
The Honorable David Plyler, Mayor
The Honorable Shawn Teamann, Council Member
The Honorable Daron Holland, Council Member

CC: Sherman City Council Members
Robby Hefton, City Manager

FROM: Mary Lawrence, Finance Director

SUBJECT: **Appointment of Pattillo, Brown and Hill, LLP as Independent Auditor for the Fiscal Year Ended September 30, 2023, Audit and Terminating the Audit Agreement with FORVIS for Same.**

On the July 5, 2023, agenda, the City Council authorized the City Manager to negotiate an agreement with FORVIS to perform the FY2023 audit. FORVIS and the City have been unable to come to an agreement on the application of a pronouncement issued by the Governmental Accounting Standards Board requiring governments to record certain transactions as financed purchases. The transactions in question are the City's contractual payments for utility debt to the Greater Texoma Utility Authority (GTUA). The City's stance, supported by our financial advisor and bond counsel, is that the payments are contractual payments and not debt service. The City covenanted the expenses will remain an operating expense of the City in the bond documents. Classifying the payments as debt service moves the payments out of operating expenses, thereby subordinating the pledge. FORVIS believes the standard must be applied to these transactions whereas the City believes the standard does not apply to the unique relationship and transactions between the City and GTUA.

Pattillo, Brown & Hill, LLP, ("PBH"), a certified public accounting firm in Waco, performed the annual audit for the City and SEDCO for the past five fiscal years. Subject to Audit Committee and City Council approval, the staff proposes to engage PBH for the annual audit for the year ended September 30, 2023.

The City Manager will negotiate an agreement with PBH and a termination agreement with FORVIS.



City Council Regular Meeting

Agenda Item No. H.10.

Meeting Date: 2/5/2024

Prepared By: Teri Fine, Assistant to the City Manager

Approved By: Teri Fine, Assistant to the City Manager

Caption:

RESOLUTION NO. 7256

Authorizing Execution of an Amended and Restated Collateral Assignment of the Master Development Agreement by RCICD Heritage Ranch LLC, for the Benefit of First United Bank and Trust Company

Issue:

Acknowledging, Consenting and Approval of an Amended and Restated Collateral Assignment of the Master Development Agreement by RCICD Heritage Ranch LLC, for the Benefit of First United Bank and Trust Company.

Background:

In January 2021 (Ordinance No. 6354), the City Council approved to rezone the property generally located East of F.M. 1417 (Heritage Parkway) and North of U.S. Highway 82, as a Planned Development District. At the August 2, 2021 City Council meeting the Council approved Resolution 6760, which authorized a Master Development Agreement (MDA) between the City and TPJ Properties, LTD, for the construction of public facilities in the residential portion of the mixed-use planned Development known as Heritage Ranch, being an approximate 174-acre residential development along U.S. HWY 82 and between F.M. 1417 (Heritage Parkway) and Travis Street. At the February 21, 2022 meeting the City Council approved an assignment of TPJ's rights and obligations under the MDA to RCICD.

The new assignee, RCICD, now seeks to collaterally assign its entitlements to funds under the MDA to First United Bank and Trust Company, a bank the developer is using as a financing partner on the project. The MDA requires the developer to obtain Council approval for this collateral assignment.

Origination:

City Manager's Office

Financial Consideration:

There is no direct financial impact to the City of authorizing assignment of the MDA.

Staff Recommendation:

Staff recommends authorizing the approval of the amended and restated collateral assignment of the Heritage Ranch Residential MDA as described in the attached collateral assignment agreement

Alternatives:

As directed by City Council

Attachments:

1. Resolution No. 7256
2. Draft Amended and Restated Collateral Assignment of Development Agreement - Heritage Ranch - Phase 1 [MISSING CITY - POST-CLOSING]

RESOLUTION NO. 7256

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AMENDED AND RESTATED COLLATERAL ASSIGNMENT OF THE MASTER DEVELOPMENT AGREEMENT BY RCICD HERITAGE RANCH LLC, FOR THE BENEFIT OF FIRST UNITED BANK AND TRUST COMPANY; 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 acknowledge, consent and approve an Amended and Restated Collateral Assignment of the Master Development Agreement by RCICD Heritage Ranch LLC, for the Benefit of First United Bank and Trust Company, being an approximate 174-acre residential development along U.S. Hwy 82 and between F.M. 1417 (Heritage Parkway) and Travis Street 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.

PASSED AND APPROVED on this the 5th day of February 2024.

CITY OF SHERMAN, TEXAS

BY: _____

ATTEST:

DAVID PLYLER, MAYOR

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

**AMENDED AND RESTATED
COLLATERAL ASSIGNMENT OF MASTER DEVELOPMENT AGREEMENT**

THIS AMENDED AND RESTATED COLLATERAL ASSIGNMENT OF MASTER DEVELOPMENT AGREEMENT (this “Assignment”) is made as of November 28, 2023 (the “Effective Date”), by RCICD Heritage Ranch LLC, a Texas limited liability company (together with its successors and assigns, “Assignor”), for the benefit of First United Bank and Trust Company, an Oklahoma state bank (together with its successors and assigns, “Lender”).

RECITALS

A. Assignor, as assignee of TPJ Properties, Ltd., a Texas limited partnership, and the City of Sherman, Texas, a home-rule municipality of the State of Texas (the “City”), are parties to that certain Heritage Ranch Master Development Agreement effective as of October 5, 2021 (as such may be amended, restated, modified, supplemented, replaced or otherwise changed from time to time, the “Development Agreement”) concerning that certain real property owned by Assignor and situated in Grayson County, Texas, containing approximately 171.56 acres, as more particularly described on Exhibit “A” attached hereto and incorporated herein by reference (the “Land”, and together with all improvements now or hereafter situated hereon, the “Property”).

B. Lender has extended and/or has agreed to extend to Assignor one (1) or more development loan(s) in an aggregate amount of up to \$15,866,100.00 (individually and collectively, whether one or more, as each may be respectively renewed, extended, increased or decreased in amount or otherwise rearranged from time to time, the “Credit Facility”) for the purpose of, among other things, financing certain costs and expenses to be incurred by Assignor in connection with the first phase of the construction and development of a residential subdivision to be known as “Heritage Ranch”, an addition to the District of Sherman, Grayson County, Texas, to be located on the Land, with said first phase to include the development of two hundred forty-eight (248) platted, fully developed and buildable single-family residential lots on a portion of the Land containing approximately 50.901 acres and the construction of other related infrastructure improvements, amenities and common elements on the Land, including, without limitation, the Facilities (the “Project”).

C. The Credit Facility is or will be governed, respectively, by a Development Loan Agreement dated February 28, 2022, executed by and between Lender and Assignor and a Development Loan Agreement (Second Lien) dated as of the Effective Date, executed by and between Lender and Assignor (individually and collectively, whether one or more, as each may be respectively amended, restated, modified, replaced or otherwise changed from time to time, the “Loan Agreement”). Additionally, the Credit Facility is or will be evidenced, respectively, by a Promissory Note dated February 28, 2022, executed by Assignor and made payable to the order of Lender in the stated principal amount of \$13,421,100.00, and a Promissory Note (Second Lien) dated as of the Effective Date, executed by Assignor and made payable to the order of Lender in the stated principal amount of \$2,445,000.00 (individually and collectively, whether one or more, as each may be respectively amended, restated, modified, supplemented, renewed, extended, increased or decreased in amount, replaced or otherwise changed from time to time, the “Note”), and is or will be secured by, among other things, a Deed of Trust, Assignment of Leases and Rents, Security Agreement, Financing Statement and Fixture Filing dated February 28, 2022, executed by Assignor, as grantor, for the benefit of Lender, and recorded on March 2, 2022, as Instrument No. 2022-6834 in the real property records of Grayson County, Texas, and a Subordinate Deed of Trust, Assignment of Leases and Rents, Security Agreement, Financing Statement and Fixture Filing dated as of the Effective Date, executed by Assignor, as grantor, for the benefit of

Lender, and recorded or to be recorded in the real property records of Grayson County, Texas, each covering, among other things, the Property (individually and collectively, whether one or more, as each may be respectively amended, restated, modified, supplemented, renewed, extended, replaced or otherwise changed from time to time, the “Deed of Trust”, and together with the Loan Agreement, the Note and all other documents and instruments that evidence, secure, guaranty or otherwise govern the Credit Facility, respectively, as each may be respectively amended, restated, modified, supplemented, renewed, extended, increased or decreased in amount, replaced or otherwise changed from time to time, the “Loan Documents”).

D. As a condition precedent to Lender extending the Credit Facility and advancing proceeds thereof to Assignor pursuant to the terms, covenants, and conditions of the Loan Documents, Lender has required that Assignor collaterally assign to Lender, as additional security for the Credit Facility, all of Assignor’s rights, title and interests in, to and under the Development Agreement, as set forth more fully below, and Assignor has so agreed.

E. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Loan Agreement or the Development Agreement, as applicable.

AGREEMENT

NOW, THEREFORE, Assignor, for and in consideration of the matters described in the foregoing Recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby covenants and agrees for the benefit of Lender, and its successors, assigns, nominees and designees, as follows:

1. **Collateral Assignment.** Assignor hereby collaterally assigns, transfers, sets over and conveys unto Lender, its successors and assigns, all of Assignor’s rights, title and interests in, to and under the Development Agreement (but none of Assignor’s obligations under the Development Agreement) and all of Assignor’s right, title and interest in and to any and all amounts payable directly to Assignor pursuant to or in connection with the Development Agreement, including, without limitation, (a) any and all rights of Assignor to receive reimbursements, receivables, payments, receipts, revenues, interest and income of any kind under the Development Agreement and/or in connection with or from the City or the TIRZ, and any and all rights of Assignor to receive or benefit from all or any portion of such amounts (all of the foregoing being hereinafter referred to collectively as the “Proceeds”), and (b) any and all rights and remedies which Assignor may have against the City, the TIRZ or any other party with respect to Assignor’s rights to receive all or any portion of the Proceeds (collectively, the “Collateral”).

2. **Purpose; Security Interest.** This Assignment is given to additionally secure Assignor’s full, timely and unconditional payment of any and all indebtedness and liabilities of Assignor now or hereafter existing or arising, absolute or contingent, direct or indirect, secured or unsecured, due or to become due, with respect to the Loan Documents (collectively, the “Indebtedness”) and the performance and discharge of all obligations under and with respect to the Loan Documents (collectively, the “Obligations”). This Assignment shall also constitute a security agreement with respect to the Collateral (including, without limitation, the Development Agreement and the Proceeds), and shall be, during the existence of the Loan Documents, a first and prior security interest under the Uniform Commercial Code of Texas as to the Collateral (including, without limitation, the Development Agreement and the Proceeds). In this regard, Assignor hereby grants unto Lender a first and prior security interest in and to the Collateral (including, without limitation, the Development Agreement and the Proceeds) to secure the full and timely payment and performance of the Indebtedness and Obligations. Assignor hereby agrees to execute and deliver to Lender, in form and substance satisfactory to Lender, such financing statements

and such further assurances as Lender may, from time to time, reasonably consider necessary to create, perfect and preserve Lender's security interest herein granted, and Lender may cause such financing statements and assurances to be recorded and filed, at Assignor's sole cost and expense, at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest. Lender is authorized to file any such financing statements without Assignor's signature thereon. This Assignment is being granted as security for the Credit Facility and constitutes a collateral assignment and not an absolute assignment of the Collateral.

3. **Representations and Covenants.** Assignor hereby represents, warrants and agrees to, with and for the benefit of Lender as follows:

a. Assignor is the owner of the Collateral, Assignor has the right, power and capacity to make this Assignment without the consent of any party (other than such consents as have been obtained and delivered to Lender on or prior to the date hereof), and, except as provided in the Development Agreement, no person, firm or corporation other than Assignor has or will have (i) any right, title or interest in, to or under the Development Agreement, or (ii) any right to receive the Proceeds or any part thereof;

b. Assignor will perform and discharge, timely and completely, all of Assignor's obligations and undertakings under the Development Agreement. Assignor will use all reasonable efforts to enforce or secure the performance of each and every obligation and undertaking of the City under the Development Agreement and will appear in and prosecute or defend any action or proceeding arising under, or in any manner connected with, the Development Agreement or the obligations and undertakings of the City thereunder;

c. Assignor will not (i) pledge, transfer, mortgage or otherwise encumber or assign any portion of the Proceeds or any of Assignor's rights under the Development Agreement, (ii) waive, excuse, condone or in any manner release or discharge performance of the City under the Development Agreement, (iii) disaffirm, cancel, terminate or consent to any surrender of the Development Agreement, or (iv) modify, extend or in any way alter the terms of the Development Agreement, , except to the extent specifically permitted by the Loan Agreement;

d. Assignor will promptly deliver to Lender, but in any event within five (5) days of Assignor's receipt thereof, any notice of default or any other material notice Assignor receives from the City under or in connection with the Development Agreement; and

e. Assignor represents and warrants that there are no existing defaults under the Development Agreement and Assignor has not performed any act or executed any instrument which might prevent Lender from operating under any of the terms and provisions hereof or which would limit Lender in such operation.

4. **Payments Directly to Lender.** All Proceeds and other amounts that are payable directly to Assignor under the Development Agreement shall be made payable to Assignor, but delivered directly to Lender at the following address:

RCICD Heritage Ranch LLC
c/o First United Bank and Trust Company
401 E. Taylor Street
Sherman, Texas 75090
Attn: Jeff Robison, Senior V.P.

Assignor hereby unconditionally and irrevocably authorizes and directs the City and the TIRZ, as applicable, to deliver all Proceeds and any other amounts payable to Assignor under the Development Agreement directly to Lender as set forth above or otherwise pursuant to the payment instructions provided by Lender to the City or the TIRZ from time to time. ASSIGNOR INDEMNIFIES AND HOLDS HARMLESS THE CITY AND THE TIRZ FROM AND AGAINST ANY AND ALL COSTS, EXPENSE, LIABILITY AND OTHER DAMAGES WHICH THE CITY OR THE TIRZ MAY INCUR OR SUSTAIN BY REASON OF ITS ADHERENCE TO THE PROVISIONS OF THIS ASSIGNMENT, INCLUDING, WITHOUT LIMITATION, THE REQUIREMENTS TO DELIVER PAYMENTS DIRECTLY TO LENDER AS PROVIDED ABOVE. The City's and the TIRZ's obligation to deliver payments directly to Lender as provided in this Assignment shall continue until such time as Lender has executed a termination or release of this Assignment and filed a termination of any applicable UCC-1 Financing Statement relating to the Collateral, or until the City or the TIRZ, as applicable, has delivered all payments required to be made directly to Assignor under the Development Agreement, whichever occurs first.

5. **Trust.** In the event Assignor receives any Proceeds or other amounts payable directly to Assignor under the Development Agreement from the City or the TIRZ, whether inadvertently or otherwise, while this Assignment is in effect, Assignor agrees to and shall hold all such amounts in trust for the benefit of Lender for so long as such amounts remain in Assignor's possession, and Assignor shall immediately remit and endorse to Lender such Proceeds for Lender's use in accordance with Section 4 of this Assignment.

6. **Payment of Awards and Other Amounts.** Assignor also hereby assigns to Lender any award made hereafter to Assignor in any court proceeding involving the Development Agreement, in any bankruptcy, insolvency or reorganization proceeding in any state or federal court, and any and all payments made by the City or the TIRZ in lieu of payment of Proceeds, which amounts shall be applied by Lender as provided in Section 7 below.

7. **Application of Proceeds.** Upon Lender's receipt of any Proceeds or other amounts payable to Assignor under the Development Agreement, Lender shall apply such Proceeds to any part of the Indebtedness owed under or in connection with the Note in accordance with the terms thereof.

8. **Default.** The term "Event of Default" as used herein shall mean the occurrence of any one of the following:

a. Assignor shall fail, refuse or neglect, or cause others to fail, refuse or neglect, to perform and discharge fully and timely any of the covenants and agreements of Assignor in this Assignment as and when called for and such failure, refusal or neglect continues for a period of more than thirty (30) days after written notice thereof shall have been given by Lender to Assignor; provided, however, an Event of Default shall not be deemed to have occurred hereunder if such default is of a nature that it cannot reasonably be cured during such thirty (30) day period and (i) Assignor has commenced reasonable efforts to cure such default within such thirty (30) day period, and (ii) diligently pursues such cure efforts to completion, which shall occur within sixty (60) days from the original notification; and provided further, however, that Lender shall not be obligated to provide, and Assignor shall not be entitled to receive, such notice and cure period more than three (3) times during any consecutive twelve (12) month period; or

b. Any statement, representation or warranty heretofore or hereafter made by Assignor in this Assignment is false, calculated to mislead, misleading, or erroneous in any material respect when made; or

c. The occurrence of an “Event of Default” (as such term is defined in each of the other respective Loan Documents) under any of the other Loan Documents.

9. **Remedies.** Assignor, upon the occurrence of an Event of Default, hereby authorizes Lender, at its option, to: (a) exercise any and all rights of Assignor under the Development Agreement, bring or defend any suits in connection with the Development Agreement, in Assignor’s name or Lender’s own name, and perform such other acts in connection with the Development Agreement as Lender, in its sole discretion, may deem proper; (b) unilaterally declare this Assignment to be an absolute and unconditional assignment of the Collateral and all of Assignor’s rights in, to and under the Development Agreement and in and to the Proceeds; or (c) exercise any and all other rights, remedies and recourses which Lender may have under the Loan Agreement, applicable law or in equity.

10. **Power of Attorney.** Upon an Event of Default, Assignor hereby constitutes and appoints the Lender its true and lawful attorney-in-fact, which appointment is hereby coupled with an interest and is therefore irrevocable, with full power of substitution, to (a) ask, demand, collect, receive, receipt for, sue for, compound and give acquittance for any and all amounts constituting the Proceeds, which may be due or become due or payable under the Development Agreement, (b) execute any and all requests and notices or other demands for the payment of all or any part of the Proceeds, (c) endorse the name of the Assignor on all commercial paper or other instruments given in payment of all or any part of the Proceeds, (d) appear in any action or court proceeding involving the Development Agreement or in any bankruptcy, insolvency or reorganization proceeding in any state or federal court, (e) in the discretion of Lender, give effect to and exercise the rights, remedies, options and privileges of Lender under this Assignment, including without limitation the rights to exercise any and all rights of Assignor under, and consummate in Assignor’s name the transactions contemplated by, the Development Agreement, (f) in the discretion of the Lender, file any claim or take any other action or proceeding, either in its own name or in the name of the Assignor or otherwise, which Lender may deem necessary or appropriate to protect and preserve the rights, titles and interests of Lender hereunder or of Assignor under the Development Agreement, (g) cure any default of Assignor under the Development Agreement or take any other action as Lender may determine to be necessary or advisable to protect the rights of Assignor and Lender under the Development Agreement, and (h) without limiting the foregoing, Lender shall have and is hereby given full power and authority to transfer the Development Agreement into the name of Lender or its successor, assign, nominee or designee, without further notice or consent by Assignor, upon the acquisition of title in and to the Property by Lender or Lender’s successor, assign, nominee or designee. Notwithstanding the foregoing, Lender shall have no obligation to exercise its rights pursuant to this Section at any time, and Lender’s exercise of any such right shall not operate to cure or waive any Event of Default arising in connection therewith or to invalidate any notice of such Event of Default or action taken by Lender in connection therewith. LENDER SHALL INCUR NO LIABILITY IF ANY ACTION SO TAKEN BY IT OR ON ITS BEHALF SHALL PROVE TO BE INADEQUATE OR INVALID, AND ASSIGNOR AGREES TO HOLD LENDER FREE AND HARMLESS AGAINST AND FROM ANY LOSS, COST, LIABILITY OR EXPENSE (INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS’ FEES) INCURRED IN CONNECTION WITH ANY SUCH ACTION, UNLESS SUCH ACTION CONSTITUTES THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LENDER.

11. **Receipt of Proceeds.** The receipt by Lender of any Proceeds pursuant to this Assignment shall not cure any Event of Default or affect any foreclosure proceedings instituted by Lender with respect to the Property or any sale pursuant thereto

12. **No Assumption; Indemnity; Duty.** Neither this Assignment nor any action by Lender hereunder shall constitute an assumption by Lender of any of Assignor’s obligations under the

Development Agreement, and Assignor shall continue to be liable for all obligations of Assignor thereunder, Assignor hereby expressly agreeing with Lender to perform all of its obligations under the Development Agreement. Further, Lender shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Assignor under the Development Agreement. ASSIGNOR AGREES TO INDEMNIFY AND HOLD LENDER HARMLESS AGAINST AND FROM ANY LOSS, COST, LIABILITY OR EXPENSE (INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES) RESULTING FROM ANY FAILURE OF ASSIGNOR TO PERFORM ITS OBLIGATIONS UNDER THE DEVELOPMENT AGREEMENT OR OTHERWISE ARISING FROM THE DEVELOPMENT AGREEMENT OR FROM THIS ASSIGNMENT. This Assignment shall not place responsibility for the control, care, management or repair of the Property upon Lender, or make Lender responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Property resulting in loss or damage or injury or death to any party; provided, however, the aforesaid indemnity shall not apply to any liability caused by Lender's gross negligence or willful misconduct occurring while Lender has actual physical possession of the Property, whether by virtue of the appointment of a receiver, upon foreclosure or otherwise.

13. **Lender.** As of the Effective Date, this Assignment shall not be deemed or construed to constitute Lender as mortgagee in possession of the Property or to obligate Lender to take any action hereunder, to incur expenses or to perform or discharge any obligation, duty or liability hereunder or under the Development Agreement. The term "Lender" as used herein shall include Lender and Lender's successors, assigns, nominees and designees.

14. **Further Assurances.** Until the Credit Facility and all Indebtedness shall have been paid in full and all Obligations shall have been fully performed and discharged, Assignor will from time to time execute and deliver unto Lender upon demand any and all writings that Lender may reasonably deem necessary or desirable to carry out the purpose and intent hereof, or to enable Lender to enforce any right or rights hereunder.

15. **Costs and Expenses.** Assignor shall reimburse Lender for all costs, fees, expenses and other expenditures paid or incurred by Lender (or any affiliate of Lender) to any third-person in connection with this Assignment and the Development Agreement, including the enforcement of this Assignment, or the protection or exercise of any right or remedy of Lender hereunder, whether at law or in equity, and including, but not limited to, (a) costs, fees, expenses and other expenditures incurred by Lender in connection with (i) the preparation and negotiation of this Assignment or (ii) any bankruptcy proceeding, receivership action or probate involving Assignor or otherwise involving, affecting or related to this Assignment, the Project or the Development Agreement, and (b) costs, expenses and reasonable attorneys' fees of counsel to Lender arising in connection with the preparation, negotiation, interpretation, administration, collection and enforcement of this Assignment or the protection of Lender's rights and remedies hereunder, any release of lien or security interest granted under or evidenced by this Assignment, any consent, approval or waiver hereunder, and any suit involving this Assignment, the Project or the Development Agreement. All costs, fees, expenses and other expenditures paid or incurred by Lender (or any affiliate of Lender) are due and payable by Assignor on demand or, if no demand is made, at the maturity of the Credit Facility. Upon payment or other incurrence by Lender, such fees, costs, expenses and other expenditures shall be added to the outstanding principal balance of the Credit Facility without further notice to Assignor and shall bear interest from the date of payment by Lender until paid by or for the account of Assignor in full at the highest interest rate then in effect as provided for under the terms of the Note, and the payment thereof shall be secured by the same collateral that secures the Credit Facility.

16. **Inconsistencies.** Any provision in the Loan Agreement that pertains to the subject matter of this Assignment shall be deemed to be incorporated herein by this reference as if fully set forth herein. In the event of any conflict between any terms or provisions of this Assignment and any terms or provisions of the Loan Agreement, the terms of this Assignment shall control; provided, however, that the absence of any provision in this Assignment that otherwise appears in the Loan Agreement or the absence of any provision in the Loan agreement that otherwise appears in this Assignment shall not, in and of itself, be deemed an inconsistency.

17. **Miscellaneous.**

a. *Actions by Lender.* The liens, security interests and other security rights of Lender hereunder shall not be impaired by (i) any renewal, extension, increase or modification with respect to the Indebtedness, (ii) any surrender, compromise, release, renewal, extension, exchange or substitution that Lender may grant with respect to the Account, or (iii) any release or indulgence granted to any endorser, guarantor or surety of the Indebtedness. The taking of additional security by Lender shall not release or impair the liens, security interests or other security rights of Lender hereunder or affect the obligations of Assignor hereunder.

b. *Amendment.* This Assignment may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, or modification is sought.

c. *Waiver by Lender.* Lender may waive any Event of Default without waiving any other prior or subsequent Event of Default. Lender may remedy any Event of Default without waiving the Event of Default remedied. Neither the failure by Lender to exercise, nor the delay by Lender in exercising, any right or remedy upon the occurrence of any Event of Default shall be construed as a waiver of such Event of Default or as a waiver of the right to exercise any such right or remedy at a later date. No single or partial exercise by Lender of any right or remedy hereunder shall exhaust the same or shall preclude any other or further exercise thereof or of any other right or remedy, and every such right or remedy hereunder may be exercised at any time. No waiver of any provision hereof or consent to any departure by Assignor therefrom shall be effective unless the same shall be in writing and signed by Lender, and then such waiver or consent shall be effective only in the specific instances, for the purpose and to the extent therein specified. No notice to or demand on Assignor in any case shall of itself entitle Assignor to any other or further notice or demand in similar or other circumstances.

d. *No Obligation.* Nothing contained herein shall be construed as an obligation on the part of Lender to extend or continue to extend credit to Assignor.

e. *Governing Law; Submission to Jurisdiction.* This Assignment is executed and delivered as an incident to a lending transaction negotiated and consummated in Grayson County, Texas, and shall be governed by and construed in accordance with the laws of the State of Texas. Assignor, for itself and its successors and assigns, hereby irrevocably (a) submits to the nonexclusive jurisdiction of the state and federal courts in Texas, (b) waives, to the fullest extent permitted by law, any objection that it may now or in the future have to the laying of venue of any litigation arising out of or in connection with this Assignment or any Loan Document brought in any District Court sitting in Grayson County, Texas, or in the United States District Court for the Eastern District of Texas, Sherman Division, (c) waives any objection it may now or hereafter have as to the venue of any such action or proceeding brought in such court or that such court is an inconvenient forum, and (d) agrees that any legal proceeding against any party to any of the Loan Documents arising out of or in connection with any of the Loan Documents may be brought in one of the foregoing courts. Assignor hereby agrees that service of process upon Assignor

may be made by certified or registered mail, return receipt requested, at its address specified in the Loan Agreement. Nothing herein shall diminish or otherwise affect the right of Lender to serve process in any other manner permitted by law or shall limit the right of Lender to bring any action or proceeding against Assignor or with respect to any of Assignor's property in courts in other jurisdictions. The scope of each of the foregoing agreements and waivers is intended to be all encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including, without limitation, Development Agreement claims, tort claims, breach of duty claims, and all other common law and statutory claims. Assignor acknowledges that these agreements and waivers are a material inducement to Lender's agreement to enter into the agreements and obligations evidenced by the Loan Documents, that Lender has already relied on these agreements and waivers and will continue to rely on each of these waivers in related future dealings. The agreements and waivers in this Subsection are irrevocable, meaning that they may not be modified either orally or in writing, and these agreements and waivers apply to any future renewals, extensions, amendments, modifications, or replacements in respect of this Assignment.

f. *Cumulative Rights.* All rights and remedies of Lender hereunder are cumulative of each other and of every other right or remedy which Lender may otherwise have at law or in equity or under any instrument or agreement, and the exercise of one or more of such rights or remedies shall not prejudice or impair the concurrent or subsequent exercise of any other rights or remedies.

g. *Severability.* If any provision of this Assignment or the application thereof to any person or circumstance shall, for any reason and to any extent, be held or declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or ineffective, then neither the remainder of this Assignment nor the other instruments referred to herein shall be affected or impaired thereby, but rather shall be enforced to the greatest extent permitted by applicable law. Further this Assignment shall continue to be valid and shall be construed and enforced as if such invalid, unenforceable, illegal or ineffective provision, to the extent of such invalidity, unenforceability, illegality or ineffectiveness, had never been contained herein.

h. *Headings.* The Section and Subsection entitlements hereof are inserted for convenience of reference only and shall in no way alter, modify, define, limit, amplify or be used in construing the text, scope or intent of such Articles, Sections, or Subsections or any provisions hereof.

i. *Notices.* Unless otherwise expressly provided herein, all notices and other communications provided for hereunder shall be in writing and mailed (via certified mail, return receipt requested) or delivered (via personal delivery or expedited delivery service, in each case with proof of delivery) (a) to the applicable address for notices set forth in the Loan Agreement, or (b) to such other address as shall be designated by such party in a notice to the other parties. All such notices and other communications shall be deemed to have been given or made upon the earliest to occur of (i) actual receipt by the intended recipient, (ii) when signed for or refused by the intended recipient, or (iii) if delivery is attempted and the intended recipient fails to act on said notice in order to retrieve same, the deadline for any such delivery to be retrieved by the intended recipient. Electronic mail and internet websites may be used only to distribute routine communications and to distribute documents for execution by the parties thereto, and may not be used for any other purpose.

j. *Binding Effect and Assignment.* This Assignment (i) creates a continuing security interest in the Development Agreement, (ii) shall be binding on Assignor and the heirs, executors, administrators, personal representatives, successors and assigns of Assignor, (iii) shall be binding on all parties who/that become bound as "Assignor" under this Assignment, and (iv) shall inure to the benefit of Lender and its successors, transferees and assigns. Without limiting the generality of the

foregoing, Lender may pledge, assign or otherwise transfer its rights, title and interest in and to the Indebtedness and the repayment thereof and its rights under this Assignment and any of the other Loan Documents to any other party, without consent of or prior notice to Assignor. Assignor's rights and obligations hereunder may not be assigned or otherwise transferred without the prior written consent of Lender.

k. *Termination.* It is contemplated by the parties hereto that from time to time there may be no outstanding Indebtedness, but notwithstanding such occurrences, this Assignment shall remain valid and shall be in full force and effect as to subsequent outstanding Indebtedness. Upon (i) the satisfaction in full of the Indebtedness and performance in full of the Obligations, (ii) the termination or expiration of any commitment of Lender to extend credit to Assignor, (iii) written request for the termination hereof delivered by Assignor to Lender, and (iv) written release or termination delivered by Lender to Assignor, this Assignment and the security interests created hereby shall terminate. Upon termination of this Assignment and Assignor's written request, Lender will, at Assignor's expense, execute and deliver to Assignor such documents as Assignor shall reasonably request to evidence such termination.

l. *Counterparts; Electronic Documents and Signatures.* This Assignment may be separately executed in any number of counterparts, each of which will be an original, but all of which, taken together, will be deemed to constitute one and the same instrument. For purposes of negotiating and finalizing this Assignment, if this document or any document executed in connection therewith is transmitted by facsimile machine, electronic mail or other electronic transmission, it will be treated for all purposes as an original document. Additionally, the signature of any party on this document transmitted by way of a facsimile machine, electronic mail or other electronic transmission will be considered for all purposes as an original signature. Any such faxed or electronically transmitted document will be considered to have the same binding legal effect as an original document. At the request of any party, any faxed or electronically transmitted document will be re-executed by each signatory party in an original form.

m. *Gender and Number.* Within this Assignment, words of any gender shall be held and construed to include the other gender, and words in the singular number shall be held and construed to include the plural and words in the plural number shall be held and construed to include the singular, unless in each instance the context requires otherwise.

n. *Imaging of Documents.* Assignor understands and agrees that Lender's document retention policy may involve the electronic imaging of executed Loan Documents (including, but not limited to, this Assignment) and the destruction of the paper originals, and Assignor waives any right that Assignor may have to claim that the imaged copies of the Loan Documents are not originals.

o. *Entire Agreement.* THIS ASSIGNMENT AND THE OTHER LOAN DOCUMENTS CONTAIN THE FINAL, ENTIRE AGREEMENT BETWEEN THE PARTIES HERETO RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF AND ALL PRIOR AGREEMENTS, WHETHER WRITTEN OR ORAL, RELATIVE HERETO AND THERETO THAT ARE NOT CONTAINED HEREIN OR THEREIN ARE SUPERSEDED AND TERMINATED HEREBY, AND THIS ASSIGNMENT AND THE OTHER LOAN DOCUMENTS MAY NOT BE CONTRADICTED OR VARIED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OF THE PARTIES HERETO. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES HERETO.

18. **Amendment and Restatement.** This Assignment amends, restates, modifies, extends, replaces and supersedes, but does not terminate or release, that certain Collateral Assignment of Master Development Agreement dated February 28, 2022, executed by Assignor in favor of Lender with respect to the Development Agreement, the Proceeds and all other Collateral described herein (the “Prior Assignment”), which Prior Assignment was given by Assignor to Lender as security for that certain development loan in an aggregate amount of up to \$13,421,100.00 (the “First Lien Credit Facility”). Accordingly, Assignor hereby expressly acknowledges and agrees that the liens, security interests and encumbrances created and evidenced by said Prior Assignment are valid and subsisting against the Collateral as security for the First Lien Credit Facility, and said liens, security interests and encumbrances are hereby extended and carried forward in full force and effect by this Assignment as security for the each Credit Facility, including, without limitation, the First Lien Credit Facility that is a part thereof.

19. **Consent and Agreement by the City.** Pursuant to Section 11.1 of the Development Agreement, and as evidenced by the City’s signature below, the City hereby reaffirms its consent to and approval of Assignor’s collateral assignment of the Collateral (including, without limitation, the Development Agreement and the Proceeds) to Lender as set forth in the Prior Assignment and as further set forth herein, and the City agrees to comply with the instruction set forth in Section 4 above with regard to the payment of Proceeds. Further, the City agrees to provide a copy of any notice of default by Assignor under the Development Agreement to Lender, contemporaneously with the City’s provision of any such notice to Assignee, at the following address:

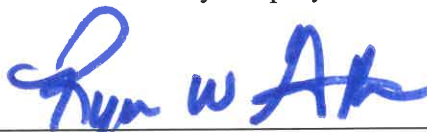
First United Bank and Trust Company
401 E. Taylor Street
Sherman, Texas 75090
Attn: Jeff Robison, Senior V.P.

[Remainder of page intentionally left blank – Signatures appear on the following pages.]

IN WITNESS WHEREOF, Assignor has caused this instrument to be executed on the date of acknowledgment set forth below, but effective as of the Effective Date.

ASSIGNOR:

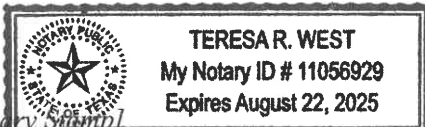
RCICD HERITAGE RANCH LLC,
a Texas limited liability company

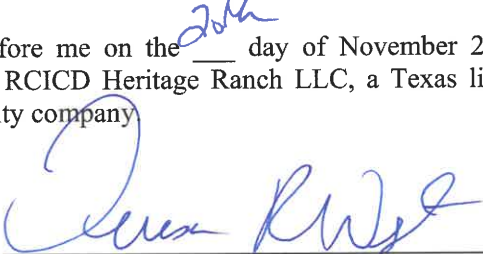
By: 
Ryan Walker Griffin, Manager

By: 
Tom Johnson, Manager

THE STATE OF TEXAS §
 §
COUNTY OF Collin §

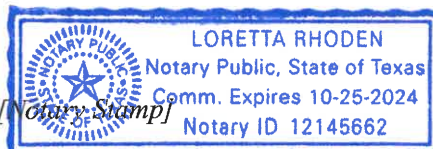
This instrument was acknowledged before me on the 20th day of November 2023, by Ryan Walker Griffin, in his capacity as Manager of RCICD Heritage Ranch LLC, a Texas limited liability company, for and on behalf of said limited liability company.

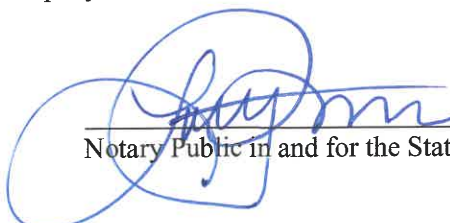
[Notary Stamp]  **TERESAR. WEST**
My Notary ID # 11056929
Expires August 22, 2025


Notary Public in and for the State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF Grayson §

This instrument was acknowledged before me on the 27th day of November 2023, by Tom Johnson, in his capacity as Manager of RCICD Heritage Ranch LLC, a Texas limited liability company, for and on behalf of said limited liability company.

[Notary Stamp]  **LORETTA RHODEN**
Notary Public, State of Texas
Comm. Expires 10-25-2024
Notary ID 12145662


Notary Public in and for the State of Texas

[Consent of the City appears on the following page.]

(Assignor Signature Page)

ACKNOWLEDGED, CONSENTED TO AND APPROVED:

THE CITY OF SHERMAN, TEXAS

ATTEST:

By: _____
Name: _____
Title: _____

City Clerk

APPROVED AS TO FORM:

Attorney for the City of Sherman

[Acknowledgment of Lender appears on the following page.]

(City Signature Page)

ACKNOWLEDGED BY:

LENDER:

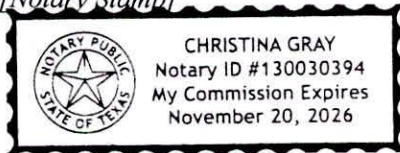
FIRST UNITED BANK AND TRUST COMPANY,
an Oklahoma state bank

By: 
Jeff Robison, Senior Vice President

THE STATE OF TEXAS §
 §
COUNTY OF Grayson §

This instrument was acknowledged before me on the 14th day of November 2023, by Jeff Robison, in his capacity as Senior Vice President of First United Bank and Trust Company, an Oklahoma state bank, for and on behalf of said bank.

[Notary Stamp]




Notary Public in and for the State of Texas

(Lender Signature Page)

**EXHIBIT “A”
TO
AMENDED AND RESTATED
COLLATERAL ASSIGNMENT OF MASTER DEVELOPMENT AGREEMENT**

Description of the Land

BEING a tract of land situated in the J. Jennings Survey, Abstract No. 657, and the U. Burns Survey, Abstract No. 121, City of Sherman, Grayson County, Texas, being all of Tract 1, conveyed to TPJ Properties, Ltd., by deed recorded in Volume 3203, Page 464 of the Deed Records, Grayson County, Texas (DRGCT), with the subject tract being more particularly described as follows:

BEGINNING at a concrete nail found in Canyon Grove Road, a public road, for the southwest corner of a tract conveyed to Zoe Life Outreach, Inc., recorded in Volume 5581, Page 396 DRGCT, for the southeast corner of Tract 1;

THENCE S 74°34'26” W, 1286.18 feet along said road to a MAG nail with a flasher found for the intersection of said road with the north line of U.S. Highway 82, a variable width public right-of-way;

THENCE along the north line thereof, the following:

N 03°25'22” W, 17.20 feet;

S 75°01'01” W, 778.89 feet to a concrete monument found;

Around a non-tangent curve to the right having a central angle of 04°45'50”, a radius of 5579.68 feet, a chord of N 87°05'05” W - 463.79 feet, an arc length of 463.93 feet to a 1/2” iron rod with plastic cap stamped “SPIARSENG” set;

And N 84°42'10” W, 916.60 feet to a 1/2” iron rod with plastic cap stamped “SPIARSENG” set;

THENCE departing said right-of-way, the following:

N 06°19'24” W, 542.26 feet;

A tangent curve to the left having a central angle of 24°29'33”, a radius of 790.00 feet, a chord of N 18°34'10” W - 335.14 feet, an arc length of 337.70 feet to a 1/2” iron rod with plastic cap stamped “SPIARSENG” set;

N 30°48'56” W, 654.89 feet;

And a tangent curve to the right having a central angle of 12°30'21”, a radius of 851.00 feet, a chord of N 24°33'46” W - 185.38 feet, an arc length of 185.75 feet to a point in Plainview Road, a public road;

THENCE N 00°01'05” W, 1664.00 feet along Plainview Road to a 60d nail found for the southwest corner of a tract conveyed to Astoria Homes, LLC, recorded in Document No. 2020-30762, Official Public Records, Grayson County, Texas (OPRGCT);

(Exhibit “A” – i)

THENCE S 89°06'19" E, 1495.28 feet along the south line thereof to a point for the northwest corner of a tract conveyed to BMT Global, LLC, recorded in Document No. 2018-12534 OPRGCT, from which a 60d nail found bears S 10°07'33" E, 3.63 feet;

THENCE S 00°19'22" W, 1688.82 feet along the west line thereof, and of a tract conveyed to Melissa Smith Murray, recorded in Volume 4413, Page 186 DRGCT, to a 1/2" iron rod with plastic cap stamped "SPIARSENG" set for the southwest corner thereof;

THENCE S 89°27'10" E, 1908.49 feet along the south line of said Murray tract to a 60d nail found for the northwest corner of said Zoe Life Outreach tract;

THENCE S 26°41'36" E, 1234.81 feet along the west line thereof to the POINT OF BEGINNING with the subject tract containing 7,471,223 square feet or 171.516 acres of land.

(Exhibit "A" – ii)



City Council Regular Meeting

Agenda Item No. I.1.

Meeting Date: 2/5/2024

Prepared By: Craig Long, Budget Analyst

Approved By: Robby Hefton, City Manager

Caption:

*** REQUEST TO ADVERTISE**

Requesting Authorization to Advertise for the Annual Supply of Water Chemicals

Issue:

Approval of a request to advertise for the annual supply of water chemicals for the calendar year of 2024

Background:

Annually, the City requests public bids or renews the contract, if able, for the supply of our industrial chemical purchases. These chemicals are for use at the Water Treatment Plant, Wastewater lift stations, and the Wastewater Treatment Plant.

Origination:

Production Services

Financial Consideration:

Funds for the purchase of chemicals are included in the approved budget for fiscal year 2023-2024. Advertising costs are estimated to be about \$200.00.

Staff Recommendation:

It is recommended that the City Council approve the advertising related to the purchase of the annual supply of chemicals.

Alternatives:

As may be directed by the City Council

Attachments:

None



City Council Regular Meeting

Agenda Item No. I.2.

Meeting Date: 2/5/2024

Prepared By: Craig Long, Budget Analyst

Approved By: Robby Hefton, City Manager

Caption:

*** REQUEST TO ADVERTISE**

Requesting Authorization to Advertise for Public Bids to Redesign the City of Sherman website.

Issue:

Request to Advertise

Redesign the City of Sherman website

Background:

The city's website, in its current form, isn't flexible in the ways that we can use and edit it. The content management system is very antiquated and does not allow for easy editing by employees. City staff would like to explore its options in replacing the current, cookie-cutter website with something that is custom tailored to Sherman's needs.

Origination:

Management Services

Financial Consideration:

The cost of advertising is approximately \$200.00.

Staff Recommendation:

Staff recommends approval to advertise for public bids for the redesign of the City of Sherman website.

Alternatives:

As may be directed by the City Council

Attachments:

None



City Council Regular Meeting

Agenda Item No. J.1.

Meeting Date: 2/5/2024

Prepared By: Teri Fine, Assistant to the City Manager

Approved By: Robby Hefton, City Manager

Caption:

OTHER BUSINESS

Discuss and Consider Approval of the Budget Calendar for Fiscal Year (FY) 2024-2025

Issue:

Background:

Several meetings are necessary to develop the budget for the upcoming fiscal year. There is some flexibility in meeting dates in the proposed budget calendar. Particularly important are the dates for the Budget Planning Meeting and the Budget Workshop. The Budget Planning Meeting will be used to garner Council input on Council initiatives to be included in the budget development process. The Budget Workshop will present a more detailed picture of the City budget and will be used to summarize Council direction for the upcoming year.

Included in this year's budget process will be discussion of the five-year financial and operational projections as has been the practice for the past several years. Although we will only be developing a budget and appropriating funds for FY 2024-2025, this five-year time horizon will include the impacts of such things as the capital improvement program, debt service, and projected tax base changes on the City's long-term financial outlook.

A workshop to develop the five-year Capital Improvement Plan as required by the City Charter will be held separately.

Origination:

City Manager's Office

Financial Consideration:

None

Staff Recommendation:

The staff recommends that the Council, **by motion and order**, approve the budget calendar as presented.

Alternatives:

The City Council could select alternative dates for the meetings, subject to Charter requirements.

Attachments:

1. Proposed Budget Calendar - FY 2024 - 2025

PROPOSED BUDGET CALENDAR

FISCAL YEAR 2024 -2025

Budget Planning Meeting with City Council and Financial Update	April 19, 2024
Capital Improvement Program Work Session	May 23, 2024
Budget Workshop*	June 13-14, 2024

Present Draft Budget to Council Tax Rates Submitted to Council for Consideration	August 5, 2024
Public Hearing and Final Action on Budget Ordinance	August 19, 2024
Public Hearing and Final Action on Tax Rate Ordinance	August 19, 2024

Notes:

Meeting times to be confirmed after the Budget Calendar is approved.

It is recommended that the Budget Planning Meeting be held in the City Council Chambers.

* This is expected to be a one-day Workshop; but an additional day is scheduled as a placeholder in case more time is needed.



City Council Regular Meeting

Agenda Item No. J.2.

Meeting Date: 2/5/2024

Prepared By: Jason Jeffcoat, Police Chief

Approved By: Robby Hefton, City Manager

Caption:

*** OTHER BUSINESS**

Receive 2023 Racial Profiling Report

Issue:

To receive the 2023 Racial Profiling Report from the Sherman Police Department

Background:

Sherman Police Department contracts annually with Dr. Alex del Carmen to analyze the Department's Motor Vehicle-Related Contact Information and prepare an annual racial profiling report. Consistent with past reports, Dr. del Carmen's analysis identified that the Sherman Police Department "is engaging in search practices consistent with national trends in law enforcement."

No "Racial Profiling" complaints were filed during 2023 from a traffic stop.

The information and analysis provided in this report serves as evidence that the Sherman Police Department complies with the Texas Racial Profiling laws. The following contains the basis for Dr. del Carmen's analysis.

(i) Tier 2 Data

Motor Vehicle-Related Contact Information (01/01/2023 - 12/31/2023)

Race/Ethnicity*	Contacts	Searches	Consensual Searches	Custody Arrest
Caucasian	7191	176	69	25
African American	1937	136	28	17
Hispanic or Latino	2579	65	16	15
Asian or Pacific Islander	174	0	0	0
Alaska Native or American Indian	90	3	1	1
Other	0	0	0	0
Total	11971	380	114	58

Origination:

Sherman Police Department

Financial Consideration:

None

Staff Recommendation:

Staff recommends approval of the 2023 Racial Profiling Report.

Alternatives:

None

Attachments:

1. 01-10-24 Executive Summary
2. Sherman 2023 Racial Profiling Report
3. State Report for 2023



SHERMAN POLICE DEPARTMENT
2600 West Travis Street
Sherman, Texas 75092

MEMORANDUM

Date: January 10, 2024

To: Chief Jason Jeffcoat

From: Lieutenant Kevin Garbacik |KG#104|

Subject: 2023 Racial Profiling Executive Summary

Sherman Police Department contracts annually with Dr. Alex Del Carmen to analyze the Department's motor vehicle-related contact information and prepare an Annual Racial Profiling Report. Consistent with past reports, Dr. Del Carmen's analysis identified that the Sherman Police Department "is engaging in search practices consistent with national trends in law enforcement". No "Racial Profiling" complaints were filed during 2023 from a traffic stop.

The information and analysis provided in this report serves as evidence that the Sherman Police Department complies with the Texas Racial Profiling Laws. The following contains the basis for Dr. Del Carmen's analysis:

(I) Tier 2 Data

Motor Vehicle-Related Contact Information (01/01/2023 – 12/31/2023)

Race/Ethnicity*	Contacts	Searches	Consensual Searches	Custody Arrest
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Asian or Pacific Islander	174	0	0	0
Alaska Native or American Indian	90	3	1	1
Other	0	0	0	0
Total	11971	380	114	58

SHERMAN POLICE DEPARTMENT

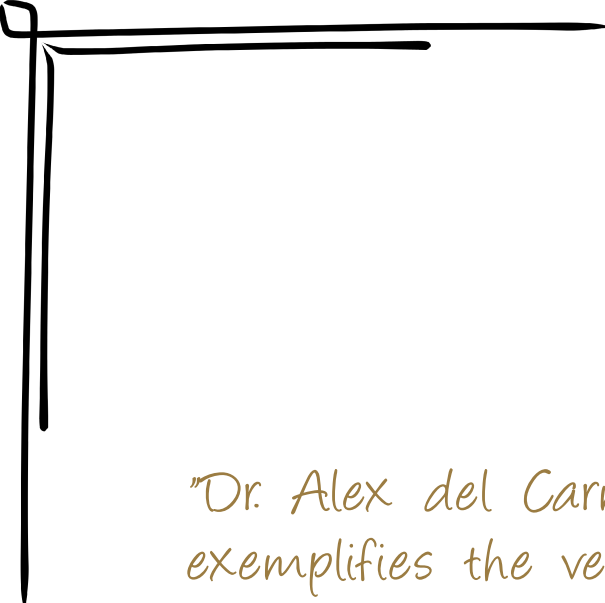


2023 RACIAL PROFILING REPORT



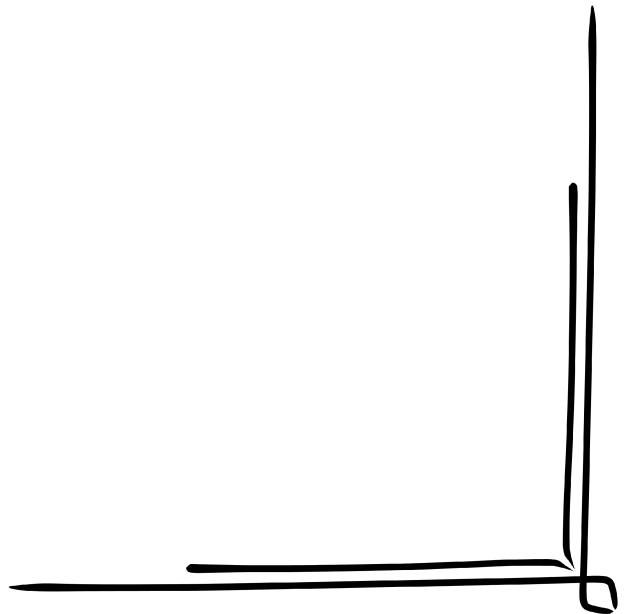
DEL CARMEN
Consulting®

LAW ENFORCEMENT EXPERTS



"Dr. Alex del Carmen's work on racial profiling exemplifies the very best of the Sandra Bland Act, named after my daughter. My daughter's pledge to fight for injustice is best represented in the high quality of Dr. del Carmen's reports which include, as required by law, the data analysis, audits, findings and recommendations. I commend the agencies that work with him as it is clear that they have embraced transparency and adherence to the law."

-Quote by Geneva Reed (Mother of Sandra Bland)



January 7, 2024

Sherman City Council
405 N. Rusk Street
Sherman, TX 75090

Dear Distinguished Members of the City Council,

In 2001 the Texas Legislature, with the intent of addressing the issue of racial profiling in policing, enacted the Texas Racial Profiling Law. During the last calendar year, the Sherman Police Department, in accordance with the law, has collected and reported traffic and motor vehicle related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. In the 2009 Texas legislative session, the Racial Profiling Law was modified and additional requirements were implemented. Further, in 2017 the Sandra Bland Act was passed and signed into law (along with HB 3051, which introduced new racial and ethnic designations). The Sandra Bland Law currently requires that law enforcement agencies in the state collect additional data and provide a more detailed analysis. All of these requirements have been met by the Sherman Police Department and are included in this report.



In this report, you will find three sections with information on motor vehicle-related contacts. In addition, when appropriate, documentation is included which demonstrates the manner in which the Sherman Police Department has complied with the Texas Racial Profiling Law. In section one, you will find the table of contents. Section two documents compliance by the Sherman Police Department relevant to the requirements established in the Texas Racial Profiling Law. That is, you will find documents relevant to the training of all police personnel on racial profiling prevention and the institutionalization of the compliment and complaint processes, as required by law.

Finally, section three contains statistical data relevant to contacts (as defined by the law) which were made during the course of motor vehicle stops that took place between 1/1/23 and 12/31/23. Further, this section contains the Tier 2 form, which is required to be submitted to this particular organization and the law enforcement agency's local governing authority by March 1 of each year. The data in this report has been analyzed and compared to information derived from the U.S. Census Bureau's Fair Roads Standard. The final analysis and recommendations are also included in this report.

In the last section of the report, you will find the original draft of the Texas Racial Profiling Law, SB1074, as well as the Sandra Bland Act (current law). Also in this section, a list of requirements relevant to the Racial Profiling Law, as established by TCOLE (Texas Commission on Law Enforcement), is included. The findings in this report support the Sherman Police Department's commitment to comply with the Texas Racial Profiling Law.

Sincerely,

Alex del Carmen, Ph.D.

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Public Education on Responding to Compliments and Complaints

Informing the Public on the Process of Filing a Compliment or Complaint with the Sherman Police Department

The Texas Racial Profiling Law requires that police agencies provide information to the public regarding the manner in which to file a compliment or racial profiling complaint. In an effort to comply with this particular component, the Sherman Police Department launched an educational campaign aimed at informing the public on issues relevant to the racial profiling complaint process.

The police department made available, in the lobby area and on its web site, information relevant to filing a compliment and complaint on a racial profiling violation by a Sherman Police Officer. In addition, each time an officer issues a citation, ticket or warning, information on how to file a compliment or complaint is given to the individual cited. This information is in the form of a web address (including in the document issued to the citizen), which has instructions and details specifics related to the compliment or complaint processes.

It is believed that through these efforts, the community has been properly informed of the new policies and the complaint processes relevant to racial profiling.

All Sherman Police Officers have been instructed, as specified in the Texas Racial Profiling Law, to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements. To date, all sworn officers of the Sherman Police Department have completed the TCOLE basic training on racial profiling. The main outline used to train the officers of Sherman has been included in this report.

It is important to recognize that the Chief of the Sherman Police Department has also met the training requirements, as specified by the Texas Racial Profiling Law, in the completion of the LEMIT program on racial profiling. The satisfactory completion of the racial profiling training by the sworn personnel of the Sherman Police Department fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Law.



Racial Profiling Course 3256

Texas Commission on Law Enforcement

September 2001

Racial Profiling 3256

Instructor's Note:

You may wish to teach this course in conjunction with Asset Forfeiture 3255 because of the related subject matter and applicability of the courses. If this course is taught in conjunction with Asset Forfeiture, you may report it under Combined Profiling and Forfeiture 3257 to reduce data entry.

Abstract

This instructor guide is designed to meet the educational requirement for racial profiling established by legislative mandate: 77R-SB1074.

Target Population: Licensed law enforcement personnel in Texas

Prerequisites: Experience as a law enforcement officer

Length of Course: A suggested instructional time of 4 hours

Material Requirements: Overhead projector, chalkboard and/or flip charts, video tape player, handouts, practical exercises, and demonstrations

Instructor Qualifications: Instructors should be very knowledgeable about traffic stop procedures and law enforcement issues

Evaluation Process and Procedures

An examination should be given. The instructor may decide upon the nature and content of the examination. It must, however, sufficiently demonstrate the mastery of the subject content by the student.

Reference Materials

Reference materials are located at the end of the course. An electronic copy of this instructor guide may be downloaded from our web site at <http://www.tcleose.state.tx.us>.

Racial Profiling 3256

1.0 RACIAL PROFILING AND THE LAW

1.1 UNIT GOAL: The student will be able to identify the legal aspects of racial profiling.

1.1.1 LEARNING OBJECTIVE: The student will be able to identify the legislative requirements placed upon peace officers and law enforcement agencies regarding racial profiling.

Racial Profiling Requirements:

Racial profiling CCP 3.05

Racial profiling prohibited CCP 2.131

Law enforcement policy on racial profiling CCP 2.132

Reports required for traffic and pedestrian stops CCP 2.133

Liability CCP 2.136

Racial profiling education for police chiefs Education Code 96.641

Training program Occupations Code 1701.253

Training required for intermediate certificate Occupations Code 1701.402

Definition of "race or ethnicity" for form Transportation Code 543.202

A. Written departmental policies

1. Definition of what constitutes racial profiling
2. Prohibition of racial profiling
3. Complaint process
4. Public education
5. Corrective action
6. Collection of traffic-stop statistics
7. Annual reports

B. Not prima facie evidence

C. Feasibility of use of video equipment

D. Data does not identify officer

E. Copy of complaint-related video evidence to officer in question

F. Vehicle stop report

1. Physical description of detainees: gender, race or ethnicity
2. Alleged violation
3. Consent to search
4. Contraband
5. Facts supporting probable cause
6. Arrest
7. Warning or citation issued

G. Compilation and analysis of data

H. Exemption from reporting – audio/video equipment

I. Officer non-liability

J. Funding

K. Required training in racial profiling

1. Police chiefs
2. All holders of intermediate certificates and/or two-year-old licenses as of 09/01/2001 (training to be completed no later than 09/01/2003) – see legislation 77R-SB1074



1.1.2 LEARNING OBJECTIVE: The student will become familiar with Supreme Court decisions and other court decisions involving appropriate actions in traffic stops.

A. Whren v. United States, 517 U.S. 806, 116 S.Ct. 1769 (1996)

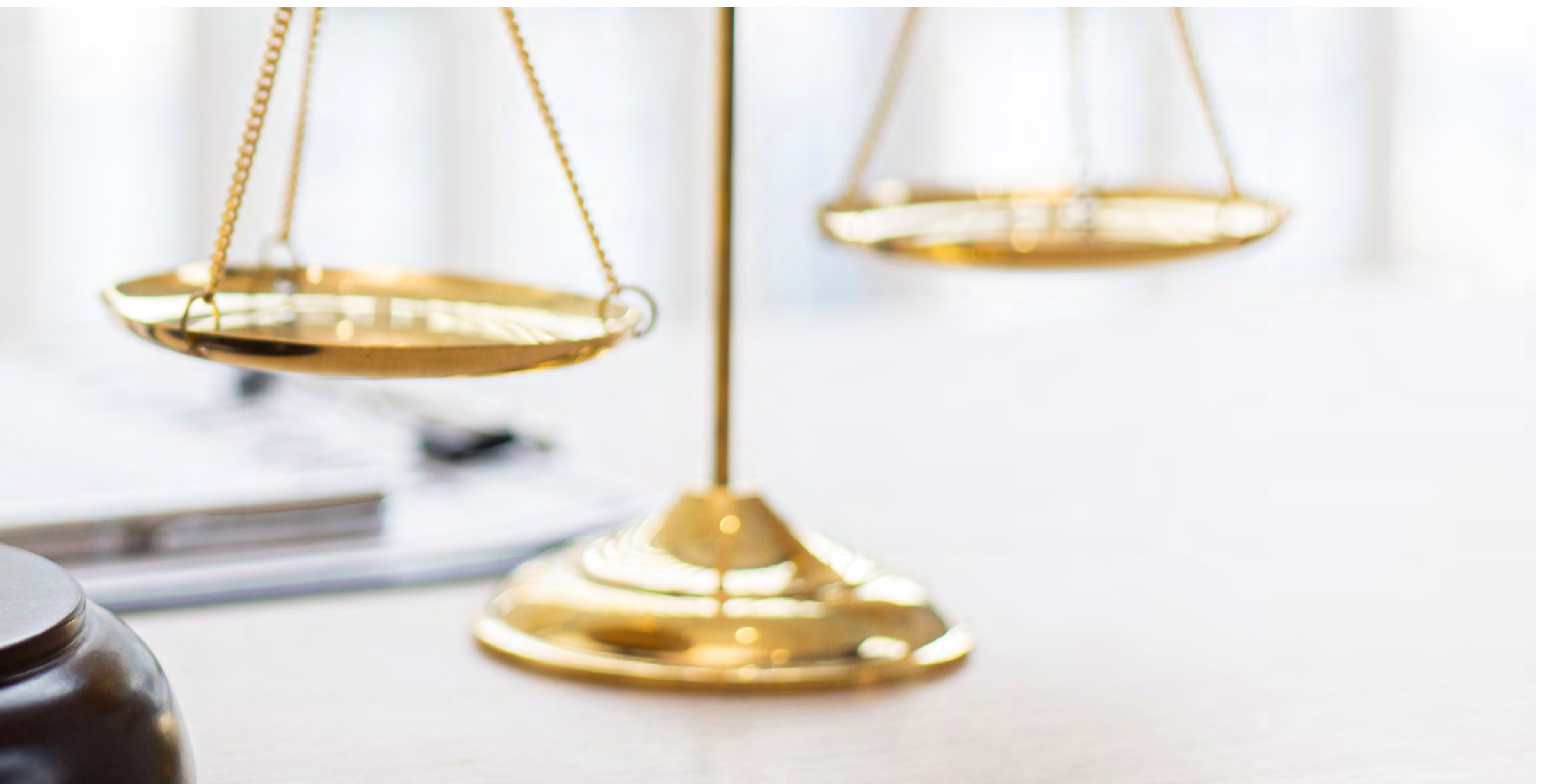
1. Motor vehicle search exemption
2. Traffic violation acceptable as pretext for further investigation
3. Selective enforcement can be challenged

B. Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968)

1. Stop & Frisk doctrine
2. Stopping and briefly detaining a person
3. Frisk and pat down

C. Other cases

1. Pennsylvania v. Mimms, 434 U.S. 106, 98 S.Ct. 330 (1977)
2. Maryland v. Wilson, 117 S.Ct. 882 (1997)
3. Graham v. State, 119 MdApp 444, 705 A.2d 82 (1998)
4. Pryor v. State, 122 Md.App. 671 (1997) cert. denied 352 Md. 312, 721 A.2d 990 (1998)
5. Ferris v. State, 355 Md. 356, 735 A.2d 491 (1999)
6. New York v. Belton, 453 U.S. 454 (1981)



2.0 RACIAL PROFILING AND THE COMMUNITY

2.1 UNIT GOAL: The student will be able to identify logical and social arguments against racial profiling.

2.1.1 LEARNING OBJECTIVE: The student will be able to identify logical and social arguments against racial profiling.

- A. There are appropriate reasons for unusual traffic stops (suspicious behavior, the officer's intuition, MOs, etc.), but police work must stop short of cultural stereotyping and racism.
- B. Racial profiling would result in criminal arrests, but only because it would target all members of a race randomly – the minor benefits would be far outweighed by the distrust and anger towards law enforcement by minorities and the public as a whole .
- C. Racial profiling is self-fulfilling bad logic: if you believed that minorities committed more crimes, then you might look for more minority criminals, and find them in disproportionate numbers.
- D. Inappropriate traffic stops generate suspicion and antagonism towards officers and make future stops more volatile – a racially-based stop today can throw suspicion on tomorrow's legitimate stop.
- E. By focusing on race, you would not only be harassing innocent citizens, but overlooking criminals of all races and backgrounds – it is a waste of law enforcement resources.

3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION

3.1 UNIT GOAL: The student will be able to identify the elements of both inappropriate and appropriate traffic stops.

3.1.1 LEARNING OBJECTIVE: The student will be able to identify elements of a racially motivated traffic stop.

A. Most race-based complaints come from vehicle stops, often since race is used as an inappropriate substitute for drug courier profile elements

B. "DWB" – "Driving While Black" – a nickname for the public perception that a Black person may be stopped solely because of their race (especially with the suspicion that they are a drug courier), often extended to other minority groups or activities as well ("Driving While Brown," "Flying While Black," etc.)

C. A typical traffic stop resulting from racial profiling

1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers
2. The driver and passengers are questioned about things that do not relate to the traffic violation
3. The driver and passengers are ordered out of the vehicle
4. The officers visually check all observable parts of the vehicle
5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside
6. The driver is asked to consent to a vehicle search – if the driver refuses, the officers use other procedures (waiting on a canine unit, criminal record checks, license-plate checks, etc.), and intimidate the driver (with the threat of detaining him/her, obtaining a warrant, etc.)



3.1.2 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which would constitute reasonable suspicion of drug courier activity.

A. Drug courier profile (adapted from a profile developed by the DEA)

1. Driver is nervous or anxious beyond the ordinary anxiety and cultural communication styles
2. Signs of long-term driving (driver is unshaven, has empty food containers, etc.)
3. Vehicle is rented
4. Driver is a young male, 20-35
5. No visible luggage, even though driver is traveling
6. Driver was over-reckless or over-cautious in driving and responding to signals
7. Use of air fresheners

B. Drug courier activity indicators by themselves are usually not sufficient to justify a stop

3.1.3 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which could constitute reasonable suspicion of criminal activity.

A. Thinking about the totality of circumstances in a vehicle stop

B. Vehicle exterior

1. Non-standard repainting (esp. on a new vehicle)
2. Signs of hidden cargo (heavy weight in trunk, windows do not roll down, etc.)
3. Unusual license plate suggesting a switch (dirty plate, bugs on back plate, etc.)
4. Unusual circumstances (pulling a camper at night, kids' bikes with no kids, etc.)

C. Pre-stop indicators

1. Not consistent with traffic flow
2. Driver is overly cautious, or driver/passengers repeatedly look at police car
3. Driver begins using a car- or cell-phone when signaled to stop
4. Unusual pull-over behavior (ignores signals, hesitates, pulls onto new street, moves objects in car, etc.)

D. Vehicle interior

1. Rear seat or interior panels have been opened, there are tools or spare tire, etc.
2. Inconsistent items (anti-theft club with a rental, unexpected luggage, etc.)

Resources

Proactive Field Stops Training Unit – Instructor's Guide, Maryland Police and Correctional Training Commissions, 2001. (See Appendix A.)

Web address for legislation 77R-SB1074: <http://tlo2.tlc.state.tx.us/tlo/77r/billtext/SB01074F.htm>

Report on Compliments and Racial Profiling Complaints



Report on Complaints

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/23-12/31/23 based on allegations outlining possible violations related to the Texas Racial Profiling Law. The final disposition of the case is also included.



A check above indicates that the Sherman Police Department has not received any complaints, on any members of its police services, for having violated the Texas Racial Profiling Law during the time period of 1/1/23-12/31/23.

Complaints Filed for Possible Violations of The Texas Racial Profiling Law

Complaint Number	Alleged Violation	Disposition of the Case

Additional Comments:

Tables Illustrating Motor Vehicle-Related Contacts

TIER 2 DATA

TOTAL STOPS: 11,971

STREET ADDRESS OR APPROXIMATE LOCATION OF STOP.

City Street	9,725
US Highway	1,700
State Highway	524
County Road	9
Private Property	13

WAS RACE OR ETHNICITY KNOWN PRIOR TO STOP?

Yes	216
No	11,755

RACE OR ETHNICITY

Alaska Native/American Indian	90
Asian/Pacific Islander	174
Black	1,937
White	7,191
Hispanic/Latino	2,579

GENDER

Female Total: 4,950

Alaska Native/American Indian	22
Asian/Pacific Islander	58
Black	765
White	3,274
Hispanic/Latino	831

Male Total: 7,021

Alaska Native/American Indian	68
Asian/Pacific Islander	116
Black	1,172
White	3,917
Hispanic/Latino	1,748

REASON FOR STOP?

Violation of Law Total: 233

Alaska Native/American Indian	0
Asian/Pacific Islander	2
Black	48
White	124
Hispanic/Latino	59

Pre-existing Knowledge Total: 29

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	8
White	11
Hispanic/Latino	10

Moving Traffic Violation Total: 8,965

Alaska Native/American Indian	68
Asian/Pacific Islander	145
Black	1,407
White	5,411
Hispanic/Latino	1,934

TIER 2 DATA

Vehicle Traffic Violation Total: 2,744

Alaska Native/American Indian	22
Asian/Pacific Islander	27
Black	474
White	1,645
Hispanic/Latino	576

Contraband (in plain view) Total: 6

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	4
White	2
Hispanic/Latino	0

WAS SEARCH CONDUCTED?

	YES	NO
Alaska Native/American Indian	3	87
Asian/Pacific Islander	0	174
Black	136	1,801
White	176	7,015
Hispanic/Latino	65	2,514
TOTAL	380	11,591

Probable Cause Total: 225

Alaska Native/American Indian	2
Asian/Pacific Islander	0
Black	95
White	89
Hispanic/Latino	39

Inventory Total: 10

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	4
White	2
Hispanic/Latino	4

REASON FOR SEARCH?

Consent Total: 114

Alaska Native/American Indian	1
Asian/Pacific Islander	0
Black	28
White	69
Hispanic/Latino	16

Incident to Arrest Total: 25

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	5
White	14
Hispanic/Latino	6

TIER 2 DATA

WAS CONTRABAND DISCOVERED?

	YES	NO
Alaska Native/American Indian	3	0
Asian/Pacific Islander	0	0
Black	84	52
White	92	84
Hispanic/Latino	39	26
TOTAL	218	162

Did the finding result in arrest?

	YES	NO
Alaska Native/American Indian	0	3
Asian/Pacific Islander	0	0
Black	7	77
White	9	83
Hispanic/Latino	2	37
TOTAL	18	200

DESCRIPTION OF CONTRABAND

Drugs Total: 169

Alaska Native/American Indian	3
Asian/Pacific Islander	0
Black	71
White	71
Hispanic/Latino	24

Currency Total: 9

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	5
White	2
Hispanic/Latino	2

Weapons Total: 6

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	6
White	0
Hispanic/Latino	0

Alcohol Total: 23

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	7
White	7
Hispanic/Latino	9

TIER 2 DATA

Stolen Property Total: 3

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	1
White	2
Hispanic/Latino	0

Other Total: 31

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	10
White	16
Hispanic/Latino	5

RESULT OF THE STOP

Verbal Warning Total: 0

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	0

Written Warning Total: 7,637

Alaska Native/American Indian	63
Asian/Pacific Islander	121
Black	1,279
White	4,800
Hispanic/Latino	1,374

Citation Total: 4,276

Alaska Native/American Indian	26
Asian/Pacific Islander	53
Black	641
White	2,366
Hispanic/Latino	1,190

Written Warning and Arrest Total: 40

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	12
White	17
Hispanic/Latino	11

Citation and Arrest Total: 18

Alaska Native/American Indian	1
Asian/Pacific Islander	0
Black	5
White	8
Hispanic/Latino	4

Arrest Total: 0

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	0

TIER 2 DATA

ARREST BASED ON

Violation of Penal Code Total: 30

Alaska Native/American Indian	1
Asian/Pacific Islander	0
Black	9
White	12
Hispanic/Latino	8

Violation of Traffic Law Total: 4

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	2
White	2
Hispanic/Latino	0

Violation of City Ordinance Total: 0

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	0

Outstanding Warrant Total: 24

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	6
White	11
Hispanic/Latino	7

Was physical force used resulting in bodily injury during the stop?

	YES	NO
Alaska Native/American Indian	1	89
Asian/Pacific Islander	0	174
Black	0	1,937
White	3	7,188
Hispanic/Latino	0	2,579
TOTAL	4	11,967

Tables Illustrating Motor Vehicle Related Contact Data

Table 1. Citations and Warnings

Race/ Ethnicity	All Contacts	Citations	Verbal Warning	Written Warning	Contact Percent	Citation Percent	Verbal Percent	Written Percent
Alaska Native/ American Indian	90	27	0	63	1%	1%	0%	1%
Asian/ Pacific Islander	174	53	0	121	1%	1%	0%	2%
Black	1,937	646	0	1,279	16%	15%	0%	17%
White	7,191	2,374	0	4,800	60%	55%	0%	63%
Hispanic/ Latino	2,579	1,194	0	1,374	22%	28%	0%	18%
TOTAL	11,971	4,294	0	7,637	100%	100%	0%	100%



Table 2. Motor Vehicle Contacts and Fair Roads Standard Comparison

Comparison of motor vehicle-related contacts with households that have vehicle access.

Race/Ethnicity	Contact Percentage	Households with Vehicle Access
Alaska Native/American Indian	1%	0%
Asian/Pacific Islander	1%	5%
Black	16%	15%
White	60%	60%
Hispanic/Latino	22%	20%
TOTAL	100%	100%

Table 3. Motor Vehicle Searches and Arrests.

Race/Ethnicity	Searches	Consent Searches	Arrests
Alaska Native/American Indian	3	1	1
Asian/Pacific Islander	0	0	0
Black	136	28	17
White	176	69	25
Hispanic/Latino	65	16	15
TOTAL	380	114	58

Table 4. Instances Where Peace Officers Used Physical Force Resulting in Bodily Injury

Instances Where Peace Officers Used Physical Force that Resulted in Bodily Injury	Arrest	Location of Stop	Reason for Stop
1	6/18/2023	Private Property - Driver Fled on Foot	Traffic Violation - Unlicensed Driver
2	8/30/2023	Clerical Error by Officer	Traffic Violation - Speeding
3	9/2/2023	Parking Lot - Driver Resisted Arrest	Indications of DWI
4	10/9/2023	Parking Lot - Driver Had Warrant	Traffic Violation - no POFR

Table 5. Search Data

Race/ Ethnicity	Searches	Contraband Found Yes	Contraband Found No	Arrests	Percent Searches	Percent Contraband Found	Percent No Contraband	Percent Arrest
Alaska Native/ American Indian	3	3	0	1	1%	1%	0%	2%
Asian/ Pacific Islander	0	0	0	0	0%	0%	0%	0%
Black	136	84	52	17	36%	39%	32%	29%
White	176	92	84	25	46%	42%	52%	43%
Hispanic/ Latino	65	39	26	15	17%	18%	16%	26%
TOTAL	380	218	162	58	100%	100%	100%	100%

Table 6. Report on Audits.

The following table contains data regarding the number and outcome of required data audits during the period of 1/1/22-12/31/22.

Audit Data	Number of Data Audits Completed	Date of Completion	Outcome of Audit
1	1	03/01/23	Data was valid and reliable
2	1	06/01/23	Data was valid and reliable
3	1	09/01/23	Data was valid and reliable
4	1	12/01/23	Data was valid and reliable

ADDITIONAL COMMENTS:

Table 7. Instance Where Force Resulted in Bodily Injury.

Race/Ethnicity	Number	Percent
Alaska Native/American Indian	1	25%
Asian/Pacific Islander	0	0%
Black	0	0%
White	3	75%
Hispanic/Latino	0	0%
TOTAL	4	100%

Table 8. Reason for Arrests from Vehicle Contact

Race/ Ethnicity	Violation of Penal Code	Violation of Traffic Law	Violation of City Ordinance	Outstanding Warrant	Percent Penal Code	Percent Traffic Law	Percent City Ordinance	Percent Warrant
Alaska Native/ American Indian	1	0	0	0	3%	0%	0%	0%
Asian/ Pacific Islander	0	0	0	0	0%	0%	0%	0%
Black	9	2	0	6	30%	50%	0%	25%
White	12	2	0	11	40%	50%	0%	46%
Hispanic/ Latino	8	0	0	7	27%	0%	0%	29%
TOTAL	30	4	0	24	100%	100%	0%	100%

Table 9. Contraband Hit Rate

Race/ Ethnicity	Searches	Contraband Found Yes	Contraband Hit Rate	Search Percent	Contraband Percent
Alaska Native/ American Indian	3	3	100%	1%	1%
Asian/ Pacific Islander	0	0	0%	0%	0%
Black	136	84	62%	36%	39%
White	176	92	52%	46%	42%
Hispanic/Latino	65	39	60%	17%	18%

Analysis and Interpretation of Data

In 2001, the Texas Legislature passed Senate Bill 1074, which eventually became the Texas Racial Profiling Law. This particular law came into effect on January 1, 2002 and required all police departments in Texas to collect traffic-related data and report this information to their local governing authority by March 1 of each year. This law remained in place until 2009, when it was modified to include the collection and reporting of all motor vehicle-related contacts in which a citation was issued or an arrest was made. Further, the modification to the law further requires that all police officers indicate whether or not they knew the race or ethnicity of the individuals before detaining them. In addition, it became a requirement that agencies report motor vehicle-related data to their local governing authority and to the Texas Commission on Law Enforcement (TCOLE) by March 1 of each year. The purpose in collecting and disclosing this information is to determine if police officers in any particular municipality are engaging in the practice of racially profiling minority motorists.

One of the central requirements of the law is that police departments interpret motor vehicle-related data. Even though most researchers would likely agree that it is within the confines of good practice for police departments to be accountable to the citizenry while carrying a transparent image before the community, it is in fact very difficult to determine if individual police officers are engaging in racial profiling from a review and analysis of aggregate/institutional data. In other words, it is challenging for a reputable researcher to identify specific "individual" racist behavior from aggregate-level "institutional" data on traffic or motor vehicle-related contacts.

As previously noted, in 2009 the Texas Legislature passed House Bill 3389, which modified the Racial Profiling Law by adding new requirements; this took effect on January 1, 2010. The changes included, but are not limited to, the re-definition of a contact to include motor vehicle-related contacts in which a citation was issued or an arrest was made. In addition, it required police officers to indicate if they knew the race or ethnicity of the individual before detaining them. The 2009 law also required adding "Middle Eastern" to the racial and ethnic category and submitting the annual data report to TCOLE before March 1 of each year.

In 2017, the Texas Legislators passed HB 3051 which removed the Middle Eastern data requirement while standardizing the racial and ethnic categories relevant to the individuals that came in contact with police. In addition, the Sandra Bland Act (SB 1849) was passed and became law. Thus, the most significant legislative mandate (Sandra Bland Act) in Texas history regarding data requirements on law enforcement contacts became law and took effect on January 1, 2018. The Sandra Bland Act not only currently requires the extensive collection of data relevant to police motor vehicle contacts, but it also mandates for the data to be analyzed while addressing the following:

1. A comparative analysis of the information compiled (under Article 2.133):

- a. Evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities;*
- b. Examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction;*
- c. Evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches.*

2. Information related to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

As part of their effort to comply with The Texas Racial Profiling/Sandra Bland Law, the Sherman Police Department commissioned the analysis of its 2023 contact data. Hence, two different types of data analyses were performed. The first of these involved a careful evaluation of the 2023 motor vehicle-related data. This particular analysis measured, as required by the law, the number and percentage of Whites, Blacks, Hispanics or Latinos, Asians and Pacific Islanders, Alaska Natives and American Indians (Middle Easterners and individuals belonging to the “other” category, as optional categories), who came in contact with police in the course of a motor vehicle-related contact and were either issued a ticket, citation, or warning or an arrest was made. Also included in this data were instances when a motor vehicle contact took place for an alleged violation of the law or ordinance. The Tier 2 data analysis included, but was not limited to, information relevant to the number and percentage of contacts by race/ethnicity, gender, reason for the stop, location of stop, searches while indicating the type of search performed, result of stop, basis of an arrest, and use of physical force resulting in bodily injury.

The analysis on the data performed in this report, was based on a comparison of the 2023 motor vehicle contact data with a specific baseline. When reading this particular analysis, one should consider that there is disagreement in the literature regarding the appropriate baseline to be used when analyzing motor vehicle-related contact information. Of the baseline measures available, the Sherman Police Department accepted our recommendation to rely, as a baseline measure, on the Fair Roads Standard. This particular baseline is established on data obtained through the U.S. Census Bureau (2020) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households.

It should be noted that the census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless whether they are among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only, thus excluding individuals who may have come in contact with the Sherman Police Department in 2023 but live outside city limits. In some jurisdictions the percentage of the population that comes in contact with the police but lives outside city limits represents a substantial volume of all motor vehicle-related contacts made in a given year.

In 2002, some civil rights groups in Texas expressed their concern and made recommendations to the effect that all police departments should rely, in their data analysis, on the Fair Roads Standard. This source contains census data specific to the number of “households” that have access to vehicles. Thus, proposing to compare “households” (which may have multiple residents and only a few vehicles) with “contacts” (an individual-based count). In essence this constitutes a comparison that may result in ecological fallacy. Despite this risk, as noted earlier, the Sherman Police Department accepted the recommendation to utilize this form of comparison (i.e., census data relevant to households with vehicles) in an attempt to demonstrate its “good will” and “transparency” before the community. Thus, the Fair Roads Standard data obtained and used in this study is specifically relevant to the Dallas Fort-Worth (DFW) Metroplex.

Tier 2 (2023) Motor Vehicle-Related Contact Analysis

When examining the enhanced and more detailed Tier 2 data collected in 2023, it was evident that most motor vehicle-related contacts were made with Whites, followed by Hispanics. Of those who came in contact with police, most tickets or citations were issued to Whites and Hispanics; this was followed by Blacks. However, in terms of written warnings, most of these were issued to Whites, followed by Hispanics.

While reviewing searches and arrests, the data showed that most searches took place among Whites. When considering all searches, most were consented by Whites and Blacks, while most custody arrests were also of Whites. Overall, most searches resulted in contraband; of those that produced contraband, most were of Whites; this was followed by Blacks. Of the searches that did not produce contraband, most were of Whites. Most arrests were made of Whites. Most of the arrests that originated from a violation of the penal code involved Whites. Overall, the police department reports four instances where force was used that resulted in bodily injury.

Comparative Analysis

A comprehensive analysis of the motor vehicle contacts made in 2023 to the census data relevant to the number of “households” in DFW who indicated in the 2020 census that they had access to vehicles, produced interesting findings. Specifically, the percentage of Whites and Asians who came in contact with police was the same or lower than the percentage of White and Asian households in DFW that claimed in the last census to have access to vehicles. The opposite was true of Blacks, Hispanics, and American Indians. That is, a higher percentage of Blacks, Hispanics, and American Indians came in contact with police than the percentage of Black, Hispanic, and American Indian households in DFW that claimed in the last census to have access to vehicles. It should be noted that the percentage difference among Black, Hispanic, and American Indian contacts with households is of less than 3%; thus, deemed by some as statistically insignificant.

The comprehensive analysis of the searches resulting in contraband shows that the most significant contraband hit rate is of American Indians. This was followed by Blacks and Hispanics. This means that among all searches performed in 2023, the most significant percentage of these that resulted in contraband was among American Indians. The lowest contraband hit rate was among Whites.

Summary of Findings

As referenced earlier, the most recent Texas Racial Profiling Law requires that police departments perform data audits in order to validate the data being reported. Consistent with this requirement, the Sherman Police Department has engaged del Carmen Consulting, LLC in order to perform these audits in a manner consistent with normative statistical practices. As shown in Table 6, the audit performed reveals that the data is valid and reliable. Further, as required by law, this report also includes an analysis on the searches performed. This analysis includes information on whether contraband was found as a result of the search while controlling for race/ethnicity. The search analysis demonstrates that the police department is engaging in search practices consistent with national trends in law enforcement.

While considering the findings produced as a result of this analysis, it is recommended that the Sherman Police Department should continue to collect and evaluate additional information on motor vehicle contact data (i.e., reason for probable cause searches, contraband detected), which may prove to be useful when determining the nature of the contacts police officers are making with all individuals.

As part of this effort, the Sherman Police Department should continue to:

- 1) Perform an independent analysis on contact and search data in the upcoming year.
- 2) Commission data audits in 2024 in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported.

The comprehensive data analysis performed serves as evidence that the Sherman Police Department has complied with the Texas Racial Profiling Law and all of its requirements. Further, the report demonstrates that the police department has incorporated a comprehensive racial profiling policy, currently offers information to the public on how to file a compliment or complaint, commissions quarterly data audits in order to ensure validity and reliability, collects and commissions the analysis of Tier 2 data, and ensures that the practice of racial profiling will not be tolerated.

Checklist

The following requirements were met by the Sherman Police Department in accordance with The Texas Racial Profiling Law:

- ✓ Implement a Racial Profiling Policy citing act or actions that constitute racial profiling.
- ✓ Include in the racial profiling policy, a statement indicating prohibition of any peace officer employed by the Sherman Police Department from engaging in racial profiling.
- ✓ Implement a process by which an individual may file a complaint regarding racial profiling violations.
- ✓ Provide public education related to the complaint and complaint process.
- ✓ Implement disciplinary guidelines for officers found in violation of the Texas Racial Profiling Law.
- ✓ Collect, report and analyze motor vehicle data (Tier 2).
- ✓ Commission Data Audits and a Search Analysis.
- ✓ Indicate total number of officers who knew and did not know, the race/ethnicity of individuals before being detained.
- ✓ Produce an annual report on police contacts (Tier 2) and present this to the local governing body and TCOLE by March 1, 2024.
- ✓ Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation.



Legislative & Administrative *Addendum*

FEDERAL
TAX
REGULATIONS

TCOLE GUIDELINES

Guidelines for Compiling and Reporting Data under Senate Bill 1074

Background

Senate Bill 1074 of the 77th Legislature established requirements in the Texas Code of Criminal Procedure (TCCP) for law enforcement agencies. The Commission developed this document to assist agencies in complying with the statutory requirements.

The guidelines are written in the form of standards using a style developed from accreditation organizations including the Commission on Accreditation for Law Enforcement Agencies (CALEA). The standards provide a description of **what** must be accomplished by an agency but allows wide latitude in determining **how** the agency will achieve compliance with each applicable standard.

Each standard is composed of two parts: the standard statement and the commentary. The *standard statement* is a declarative sentence that places a clear-cut requirement, or multiple requirements, on an agency. The commentary supports the standard statement but is not binding. The commentary can serve as a prompt, as guidance to clarify the intent of the standard, or as an example of one possible way to comply with the standard.

Standard 1

Each law enforcement agency has a detailed written directive that:

- clearly defines acts that constitute racial profiling;
- strictly prohibits peace officers employed by the agency from engaging in racial profiling;
- implements a process by which an individual may file a complaint with the agency if the individual believes a peace officer employed by the agency has engaged in racial profiling with respect to the individual filing the complaint;
- provides for public education relating to the complaint process;
- requires appropriate corrective action to be taken against a peace officer employed by the agency who, after investigation, is shown to have engaged in racial profiling in violation of the agency's written racial profiling policy; and
- requires the collection of certain types of data for subsequent reporting.

Commentary

Article 2.131 of the TCCP prohibits officers from engaging in racial profiling, and article 2.132 of the TCCP now requires a written policy that contains the elements listed in this standard. The article also specifically defines a law enforcement agency as it applies to this statute as an “agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers’ official duties.”

The article further defines race or ethnicity as being of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American.” The statute does not limit the required policies to just these ethnic groups.

This written policy is to be adopted and implemented no later than January 1, 2002.

Standard 2

Each peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense reports to the employing law enforcement agency information relating to the stop, to include:

- a physical description of each person detained, including gender and the person’s race or ethnicity, as stated by the person, or, if the person does not state a race or ethnicity, as determined by the officer’s best judgment;
- the traffic law or ordinance alleged to have been violated or the suspected offense;
- whether the officer conducted a search as a result of the stop and, if so, whether the person stopped consented to the search;
- whether any contraband was discovered in the course of the search, and the type of contraband discovered;
- whether probable cause to search existed, and the facts supporting the existence of that probable cause;
- whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;
- the street address or approximate location of the stop; and
- whether the officer issued a warning or citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Commentary

The information required by 2.133 TCCP is used to complete the agency reporting requirements found in Article 2.134. A peace officer and an agency may be exempted from this requirement under Article 2.135 TCCP Exemption for Agencies Using Video and Audio Equipment. An agency may be exempt from this reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds. Section 2.135 (a)(2) states, “the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a) (1) (A) and the agency does not receive from the state funds for video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.”

Standard 3

The agency compiles the information collected under 2.132 and 2.133 and analyzes the information identified in 2.133.

Commentary

Senate Bill 1074 from the 77th Session of the Texas Legislature created requirements for law enforcement agencies to gather specific information and to report it to each county or municipality served. New sections of law were added to the Code of Criminal Procedure regarding the reporting of traffic and pedestrian stops. Detained is defined as when a person stopped is not free to leave.

Article 2.134 TCCP requires the agency to compile and provide an analysis of the information collected by peace officer employed by the agency. The report is provided to the governing body of the municipality or county no later than March 1 of each year and covers the previous calendar year.

There is data collection and reporting required based on Article 2.132 CCP (tier one) and Article 2.133 CCP (tier two).

The minimum requirements for “tier one” data for traffic stops in which a citation results are:

- 1) the race or ethnicity of individual detained (race and ethnicity as defined by the bill means of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American”);
- 2) whether a search was conducted, and if there was a search, whether it was a consent search or a probable cause search; and
- 3) whether there was a custody arrest.

The minimum requirements for reporting on “tier two” reports include traffic and pedestrian stops. Tier two data include:

- 1) the detained person’s gender and race or ethnicity;
- 2) the type of law violation suspected, e.g., hazardous traffic, non-hazardous traffic, or other criminal investigation (the Texas Department of Public Safety publishes a categorization of traffic offenses into hazardous or non-hazardous);
- 3) whether a search was conducted, and if so whether it was based on consent or probable cause;
- 4) facts supporting probable cause;
- 5) the type, if any, of contraband that was collected;
- 6) disposition of the stop, e.g., arrest, ticket, warning, or release;
- 7) location of stop; and
- 8) statement of the charge, e.g., felony, misdemeanor, or traffic.

Tier one reports are made to the governing body of each county or municipality served by the agency an annual report of information if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and two reports are reported to the county or municipality not later than March 1 for the previous calendar year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops

including searches resulting from the stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

Reports should include both raw numbers and percentages for each group. Caution should be exercised in interpreting the data involving percentages because of statistical distortions caused by very small numbers in any particular category, for example, if only one American Indian is stopped and searched, that stop would not provide an accurate comparison with 200 stops among Caucasians with 100 searches. In the first case, a 100% search rate would be skewed data when compared to a 50% rate for Caucasians.

Standard 4

If a law enforcement agency has video and audio capabilities in motor vehicles regularly used for traffic stops, or audio capabilities on motorcycles regularly used to make traffic stops, the agency:

- adopts standards for reviewing and retaining audio and video documentation; and
- promptly provides a copy of the recording to a peace officer who is the subject of a complaint on written request by the officer.

Commentary

The agency should have a specific review and retention policy. Article 2.132 TCCP specifically requires that the peace officer be promptly provided with a copy of the audio or video recordings if the officer is the subject of a complaint and the officer makes a written request.

Standard 5

Agencies that do not currently have video or audio equipment must examine the feasibility of installing such equipment.

Commentary

None

Standard 6

Agencies that have video and audio recording capabilities are exempt from the reporting requirements of Article 2.134 TCCP and officers are exempt from the reporting requirements of Article 2.133 TCCP provided that:

- the equipment was in place and used during the proceeding calendar year; and
- video and audio documentation is retained for at least 90 days.

Commentary

The audio and video equipment and policy must have been in place during the previous calendar year. Audio and video documentation must be kept for at least 90 days or longer if a complaint has been filed. The documentation must be retained until the complaint is resolved. Peace officers are not exempt from the requirements under Article 2.132 TCCP.

Standard 7

Agencies have citation forms or other electronic media that comply with Section 543.202 of the Transportation Code.

Commentary

Senate Bill 1074 changed Section 543.202 of the Transportation Code requiring citations to include:

- race or ethnicity, and
- whether a search of the vehicle was conducted and whether consent for the search was obtained.

The Texas Law on Racial Profiling

S.B. No. 1074 - An Act relating to the prevention of racial profiling by certain peace officers.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Articles 2.131 through 2.138 to read as follows:

Art. 2.131. RACIAL PROFILING PROHIBITED. A peace officer may not engage in racial profiling.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING. (a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties.

(2) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so, whether the person detained consented to the search; and

(7) require the agency to submit to the governing body of each county or municipality served by the agency an annual report of the information collected under Subdivision (6) if the agency is an agency of a county, municipality, or other political subdivision of the state.

(c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make traffic stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make traffic stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the

policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a traffic stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND PEDESTRIAN STOPS. (a) In this article:

(1) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic or who stops a pedestrian for any suspected offense shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of each person detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the traffic law or ordinance alleged to have been violated or the suspected offense;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband was discovered in the course of the search and the type of contraband discovered;

(5) whether probable cause to search existed and the facts supporting the existence of that probable cause;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a warning or a citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED.

(a) In this article, "pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each local law enforcement agency shall submit a report containing the information compiled

during the previous calendar year to the governing body of each county or municipality served by the agency in a manner approved by the agency.

(c) A report required under Subsection (b) must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) determine the prevalence of racial profiling by peace officers employed by the agency; and

(B) examine the disposition of traffic and pedestrian stops made by officers employed by the agency, including searches resulting from the stops; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a traffic or pedestrian stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education shall develop guidelines for compiling and reporting information as required by this article.

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

Art. 2.135. EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and a law enforcement agency is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make traffic and pedestrian stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make traffic and pedestrian stops is equipped with transmitter-activated equipment; and

(B) each traffic and pedestrian stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each traffic and pedestrian stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a traffic or pedestrian stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

Art. 2.136. LIABILITY. A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A). The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has installed video and audio equipment as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1).

Art. 2.138. RULES. The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

SECTION 2. Chapter 3, Code of Criminal Procedure, is amended by adding Article 3.05 to read as follows:

Art. 3.05. RACIAL PROFILING. In this code, "racial profiling" means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

SECTION 3. Section 96.641, Education Code, is amended by adding Subsection (j) to read as follows:

(j) As part of the initial training and continuing education for police chiefs required under this section, the institute shall establish a program on racial profiling. The program must include an examination of the best practices for:

(1) monitoring peace officers' compliance with laws and internal agency policies relating to racial profiling;

(2) implementing laws and internal agency policies relating to preventing racial profiling;
and

(3) analyzing and reporting collected information.

SECTION 4. Section 1701.253, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on racial profiling for officers licensed under this chapter. An officer shall complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

SECTION 5. Section 1701.402, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) As a requirement for an intermediate proficiency certificate, an officer must complete an education and training program on racial profiling established by the commission under Section 1701.253(e).

SECTION 6. Section 543.202, Transportation Code, is amended to read as follows:

Sec. 543.202. FORM OF RECORD. (a) In this section, "race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) The record must be made on a form or by a data processing method acceptable to the department and must include:

(1) the name, address, physical description, including race or ethnicity, date of birth, and driver's license number of the person charged;

(2) the registration number of the vehicle involved;

(3) whether the vehicle was a commercial motor vehicle as defined by Chapter 522 or was involved in transporting hazardous materials;

(4) the person's social security number, if the person was operating a commercial motor vehicle or was the holder of a commercial driver's license or commercial driver learner's permit;

(5) the date and nature of the offense, including whether the offense was a serious traffic violation as defined by Chapter 522;

(6) whether a search of the vehicle was conducted and whether consent for the search was obtained;

(7) the plea, the judgment, and whether bail was forfeited;

(8) ~~[(7)]~~ the date of conviction; and

(9) ~~[(8)]~~ the amount of the fine or forfeiture.

SECTION 7. Not later than January 1, 2002, a law enforcement agency shall adopt and implement a policy and begin collecting information under the policy as required by Article 2.132, Code of Criminal Procedure, as added by this Act. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.132, Code of Criminal Procedure, as added by this Act, on March 1, 2003. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2002, and ending December 31, 2002.

SECTION 8. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.134, Code of Criminal Procedure, as added by this Act, on March 1, 2004. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2003, and ending December 31, 2003.

SECTION 9. Not later than January 1, 2002:

(1) the Commission on Law Enforcement Officer Standards and Education shall establish an education and training program on racial profiling as required by Subsection (e), Section 1701.253, Occupations Code, as added by this Act; and

(2) the Bill Blackwood Law Enforcement Management Institute of Texas shall establish a program on racial profiling as required by Subsection (j), Section 96.641, Education Code, as added by this Act.

SECTION 10. A person who on the effective date of this Act holds an intermediate proficiency certificate issued by the Commission on Law Enforcement Officer Standards and Education or has held a peace officer license issued by the Commission on Law Enforcement Officer Standards and Education for at least two years shall complete an education and training program on racial profiling established under Subsection (e), Section 1701.253, Occupations Code, as added by this Act, not later than September 1, 2003.

SECTION 11. An individual appointed or elected as a police chief before the effective date of this Act shall complete a program on racial profiling established under Subsection (j), Section 96.641, Education Code, as added by this Act, not later than September 1, 2003.

SECTION 12. This Act takes effect September 1, 2001

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1074 passed the Senate on April 4, 2001, by the following vote: Yeas 28, Nays 2; May 21, 2001, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2001, House granted request of the Senate; May 24, 2001, Senate adopted Conference Committee Report by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 1074 passed the House, with amendments, on May 15, 2001, by a non-record vote; May 22, 2001, House granted request of the Senate for appointment of Conference Committee; May 24, 2001, House adopted Conference Committee Report by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor

Modifications to the Original Law

(H.B. 3389)

Amend CSHB 3389 (Senate committee report) as follows:

(1) Strike the following SECTIONS of the bill:

(A) SECTION 8, adding Section 1701.164, Occupations Code (page 4, lines 61-66);

(B) SECTION 24, amending Article 2.132(b), Code of Criminal Procedure (page 8, lines 19-53);

(C) SECTION 25, amending Article 2.134(b), Code of Criminal Procedure (page 8, lines 54-64);

(D) SECTION 28, providing transition language for the amendments to Articles 2.132(b) and 2.134(b), Code of Criminal Procedure (page 9, lines 40-47).

(2) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly: SECTION _____. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (a),(b), (d), and (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle~~[traffic]~~ stops in the routine performance of the officers' official duties.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

(3) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, ~~[or]~~ Native American, or Middle Eastern descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle ~~[traffic]~~ stops in which a citation is issued and to arrests made as a result of ~~[resulting from]~~ those ~~[traffic]~~ stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so, whether the individual ~~[person]~~ detained consented to the search; and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit ~~[to the governing body of each county or~~

~~municipality served by the agency]~~ an annual report of the information collected under Subdivision (6) to:

(A) the Commission on Law Enforcement Officer Standards and Education; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle ~~[traffic]~~ stops and transmitter activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle ~~[traffic]~~ stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a motor vehicle ~~[traffic]~~ stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b)(7), the commission shall begin disciplinary procedures against the chief administrator.

SECTION _____. Article 2.133, Code of Criminal Procedure, is amended to read as follows:

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE ~~[TRAFFIC AND PEDESTRIAN]~~ STOPS. (a) In this article, "race":

~~[(1) "Race]~~ or ethnicity" has the meaning assigned by Article 2.132(a).

~~[(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.]~~

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance ~~[regulating traffic or who stops a pedestrian for any suspected offense]~~ shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any ~~[each]~~ person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop ~~[traffic law or ordinance alleged to have been violated or the suspected offense];~~

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search and a description ~~[the type]~~ of the contraband or evidence ~~[discovered];~~

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle ~~[existed and the facts supporting the existence of that probable cause];~~

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a written warning or a citation as a result of the stop~~[, including a description of the warning or a statement of the violation charged].~~

SECTION _____. Article 2.134, Code of Criminal Procedure, is amended by amending Subsections (a) through (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Motor vehicle[, "pedestrian] stop" has the meaning assigned by Article 2.132(a) ~~[means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest].~~

(2) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each ~~[local]~~ law enforcement agency shall submit a report containing the incident-based data ~~[information]~~ compiled during the previous calendar year to the Commission on Law Enforcement Officer Standards and Education and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency ~~[in a manner approved by the agency].~~

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities ~~[determine the prevalence of racial profiling by peace officers employed by the agency]; and~~

(B) examine the disposition of motor vehicle ~~[traffic and pedestrian]~~ stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from [the] stops within the applicable jurisdiction; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle ~~[traffic or pedestrian]~~ stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b), the commission shall begin disciplinary procedures against the chief administrator.

SECTION _____. Article 2.135, Code of Criminal Procedure, is amended to read as follows:

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make motor vehicle ~~[traffic and pedestrian]~~ stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle ~~[traffic and pedestrian]~~ stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle ~~[traffic and pedestrian]~~ stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each motor vehicle ~~[traffic and pedestrian]~~ stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a motor vehicle ~~[traffic or pedestrian]~~ stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

(d) In this article, "motor vehicle stop" has the meaning assigned by Article 2.132(a).

SECTION _____. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1385 to read as follows:

Art. 2.1385. CIVIL PENALTY. (a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.

(b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based

data as required by Article 2.134 shall remit to the comptroller the amount of \$1,000 for each violation.

(c) Money collected under this article shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION _____. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.022 to read as follows:

Art. 102.022. COSTS ON CONVICTION TO FUND STATEWIDE REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE. (a) In this article, "moving violation" means an offense that:

(1) involves the operation of a motor vehicle; and

(2) is classified as a moving violation by the Department of Public Safety under Section 708.052, Transportation Code.

(b) A defendant convicted of a moving violation in a justice court, county court, county court at law, or municipal court shall pay a fee of 10 cents as a cost of court.

(c) In this article, a person is considered convicted if:

(1) a sentence is imposed on the person;

(2) the person receives community supervision, including deferred adjudication; or

(3) the court defers final disposition of the person's case.

(d) The clerks of the respective courts shall collect the costs described by this article. The clerk shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county or municipal treasury, as appropriate.

(e) The custodian of a county or municipal treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

(2) send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(f) A county or municipality may retain 10 percent of the funds collected under this article by an officer of the county or municipality as a collection fee if the custodian of the county or municipal treasury complies with Subsection (e).

(g) If no funds due as costs under this article are deposited in a county or municipal treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(h) The comptroller shall deposit the funds received under this article to the credit of the Civil Justice Data Repository fund in the general revenue fund, to be used only by the Commission on Law Enforcement Officer Standards and Education to implement duties under Section 1701.162, Occupations Code.

(i) Funds collected under this article are subject to audit by the comptroller.

SECTION _____. (a) Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.061, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;

(2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . \$40;

- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.061, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION _____. (a) Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.081, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.081, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION _____. Section 102.101, Government Code, is amended to read as follows:

Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$4;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . \$4;
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5;
- (7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed \$30; ~~and~~
- (8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed \$7; and
- (9) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION _____. Section 102.121, Government Code, is amended to read as follows:

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court shall collect fees and costs on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4; ~~and~~
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION _____. Subchapter D, Chapter 1701, Occupations Code, is amended by adding Section 1701.164 to read as follows:

Sec. 1701.164. COLLECTION OF CERTAIN INCIDENT-BASED DATA SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall collect and maintain incident-based data submitted to the commission under Article 2.134, Code of Criminal Procedure, including incident-based data compiled by a law enforcement agency from reports received by the law enforcement agency under Article 2.133 of that code. The commission in consultation with the Department of Public Safety, the Bill Blackwood Law Enforcement Management Institute of Texas, the W. W. Caruth, Jr., Police Institute at Dallas, and the Texas Police Chiefs Association shall develop guidelines for submitting in a standard format the report containing incident-based data as required by Article 2.134, Code of Criminal Procedure.

SECTION _____. Subsection (a), Section 1701.501, Occupations Code, is amended to read as follows:

(a) Except as provided by Subsection (d), the commission shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of:

- (1) this chapter;

(2) the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure;
or

(3) a commission rule.

SECTION _____. (a) The requirements of Articles 2.132, 2.133, and 2.134, Code of Criminal Procedure, as amended by this Act, relating to the compilation, analysis, and submission of incident-based data apply only to information based on a motor vehicle stop occurring on or after January 1, 2010.

(b) The imposition of a cost of court under Article 102.022, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

Racial and Ethnic Designations (H.B. 3051)

H.B. No. 3051 - An Act relating to the categories used to record the race or ethnicity of persons stopped for or convicted of traffic offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 2.132(a)(3), Code of Criminal Procedure, is amended to read as follows:

(3) "Race or ethnicity" means the following categories:

(A) Alaska native or American Indian;

(B) [of a particular descent, including Caucasian, African, Hispanic,] Asian or Pacific Islander;

(C) black;

(D) white; and

(E) Hispanic or Latino [~~Native American, or Middle Eastern descent~~].

SECTION 2. Section 543.202(a), Transportation Code, is amended to read as follows:

(a) In this section, "race or ethnicity" means the following categories:

(1) Alaska native or American Indian;

(2) [of a particular descent, including Caucasian, African, Hispanic,] Asian or Pacific Islander;

(3) black;

(4) white; and

(5) Hispanic or Latino [~~or Native American descent~~].

SECTION 3. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 3051 was passed by the House on May 4, 2017, by the following vote: Yeas 143, Nays 2, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3051 was passed by the Senate on May 19, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

The Sandra Bland Act

(S.B. 1849)

S.B. No. 1849

An Act relating to interactions between law enforcement and individuals detained or arrested on suspicion of the commission of criminal offenses, to the confinement, conviction, or release of those individuals, and to grants supporting populations that are more likely to interact frequently with law enforcement.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. SHORT TITLE

SECTION 1.01. SHORT TITLE. This Act shall be known as the Sandra Bland Act, in memory of Sandra Bland.

ARTICLE 2. IDENTIFICATION AND DIVERSION OF AND SERVICES FOR PERSONS SUSPECTED OF HAVING A MENTAL ILLNESS, AN INTELLECTUAL DISABILITY, OR A SUBSTANCE ABUSE ISSUE

SECTION 2.01. Article 16.22, Code of Criminal Procedure, is amended to read as follows:

Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [MENTAL RETARDATION]. (a)(1) Not later than 12 [72] hours after receiving credible information that may establish reasonable cause to believe that a defendant committed to the sheriff's custody has a mental illness or is a person with an intellectual disability [mental retardation], including observation of the defendant's behavior immediately before, during, and after the defendant's arrest and the results of any previous assessment of the defendant, the sheriff shall provide written or electronic notice of the information to the magistrate. On a determination that there is reasonable cause to believe that the defendant has a mental illness or is a person with an intellectual disability [mental retardation], the magistrate, except as provided by Subdivision

(2), shall order the local mental health or intellectual and developmental disability [mental retardation] authority or another qualified mental health or intellectual disability [mental retardation] expert to:

(A) collect information regarding whether the defendant has a mental illness as defined by Section 571.003,

Health and Safety Code, or is a person with an intellectual disability [mental retardation] as defined by Section 591.003, Health and Safety Code, including information obtained from any previous assessment of the defendant; and

(B) provide to the magistrate a written assessment of the information collected under Paragraph (A).

(2) The magistrate is not required to order the collection of information under Subdivision

(1) if the defendant in the year preceding the defendant's applicable date of arrest has been determined to have a mental illness or to be a person with an intellectual disability [mental retardation] by the local mental health or intellectual and developmental disability [mental retardation] authority or another mental health or intellectual disability [mental retardation] expert described by Subdivision

(1). A court that elects to use the results of that previous determination may proceed under Subsection (c).

(3) If the defendant fails or refuses to submit to the collection of information regarding the defendant as required under Subdivision (1), the magistrate may order the defendant to submit to an examination in a mental health facility determined to be appropriate by the local mental health or intellectual and developmental disability [mental retardation] authority for a reasonable period not to exceed 21 days. The magistrate may order a defendant to a facility operated by the Department of State Health Services or the Health and Human Services Commission [Department of Aging and Disability Services] for examination only on request of the local mental health or intellectual and developmental disability [mental retardation] authority and with the consent of the head of the facility. If a defendant who has been ordered to a facility operated by the Department of State Health Services or the Health and Human Services Commission [Department of Aging and Disability Services] for examination remains in the facility for a period exceeding 21 days, the head of that facility shall cause the defendant to be immediately transported to the committing court and placed in the custody of the sheriff of the county in which the committing court is located. That county shall reimburse the facility for the mileage and per diem expenses of the personnel required to transport the defendant calculated in accordance with the state travel regulations in effect at the time.

(b) A written assessment of the information collected under Subsection (a)(1)(A) shall be provided to the magistrate not later than the 30th day after the date of any order issued under Subsection (a) in a felony case and not later than the 10th day after the date of any order issued under that subsection in a misdemeanor case, and the magistrate shall provide copies of the written assessment to the defense counsel, the prosecuting attorney, and the trial court. The written assessment must include a description of the procedures used in the collection of information under Subsection (a)(1)(A) and the applicable expert's observations and findings pertaining to:

(1) whether the defendant is a person who has a mental illness or is a person with an intellectual disability [mental retardation];

(2) whether there is clinical evidence to support a belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B; and

(3) recommended treatment.

(c) After the trial court receives the applicable expert's written assessment relating to the defendant under Subsection (b) or elects to use the results of a previous determination as described by Subsection (a)(2), the trial court may, as applicable:

(1) resume criminal proceedings against the defendant, including any appropriate proceedings related to the defendant's release on personal bond under Article 17.032;

(2) resume or initiate competency proceedings, if required, as provided by Chapter 46B

or other proceedings affecting the defendant's receipt of appropriate court-ordered mental health or intellectual disability [mental retardation] services, including proceedings related to the defendant's receipt of outpatient mental health services under Section 574.034, Health and Safety Code; or

(3) consider the written assessment during the punishment phase after a conviction of the offense for which the defendant was arrested, as part of a presentence investigation report, or in connection with the impositions of conditions following placement on community supervision, including deferred adjudication community supervision.

(d) This article does not prevent the applicable court from, before, during, or after the collection of information regarding the defendant as described by this article: (1) releasing a defendant who has a mental illness [mentally ill] or is a person with an intellectual disability [mentally retarded defendant] from custody on personal or surety bond; or

(2) ordering an examination regarding the defendant's competency to stand trial.

SECTION 2.02. Chapter 16, Code of Criminal Procedure, is amended by adding Article 16.23 to read as follows:

Art. 16.23. DIVERSION OF PERSONS SUFFERING MENTAL HEALTH CRISIS OR SUBSTANCE ABUSE ISSUE. (a) Each law enforcement agency shall make a good faith effort to divert a person suffering a mental health crisis or suffering from the effects of substance abuse to a proper treatment center in the agency's jurisdiction if:

(1) there is an available and appropriate treatment center in the agency's jurisdiction to which the agency may divert the person;

(2) it is reasonable to divert the person;

(3) the offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence; and

(4) the mental health crisis or substance abuse issue is suspected to be the reason the person committed the alleged offense.

(b) Subsection (a) does not apply to a person who is accused of an offense under Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code.

SECTION 2.03. Section 539.002, Government Code, is amended to read as follows:

Sec. 539.002. GRANTS FOR ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLABORATIVES. (a) To the extent funds are appropriated to the department for that purpose, the department shall make grants to entities, including local governmental entities, nonprofit community organizations, and faith-based community organizations, to establish or expand community collaboratives that bring the public and private sectors together to provide services to persons experiencing homelessness, substance abuse issues, or [and] mental illness. [The department may make a maximum of five grants, which must be made in the most populous municipalities in this state that are located in counties with a population of more than one million.] In awarding grants, the department shall give special consideration to entities:

(1) establishing [a] new collaboratives; or

(2) establishing or expanding collaboratives that serve two or more counties, each with a population of less than 100,000 [collaborative].

(b) The department shall require each entity awarded a grant under this section to:

(1) leverage additional funding from private sources in an amount that is at least equal to the amount of the grant awarded under this section; [and]

(2) provide evidence of significant coordination and collaboration between the entity, local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in establishing or expanding a community collaborative funded by a grant awarded under this section; and

(3) provide evidence of a local law enforcement policy to divert appropriate persons from jails or other detention facilities to an entity affiliated with a community collaborative for the purpose of providing services to those persons.

SECTION 2.04. Chapter 539, Government Code, is amended by adding Section 539.0051 to read as follows:

Sec. 539.0051. PLAN REQUIRED FOR CERTAIN COMMUNITY COLLABORATIVES. (a) The governing body of a county shall develop and make public a plan detailing:

(1) how local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in the county could coordinate to establish or expand a community collaborative to accomplish the goals of Section 539.002;

(2) how entities in the county may leverage funding from private sources to accomplish the goals of Section 539.002 through the formation or expansion of a community collaborative; and

(3) how the formation or expansion of a community collaborative could establish or support resources or services to help local law enforcement agencies to divert persons who have been arrested to appropriate mental health care or substance abuse treatment.

(b) The governing body of a county in which an entity that received a grant under Section 539.002 before September 1, 2017, is located is not required to develop a plan under Subsection (a).

(c) Two or more counties, each with a population of less than 100,000, may form a joint plan under Subsection (a).

ARTICLE 3. BAIL, PRETRIAL RELEASE, AND COUNTY JAIL STANDARDS

SECTION 3.01. The heading to Article 17.032, Code of Criminal Procedure, is amended to read as follows:

Art. 17.032. RELEASE ON PERSONAL BOND OF CERTAIN [MENTALLY ILL] DEFENDANTS WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITY.

SECTION 3.02. Articles 17.032(b) and (c), Code of Criminal Procedure, are amended to read as follows:

(b) A magistrate shall release a defendant on personal bond unless good cause is shown

otherwise if the:

(1) defendant is not charged with and has not been previously convicted of a violent offense;

(2) defendant is examined by the local mental health or intellectual and developmental disability [mental retardation] authority or another mental health expert under Article 16.22 [of this code];

(3) applicable expert, in a written assessment submitted to the magistrate under Article 16.22:

(A) concludes that the defendant has a mental illness or is a person with an intellectual disability [mental retardation] and is nonetheless competent to stand trial; and

(B) recommends mental health treatment or intellectual disability treatment for the defendant, as applicable; and

(4) magistrate determines, in consultation with the local mental health or intellectual and developmental disability [mental retardation] authority, that appropriate community-based mental health or intellectual disability [mental retardation] services for the defendant are available through the [Texas] Department of State [Mental] Health Services [and Mental Retardation] under Section 534.053, Health and Safety Code, or through another mental health or intellectual disability [mental retardation] services provider.

(c) The magistrate, unless good cause is shown for not requiring treatment, shall require as a condition of release on personal bond under this article that the defendant submit to outpatient or inpatient mental health or intellectual disability [mental retardation] treatment as recommended by the local mental health or intellectual and developmental disability [mental retardation] authority if the defendant's:

(1) mental illness or intellectual disability [mental retardation] is chronic in nature; or

(2) ability to function independently will continue to deteriorate if the defendant is not treated.

SECTION 3.03. Article 25.03, Code of Criminal Procedure, is amended to read as follows:

Art. 25.03. IF ON BAIL IN FELONY. When the accused, in case of felony, is on bail at the time the indictment is presented, [it is not necessary to serve him with a copy, but] the clerk shall [on request] deliver a copy of the indictment [same] to the accused or the accused's [his] counsel[,], at the earliest possible time.

SECTION 3.04. Article 25.04, Code of Criminal Procedure, is amended to read as follows:

Art. 25.04. IN MISDEMEANOR. In misdemeanors, the clerk shall deliver a copy of the indictment or information to the accused or the accused's counsel at the earliest possible time before trial [it shall not be necessary before trial to furnish the accused with a copy of the indictment or information; but he or his counsel may demand a copy, which shall be given as early as possible

SECTION 3.05. Section 511.009(a), Government Code, as amended by Chapters 281 (H.B. 875), 648 (H.B. 549), and 688 (H.B. 634), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended to read as follows:

- (a) The commission shall:
- (1) adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails;
 - (2) adopt reasonable rules and procedures establishing minimum standards for the custody, care, and treatment of prisoners;
 - (3) adopt reasonable rules establishing minimum standards for the number of jail supervisory personnel and for programs and services to meet the needs of prisoners;
 - (4) adopt reasonable rules and procedures establishing minimum requirements for programs of rehabilitation, education, and recreation in county jails;
 - (5) revise, amend, or change rules and procedures if necessary;
 - (6) provide to local government officials consultation on and technical assistance for county jails;
 - (7) review and comment on plans for the construction and major modification or renovation of county jails;
 - (8) require that the sheriff and commissioners of each county submit to the commission, on a form prescribed by the commission, an annual report on the conditions in each county jail within their jurisdiction, including all information necessary to determine compliance with state law, commission orders, and the rules adopted under this chapter;
 - (9) review the reports submitted under Subdivision (8) and require commission employees to inspect county jails regularly to ensure compliance with state law, commission orders, and rules and procedures adopted under this chapter;
 - (10) adopt a classification system to assist sheriffs and judges in determining which defendants are low-risk and consequently suitable participants in a county jail work release program under Article 42.034, Code of Criminal Procedure;
 - (11) adopt rules relating to requirements for segregation of classes of inmates and to capacities for county jails;
 - (12) require that the chief jailer of each municipal lockup submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the lockup, including all information necessary to determine compliance with state law concerning secure confinement of children in municipal lockups;
 - (13) at least annually determine whether each county jail is in compliance with the rules and procedures adopted under this chapter;
 - (14) require that the sheriff and commissioners court of each county submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the county jail, including all information necessary to determine compliance with state law concerning secure confinement of children in county jails;
 - (15) schedule announced and unannounced inspections of jails under the commission's jurisdiction using the risk assessment plan established under Section 511.0085 to guide the inspections process;
 - (16) adopt a policy for gathering and distributing to jails under the commission's jurisdiction information regarding:
 - (A) common issues concerning jail administration;
 - (B) examples of successful strategies for maintaining compliance with state law and the rules,

standards, and procedures of the commission; and

(C) solutions to operational challenges for jails;

(17) report to the Texas Correctional Office on Offenders with Medical or Mental Impairments on a jail's compliance with Article 16.22, Code of Criminal Procedure;

(18) adopt reasonable rules and procedures establishing minimum requirements for jails to:

(A) determine if a prisoner is pregnant; and

(B) ensure that the jail's health services plan addresses medical and mental health care, including nutritional requirements, and any special housing or work assignment needs for persons who are confined in the jail and are known or determined to be pregnant;

(19) provide guidelines to sheriffs regarding contracts between a sheriff and another entity for the provision of food services to or the operation of a commissary in a jail under the commission's jurisdiction, including specific provisions regarding conflicts of interest and avoiding the appearance of impropriety; [and]

(20) adopt reasonable rules and procedures establishing minimum standards for prisoner visitation that provide each prisoner at a county jail with a minimum of two in-person, noncontact visitation periods per week of at least 20 minutes duration each;

(21) [(20)] require the sheriff of each county to:

(A) investigate and verify the veteran status of each prisoner by using data made available from the Veterans Reentry Search Service (VRSS) operated by the United States Department of Veterans Affairs or a similar service; and

(B) use the data described by Paragraph (A) to assist prisoners who are veterans in applying for federal benefits or compensation for which the prisoners may be eligible under a program administered by the United States Department of Veterans Affairs;

(22) [(20)] adopt reasonable rules and procedures regarding visitation of a prisoner at a county jail by a guardian, as defined by Section 1002.012, Estates Code, that:

(A) allow visitation by a guardian to the same extent as the prisoner's next of kin, including placing the guardian on the prisoner's approved visitors list on the guardian's request and providing the guardian access to the prisoner during a facility's standard visitation hours if the prisoner is otherwise eligible to receive visitors; and

(B) require the guardian to provide the sheriff with letters of guardianship issued as provided by Section 1106.001, Estates Code, before being allowed to visit the prisoner; and

(23) adopt reasonable rules and procedures to ensure the safety of prisoners, including rules and procedures that require a county jail to:

(A) give prisoners the ability to access a mental health professional at the jail through a telemental health service 24 hours a day;

(B) give prisoners the ability to access a health professional at the jail or through a telehealth service 24 hours a day or, if a health professional is unavailable at the jail or through a telehealth service, provide for a prisoner to be transported to access a health professional; and

(C) if funding is available under Section 511.019, install automated electronic sensors or cameras to ensure accurate and timely in-person checks of cells or groups of cells confining at-risk individuals.

SECTION 3.06. Section 511.009, Government Code, is amended by adding Subsection (d) to read

as follows:

(d) The commission shall adopt reasonable rules and procedures establishing minimum standards regarding the continuity of prescription medications for the care and treatment of prisoners. The rules and procedures shall require that a qualified medical professional shall review as soon as possible any prescription medication a prisoner is taking when the prisoner is taken into custody.

SECTION 3.07. Chapter 511, Government Code, is amended by adding Sections 511.019, 511.020, and 511.021 to read as follows:

Sec. 511.019. PRISONER SAFETY FUND. (a) The prisoner safety fund is a dedicated account in the general revenue fund.

(b) The prisoner safety fund consists of:

(1) appropriations of money to the fund by the legislature; and
(2) gifts, grants, including grants from the federal government, and other donations received for the fund.

(c) Money in the fund may be appropriated only to the commission to pay for capital improvements that are required under Section 511.009(a)(23).

(d) The commission by rule may establish a grant program to provide grants to counties to fund capital improvements described by Subsection (c). The commission may only provide a grant to a county for capital improvements to a county jail with a capacity of not more than 96 prisoners.

Sec. 511.020. SERIOUS INCIDENTS REPORT. (a) On or before the fifth day of each month, the sheriff of each county shall report to the commission regarding the occurrence during the preceding month of any of the following incidents involving a prisoner in the county jail:

(1) a suicide;
(2) an attempted suicide;
(3) a death;
(4) a serious bodily injury, as that term is defined by
Section 1.07, Penal Code;
(5) an assault;
(6) an escape;
(7) a sexual assault; and
(8) any use of force resulting in bodily injury, as that term is defined by Section 1.07, Penal Code.

(b) The commission shall prescribe a form for the report required by Subsection (a).

(c) The information required to be reported under Subsection (a)(8) may not include the name or other identifying information of a county jailer or jail employee.

(d) The information reported under Subsection (a) is public information subject to an open records request under Chapter 552.

Sec. 511.021. INDEPENDENT INVESTIGATION OF DEATH OCCURRING IN COUNTY JAIL. (a) On the death of a prisoner in a county jail, the commission shall appoint a law enforcement agency, other

than the local law enforcement agency that operates the county jail, to investigate the death as soon as possible.

(b) The commission shall adopt any rules necessary relating to the appointment of a law enforcement agency under Subsection

(a), including rules relating to cooperation between law enforcement agencies and to procedures for handling evidence.

SECTION 3.08. The changes in law made by this article to Article 17.032, Code of Criminal Procedure, apply only to a personal bond that is executed on or after the effective date of this Act. A personal bond executed before the effective date of executed, and the former law is continued in effect for that purpose.

SECTION 3.09. Not later than January 1, 2018, the Commission on Jail Standards shall:

(1) adopt the rules and procedures required by Section 511.009(d), Government Code, as added by this article, and the rules required by Section 511.021(b), Government Code, as added by this article; and

(2) prescribe the form required by Section 511.020(b), Government Code, as added by this article.

SECTION 3.10. Not later than September 1, 2018, the Commission on Jail Standards shall adopt the rules and procedures required by Section 511.009(a)(23), Government Code, as added by this article. On and after September 1, 2020, a county jail shall comply with any rule or procedure adopted by the Commission on Jail Standards under that subdivision.

SECTION 3.11. To the extent of any conflict, this Act prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to non-substantive additions to and corrections in enacted codes.

ARTICLE 4. PEACE OFFICER AND COUNTY JAILER TRAINING

SECTION 4.01. Chapter 511, Government Code, is amended by adding Section 511.00905 to read as follows:

Sec. 511.00905. JAIL ADMINISTRATOR POSITION; EXAMINATION REQUIRED. (a) The Texas Commission on Law Enforcement shall develop and the commission shall approve an examination for a person assigned to the jail administrator position overseeing a county jail.

(b) The commission shall adopt rules requiring a person, other than a sheriff, assigned to the jail administrator position overseeing a county jail to pass the examination not later than the 180th day after the date the person is assigned to that position. The rules must provide that a person who fails the examination may be immediately removed from the position and may not be reinstated until the person passes the examination.

(c) The sheriff of a county shall perform the duties of the jail administrator position at any time there is not a person available who satisfies the examination requirements of this

section.

(d) A person other than a sheriff may not serve in the jail administrator position of a county jail unless the person satisfies the examination requirement of this section.

SECTION 4.02. Section 1701.253, Occupations Code, is amended by amending Subsection (j) and adding Subsection (n) to read as follows: commission shall require an officer to complete a 40-hour statewide education and training program on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments. An officer shall complete the program not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. An officer may not satisfy the requirements of this subsection [section] or Section 1701.402(g) by taking an online course on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments.

(n) As part of the minimum curriculum requirements, the commission shall require an officer to complete a statewide education and training program on de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury.

SECTION 4.03. Section 1701.310(a), Occupations Code, is amended to read as follows:

(a) Except as provided by Subsection (e), a person may not be appointed as a county jailer, except on a temporary basis, unless the person has satisfactorily completed a preparatory training program, as required by the commission, in the operation of a county jail at a school operated or licensed by the commission. The training program must consist of at least eight hours of mental health training approved by the commission and the Commission on Jail Standards.

SECTION 4.04. Section 1701.352(b), Occupations Code, is amended to read as follows:

(b) The commission shall require a state, county, special district, or municipal agency that appoints or employs peace officers to provide each peace officer with a training program at least once every 48 months that is approved by the commission and consists of:

- (1) topics selected by the agency; and
- (2) for an officer holding only a basic proficiency certificate, not more than 20 hours of education and training that contain curricula incorporating the learning objectives developed by the commission regarding:
 - (A) civil rights, racial sensitivity, and cultural diversity;
 - (B) de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments; [and]
 - (C) de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury; and
 - (D) unless determined by the agency head to be inconsistent with the officer's assigned duties:
 - (i) the recognition and documentation of cases that involve child abuse or neglect, family violence, and sexual assault; and
 - (ii) issues concerning sex offender characteristics.

SECTION 4.05. Section 1701.402, Occupations Code, is amended by adding Subsection (n) to read

as follows:

(n) As a requirement for an intermediate proficiency certificate or an advanced proficiency certificate, an officer must complete the education and training program regarding de-escalation techniques to facilitate interaction with members of the public established by the commission under Section 1701.253(n).

SECTION 4.06. Not later than March 1, 2018, the Texas Commission on Law Enforcement shall develop and the Commission on Jail Standards shall approve the examination required by Section 511.00905, Government Code, as added by this article.

SECTION 4.07. (a) Not later than March 1, 2018, the Texas Commission on Law Enforcement shall establish or modify training programs as necessary to comply with Section 1701.253, Occupations Code, as amended by this article.

(b) The minimum curriculum requirements under Section 1701.253(j), Occupations Code, as amended by this article, apply only to a peace officer who first begins to satisfy those requirements on or after April 1, 2018.

SECTION 4.08. (a) Section 1701.310, Occupations Code, as amended by this article, takes effect January 1, 2018.

(b) A person in the position of county jailer on September 1, 2017, must comply with Section 1701.310(a), Occupations Code, as amended by this article, not later than August 31, 2021.

ARTICLE 5. MOTOR VEHICLE STOPS, RACIAL PROFILING, AND ISSUANCE OF CITATIONS

SECTION 5.01. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (b) and (d) and adding Subsection (h) to read as follows:

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's compliment and complaint process, including providing the telephone number, mailing address, and e-mail address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle stops in which a ticket, citation, or warning is issued and to arrests made as a result of those stops, including information

relating to:

- (A) the race or ethnicity of the individual detained;
- (B) whether a search was conducted and, if so, whether the individual detained consented to the search; [and]
- (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;
- (D) whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop;
- (E) the location of the stop; and
- (F) the reason for the stop; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:

- (A) the Texas Commission on Law Enforcement; and
- (B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. The agency also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body worn camera, as that term is defined by Section 1701.651, Occupations Code. If a law enforcement agency installs video or audio equipment or equips peace officers with body worn cameras as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(h) A law enforcement agency shall review the data collected under Subsection (b)(6) to identify any improvements the agency could make in its practices and policies regarding motor vehicle stops.

SECTION 5.02. Article 2.133, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any person operating the motor vehicle who is detained as a result of the stop, including:

- (A) the person's gender; and
- (B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search

and a description of the contraband or evidence;

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop; [and]

(8) whether the officer issued a verbal or written warning or a ticket or citation as a result of the stop; and

(9) whether the officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop.

(c) The chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is responsible for auditing reports under Subsection (b)

to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

SECTION 5.03. Article 2.134(c), Code of Criminal Procedure, is amended to read as follows:

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities; [and]

(B) examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction; and

(C) evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

SECTION 5.04. Article 2.137, Code of Criminal Procedure, is amended to read as follows:

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship,

available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)]. The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has taken the necessary actions to use and is using [installed] video and audio equipment and body worn cameras for those purposes [as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1)].

SECTION 5.05. Article 2.1385(a), Code of Criminal Procedure, is amended to read as follows:

(a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in an [the] amount not to exceed \$5,000 [of \$1,000] for each violation. The attorney general may sue to collect a civil penalty under this subsection.

SECTION 5.06. Article 2.135, Code of Criminal Procedure, is repealed.

SECTION 5.07. Articles 2.132 and 2.134, Code of Criminal Procedure, as amended by this article, apply only to a report covering a calendar year beginning on or after January 1, 2018.

SECTION 5.08. Not later than September 1, 2018, the Texas Commission on Law Enforcement shall:

(1) evaluate and change the guidelines for compiling and reporting information required under Article 2.134, Code of Criminal Procedure, as amended by this article, to enable the guidelines to better withstand academic scrutiny; and

(2) make accessible online:

(A) a downloadable format of any information submitted under Article 2.134(b), Code of Criminal

Procedure, that is not exempt from public disclosure under Chapter 552, Government Code; and
(B) a glossary of terms relating to the information to make the information readily understandable to the public. This Act takes effect September 1, 2017.

Senate Speaker of the House

I hereby certify that S.B. No. 1849 passed the Senate on May 11, 2017, by the following vote:
Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1849 passed the House on May 20, 2017, by the following vote:
Yeas 137, Nays 0, one present not voting.

ARTICLE 6. EFFECTIVE DATE

SECTION 6.01. Except as otherwise provided by this Act,

Approved:

Date

Governor

Chief Clerk of the House

**SHERMAN
POLICE DEPARTMENT
RACIAL PROFILING POLICY**

	SHERMAN POLICE DEPARTMENT Policy and Procedure Manual		
	Policy 3.4	Bias-Based Policing	
	TPCA Best Practices Accreditation Standards 2.01		
	Effective Date: 01-01-02	Revision Date: 01-19-23	Pages - 7

I. POLICY STATEMENT

We are committed to a respect for constitutional rights in the performance of our duties. Our success is based on the respect we give to our communities, and the respect members of the community observe toward law enforcement. To this end, we shall exercise our sworn duties, responsibilities, and obligations in a manner that does not discriminate on the basis of race, sex, gender, sexual orientation, national origin, ethnicity, age, or religion. Although it is true that all people carry biases, in law enforcement the failure to control our biases can lead to illegal arrests, searches, and detentions, thus thwarting the mission of our Department. Most importantly, actions guided by bias destroy the trust and respect essential for our mission to succeed. We live and work in communities very diverse in population. Respect for diversity and equitable enforcement of the law are essential to our mission.

All enforcement actions -- particularly stops of individuals for traffic and other violations, investigative detentions, arrests, searches, and seizures of persons or property -- shall be based on the standards of reasonable suspicion or probable cause as required by the Fourth Amendment to the U. S. Constitution and by statutory authority. In all enforcement decisions, officers shall be able to articulate specific facts, circumstances, and conclusions that support probable cause or reasonable suspicion for arrests, searches, seizures, and stops of individuals. Officers shall not stop, detain, arrest, search, or attempt to search anyone based solely upon the person's race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, any other identifiable group, or based on racial or ethnic stereotypes. Officers shall base all of their actions on a reasonable suspicion that the person or an occupant of a vehicle committed an offense. Officers of the Sherman Police Department are strictly prohibited from initiating any action that constitutes racial or bias-based policing.

All Department orders are informed and guided by this policy. Nothing in this policy limits non-enforcement contacts between officers and the public.

II. PURPOSE

The purpose of this order is to provide general guidance on reducing the presence of bias in law enforcement actions, to identify key contexts in which bias may influence these actions, and emphasize the importance of the constitutional guidelines within which we operate.

III. DEFINITIONS

Most of the following terms appear in this policy statement. In any case, these terms appear in the larger public discourse about alleged biased enforcement behavior and in other orders. These definitions are intended to facilitate on-going discussion and analysis of our enforcement practices.

- A. Bias: Prejudice or partiality based on preconceived ideas, a person's upbringing, culture, experience, or education.

- B. Biased policing: Stopping, detaining, searching, or attempting to search, or using force against a person based upon his or her race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.
- C. Ethnicity: A cluster of characteristics that may include race but also cultural characteristics or traits that are shared by a group with a common experience or history.
- D. Gender: Unlike sex, a psychological classification based on cultural characteristics or traits.
- E. Probable cause: Facts or apparent facts and circumstances within an officer's knowledge and of which the officer had reasonable, trustworthy information to lead a reasonable person to believe that an offense has been or is being committed, and that the suspect has committed it.
- F. Race: A category of people of a particular decent, including Caucasian, African, Hispanic, Asian, Middle Eastern, or Native American descent. As distinct from ethnicity, race refers only to physical characteristics sufficiently distinctive to group people under a classification.
- G. Racial profiling: A law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.
- H. Reasonable suspicion: Articulable, objective facts that lead an experienced officer to suspect that a person has committed, is committing, or may be about to commit a crime. A well-founded suspicion is based on the totality of the circumstances and does not exist unless it can be articulated. Reasonable suspicion supports a stop of a person. Courts require that stops based on reasonable suspicion be "objectively reasonable."
- I. Sex: A biological classification, male or female, based on physical and genetic characteristics.
- J. Stop: An investigative detention. The detention of a subject for a brief period of time, based on reasonable suspicion.
- K. Motor Vehicle Stop: An occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

IV. PROCEDURES

A. General Responsibilities

1. Officers are prohibited from engaging in bias-based policing or stopping, detaining, searching, arresting, or taking any enforcement action including seizure or forfeiture activities, against any person based solely on the person's race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group. These characteristics, however, may form part of reasonable suspicion or probable cause when officers are seeking a suspect with one or more of these attributes. (TBP 2.01)
2. Investigative detentions, motor vehicle stops, arrests, searches, and property seizures by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution. Officers must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative

detentions, motor vehicle stops, subject stops, arrests, nonconsensual searches, and property seizures. Except as provided in number 3 below, officers shall not consider race/ethnicity in establishing either reasonable suspicion or probable cause. Similarly, except as provided below, officers shall not consider race/ethnicity in deciding to initiate even those nonconsensual encounters that do not amount to legal detentions or to request consent to search.

3. Officers may take into account the reported race or ethnicity of a specific suspect or suspects based on trustworthy, locally relevant information that links a person or persons of a specific race/ethnicity to a particular unlawful incident(s). Race/ethnicity can never be used as the sole basis for probable cause or reasonable suspicion. Except as provided above, race/ethnicity reasonable suspicion or probable cause shall form the basis for any enforcement actions or decisions. Individuals shall be subjected to stops, seizures, or detentions only upon reasonable suspicion that they have committed, are committing, or are about to commit an offense. Officers shall document the elements of reasonable suspicion and probable cause in appropriate reports.
4. Officers shall observe all constitutional safeguards and shall respect the constitutional rights of all persons.
 - a. As motor vehicle stops furnish a primary source of bias-related complaints, officers shall have a firm understanding of the warrantless searches allowed by law, particularly the use of consent. How the officer disengages from a motor vehicle stop may be crucial to a person's perception of fairness or discrimination.
 - b. Officers shall not use the refusal or lack of cooperation to justify a search of the person or vehicle or a prolonged detention once reasonable suspicion has been dispelled.
5. All personnel shall treat everyone with the same courtesy and respect that they would have others observe toward Department personnel. To this end, personnel are reminded that the exercise of courtesy and respect engenders a future willingness to cooperate with law enforcement.
 - a. Personnel shall facilitate an individual's access to other governmental services whenever possible, and shall actively provide referrals to other appropriate agencies.
 - b. All personnel shall courteously accept, document, and forward to the Chief of Police any complaints made by an individual against the Department. Further, officers shall provide information on the complaint process and shall give copies of our "Citizen Complaint Process" brochure when appropriate.
6. When feasible, personnel shall offer explanations of the reasons for enforcement actions or other decisions that bear on the individual's well-being unless the explanation would undermine an investigation or jeopardize an officer's safety.
7. When feasible, all personnel shall identify themselves by name. When a person requests the information, personnel shall give their Department identification number, name of the immediate supervisor, or any other reasonable information.
8. All personnel are accountable for their actions. Personnel shall justify their actions when required.

B. Supervisory Responsibilities

1. Supervisors shall be held accountable for the observance of constitutional safeguards during the performance of their duties. Supervisors shall identify and correct instances of bias in the work of their subordinates.

2. Supervisors shall use the disciplinary mechanisms of the Department to ensure compliance with this order and the constitutional requirements of law enforcement.
3. Supervisors shall be mindful that in accounting for the actions and performance of subordinates, supervisors are key to maintaining community trust in law enforcement. Supervisors shall continually reinforce the ethic of impartial enforcement of the laws, and shall ensure that personnel, by their actions, maintain the community's trust in law enforcement.
4. Supervisors are reminded that biased enforcement of the laws engenders not only mistrust of law enforcement, but increases safety risks to personnel. Lack of control over bias also exposes the Department to liability consequences.
5. Supervisors shall be held accountable for repeated instances of biased enforcement of their subordinates.
6. Supervisors shall ensure that all enforcement actions are duly documented per Department policy. Supervisors shall ensure that all reports show adequate documentation of reasonable suspicion and probable cause, if applicable.
7. Supervisors shall facilitate the filing of any complaints about law enforcement service.

C. Disciplinary Consequences

Actions prohibited by this order shall be cause for corrective/disciplinary action, up to and including termination.

D. Training (TBP 2.01)

Officers shall be responsible for completing all training required by the Department and by state law regarding bias-based profiling.

V. PUBLIC INFORMATION

The Department will inform the public of its policy against bias-based policing and the process by which a citizen may make a complaint against a Department employee. Initially, the public will be informed through the news media, with additional efforts to educate the public about the policy and the complaint process made during presentations to civic groups, and by including information on the Sherman Police Department website and in the Department lobby.

VI. OVERSIGHT AND REVIEW

Motor vehicle stops will be accompanied by consistent, ongoing supervisory oversight to ensure that officers do not go beyond the parameters of reasonableness in conducting such activities.

- A. Supervisors shall ensure compliance with this policy and other applicable directives.
- B. The patrol shift supervisors shall review a minimum of one motor vehicle stop for each of their subordinates each month.
- C. The patrol shift supervisors shall report the information obtained from their review of officer motor vehicle stops to their Patrol Commander each calendar quarter. The report shall contain the following:

1. The name of the officer under review,
 2. The number of motor vehicle stops that were reviewed,
 3. The date and time of each motor vehicle stop reviewed, and
 4. A written assessment of each motor vehicle stop reviewed, which shall include:
 - a. The race/ethnicity of the citizen contacted;
 - b. Whether a search was conducted;
 - c. If a search was conducted, whether consent was given by the citizen;
 - d. If a search was conducted, whether or not contraband was found;
 - e. The final disposition of the citizen contact by the officer;
 - f. Whether officer's actions were in accordance with Department policy and procedures; and
 - g. A summary of the feedback provided to the officer.
 5. The Patrol Commanders will review these reports to ensure compliance and will submit a quarterly report to the Patrol Bureau Chief.
 6. The quarterly reports will be maintained in PowerDMS, the Department's document management system.
- D. Appropriate corrective/disciplinary action will be taken against any member who, after investigation, is shown to have engaged in bias-based policing in violation of this policy.

VII. DATA COLLECTION

- A. Pursuant to state law, officers are required to collect information relating to all motor vehicle stops by documenting the following required data:
1. The race or ethnicity of the individual detained;
 2. Whether or not a search was conducted;
 3. Whether or not the search was conducted by consent, and
 4. Whether the officer knew the race or ethnicity of the individual detained before detaining that individual.
- B. To ensure that data related to biased/racial profiling is collected in accordance with state law and Department policy, the following procedures shall be followed;
1. For all motor vehicle stops, the officer who initiated the stop shall issue the driver a citation or warning citation for the violation using the Department-issued electronic ticket writers.
 2. When completing citations or warning citations, officers are required to complete all pertinent information fields with special attention placed upon fields related to biased/racial profiling data.
 3. When an arrest is made, the officer will enter the citation, warning, or FI number into the notes section of the RMS Arrest module in conjunction with other required information. The officer will also note that the arrest is based on a motor vehicle stop.

4. The on-duty supervisor is responsible for verifying that arrests resulting from motor vehicle stops are properly documented.
5. The Department-issued electronic ticket writers should not be used to document FI contacts that are not related to motor vehicle stops as this will affect the accuracy of the data.

VIII. MOTOR VEHICLE RECORDING (MVR) EQUIPMENT

- A. All marked patrol vehicles are equipped with video cameras. The video and audio shall be activated before all motor vehicle stops, to record the actions of the vehicle and/or behavior of the person, and shall remain activated until the person is released (refer to Policy 3.16, VII. for additional activation requirements).
- B. Patrol officers are responsible for ensuring that the mobile video recording equipment is fully operational throughout their tour of duty. Any equipment failures or repairs needed should be immediately reported to the on-duty shift supervisor.
- C. Audio/Visual recordings documenting motor vehicle stops will be maintained for a minimum period of ninety (90) days before being purged. If a complaint is filed alleging bias-based policing, the audio and video record of the stop will be retained until the final disposition of the complaint.

IX. REPORTING

- A. The Department will contract with a vendor who:
 1. Will prepare an annual report for the calendar year consisting of a comparative analysis of the collected motor vehicle contact data;
 2. Will conduct a comparative quarterly data audit throughout the calendar year;
 3. The annual report will be submitted to the Chief of Police. At a minimum, the report must include:
 - a. A determination of the prevalence of bias-based policing.
 - b. An examination of the disposition of motor vehicle stops, including searches resulting from the stops.
 - c. Information relating to each complaint within the Department alleging bias-based policing.
 - d. The report may not include identifying information about an officer or about the person stopped or arrested.
- B. The Chief of Police shall submit the vendor's annual report to the City Manager who makes the report available to the City Council.
- C. The Chief of Police shall submit an annual report of the information collected to the Texas Commission on Law Enforcement (TCOLE).

X. COMPLAINT PROCESS

- A. Any individual who believes that a peace officer employed by this Department has engaged in conduct that may constitute racial or bias-based policing with respect to the individual, may file a

complaint with any supervisor of the Department.

- B. Any officer who is the subject of an investigation, based on a complaint alleging that the officer engaged in bias-based policing, who submits a written request for an audio or video copy of the recording of the occurrence will be promptly provided a copy of that recording(s). The written request shall be in a memorandum and submitted to the Investigator conducting the investigation.
- C. The complaint will be received, processed, investigated, and adjudicated in accordance with applicable Sherman Police Department policies and procedures



Jason Jeffcoat, Chief of Police

For additional questions regarding the information presented in this report, please contact:

Del Carmen Consulting©
817.681.7840
www.texasracialprofiling.com
www.delcarmenconsulting.com

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DRS RACIAL PROFILING REPORT FORM

DISABLE POP-UP BLOCKERS

[HELP](#)

Warning: this page will expire after **60 minutes**. If it does timeout, your progress will be lost. However, if you are allowing pop-ups, you will be offered the option to stay logged in and extend your session another 60 minutes.

-  Enable Javascript
-  Enable Pop-ups

AGENCY CONTACT INFORMATION

Agency Name: SHERMAN POLICE DEPT.
Reporting Date: 01/10/2024
TCOLE Agency Number: 181208
Chief Administrator: TERRY J. JEFFCOAT

***Phone:**

***Email:**

***Mailing Address:**

***Executed by:**

***Title:**

Date: 01/10/2024

*Choose a Form Type:

If you do not have to fill out the Racial Profiling report, then choose "Exempt". Otherwise, choose "Full" Report and fill out all required fields.

- ☒ Full Report
☐ Exemption

*Choose a type of comparative analysis:

- ☐ My Department has created a comparative analysis
☒ Use TCOLE's auto-generated comparative analysis

*Comparative Analysis PDF File - (Required if Department Analysis selected above.)

No file chosen

Optional Analysis Explanation:

SHERMAN POLICE DEPT. filed a full report.

SHERMAN POLICE DEPT. has adopted a detailed written policy on racial profiling. Our policy:

1. clearly defines acts constituting racial profiling;
2. strictly prohibit peace officers employed by the **SHERMAN POLICE DEPT.** from engaging in racial profiling;
3. implements a process by which an individual may file a complaint with the **SHERMAN POLICE DEPT.** if the individual believes that a peace officer employed by the **SHERMAN POLICE DEPT.** has engaged in racial profiling with respect to the individual;
4. provides public education relating to the agency's complaint process;
5. requires appropriate corrective action to be taken against a peace officer employed by the **SHERMAN POLICE DEPT.** who, after an investigation, is shown to have engaged in racial profiling in violation of the **SHERMAN POLICE DEPT.** policy;
6. requires collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:
 - a. the race or ethnicity of the individual detained;
 - b. whether a search was conducted and, if so, whether the individual detained consented to the search;
 - c. whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;
 - d. whether the peace officer used physical force that resulted in bodily injury during the stop;
 - e. the location of the stop;
 - f. the reason for the stop.
7. requires the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision(6) to:
 - a. the Commission on Law Enforcement; and
 - b. the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

The **SHERMAN POLICE DEPT.** has satisfied the statutory data audit requirements as prescribed in Article 2.133(c), Code of Criminal Procedure during the reporting period.

MOTOR VEHICLE RACIAL PROFILING INFORMATION

1 STOPS

1.1 *TOTAL STOPS:

2 STREET ADDRESS OR APPROXIMATE LOCATION OF THE STOP - CCP 2.132(B)(6)(E), 2.133(B)(7)

2.1 *CITY STREET:

2.2 *US HIGHWAY:

2.3 *STATE HIGHWAY:

2.4 *COUNTY ROAD:

2.5 *PRIVATE PROPERTY OR OTHER:

3 WAS RACE OR ETHNICITY KNOWN PRIOR TO STOP? - CCP 2.132(B)(6)(C)

3.1 *YES:

3.2 *NO:

4 RACE OR ETHNICITY - CCP 2.132(A)(3), 2.132(B)(6)(A), 2.133(B)(1)(B)

4.1 *ALASKA NATIVE/AMERICAN INDIAN:

4.2 *ASIAN/PACIFIC ISLANDER:

4.3 *BLACK:

4.4 *WHITE: 7191

4.5 *HISPANIC/LATINO: 2579

5 GENDER - CCP 2.133(B)(1)(A)

5.1 *FEMALE: 4950

5.1.1 *ALASKA NATIVE/AMERICAN INDIAN: 22

5.1.2 *ASIAN/PACIFIC ISLANDER: 58

5.1.3 *BLACK: 765

5.1.4 *WHITE: 3274

5.1.5 *HISPANIC/LATINO: 831

5.1 *MALE: 7021

5.1.1 *ALASKA NATIVE/AMERICAN INDIAN: 68

5.1.2 *ASIAN/PACIFIC ISLANDER: 116

5.1.3 *BLACK: 1172

5.1.4 *WHITE: 3917

5.1.5 *HISPANIC/LATINO: 1748

6 REASON FOR STOP - CCP 2.132(B)(6)(F), 2.133(B)(2)

6.1 *VIOLATION OF LAW: 233

6.1.1 *ALASKA NATIVE/AMERICAN INDIAN: 0

6.1.2 *ASIAN/PACIFIC ISLANDER: 2

6.1.3 *BLACK: 48

6.1.4 *WHITE: 124

6.1.5 *HISPANIC/LATINO: 59

6.2 *PREEXISTING KNOWLEDGE: 29

6.2.1 *ALASKA NATIVE/AMERICAN INDIAN: 0

6.2.2 *ASIAN/PACIFIC ISLANDER: 0

6.2.3 *BLACK: 8

6.2.4 *WHITE: 11

6.2.5 *HISPANIC/LATINO: 10

6.3 *MOVING TRAFFIC VIOLATION: 8965

6.3.1 *ALASKA NATIVE/AMERICAN INDIAN: 68

6.3.2 *ASIAN/PACIFIC ISLANDER: 145

6.3.3 *BLACK: 1407

6.3.4 *WHITE: 5411

6.3.5 *HISPANIC/LATINO: 1934274

6.4 *VEHICLE TRAFFIC VIOLATION: 2744

6.4.1 *ALASKA NATIVE/AMERICAN INDIAN: 22

6.4.2 *ASIAN/PACIFIC ISLANDER: 27

6.4.3 *BLACK: 474

6.4.4 *WHITE: 1645

6.4.5 *HISPANIC/LATINO: 576

7 WAS A SEARCH CONDUCTED? - CCP 2.132(B)(6)(B), 2.133(B)(3)

7.1 *YES: 380

7.1.1 *ALASKA NATIVE/AMERICAN INDIAN: 3

7.1.2 *ASIAN/PACIFIC ISLANDER: 0

7.1.3 *BLACK: 136

7.1.4 *WHITE: 176

7.1.5 *HISPANIC/LATINO: 65

7.2 *No: 11591

7.2.1 *ALASKA NATIVE/AMERICAN INDIAN: 87

7.2.2 *ASIAN/PACIFIC ISLANDER: 174

7.2.3 *BLACK: 1801

7.2.4 *WHITE: 7015

7.2.5 *HISPANIC/LATINO: 2514

8 REASON FOR SEARCH?

8.1 *CONSENT: 114 CCP 2.132(B)(6)(B), 2.133(B)(3)

8.1.1 *ALASKA NATIVE/AMERICAN INDIAN: 1

8.1.2 *ASIAN/PACIFIC ISLANDER: 0

8.1.3 *BLACK: 28

8.1.4 *WHITE: 69

8.1.5 *HISPANIC/LATINO: 16

8.2 *CONTRABAND: 6 CCP 2.133(B)(5)(A)

8.2.1 *ALASKA NATIVE/AMERICAN INDIAN: 0

8.2.2 *ASIAN/PACIFIC ISLANDER: 8.2.3 *BLACK: 8.2.4 *WHITE: 8.2.5 *HISPANIC/LATINO: 8.3 *PROBABLE CAUSE: CCP 2.133(B)(5)(B)8.3.1 *ALASKA NATIVE/AMERICAN INDIAN: 8.3.2 *ASIAN/PACIFIC ISLANDER: 8.3.3 *BLACK: 8.3.4 *WHITE: 8.3.5 *HISPANIC/LATINO: 8.4 *INVENTORY: CCP 2.133(B)(5)(C)8.4.1 *ALASKA NATIVE/AMERICAN INDIAN: 8.4.2 *ASIAN/PACIFIC ISLANDER: 8.4.3 *BLACK: 8.4.4 *WHITE: 8.4.5 *HISPANIC/LATINO: 8.5 *INCIDENT TO ARREST: CCP 2.133(B)(5)(C)8.5.1 *ALASKA NATIVE/AMERICAN INDIAN: 8.5.2 *ASIAN/PACIFIC ISLANDER: 8.5.3 *BLACK: 8.5.4 *WHITE: 8.5.5 *HISPANIC/LATINO:

9 WAS CONTRABAND DISCOVERED? - CCP 2.133(B)(4): (THIS QUESTION APPLIES **ONLY** TO THE NUMBER OF SEARCHES CONDUCTED FROM NUMBER 7, NOT TO THE TOTAL STOPS.)

9.1 *YES: 9.1.1 *ALASKA NATIVE/AMERICAN INDIAN: 9.1.1.1 FINDING RESULTED IN ARREST - YES: 9.1.1.2 FINDING RESULTED IN ARREST - NO: 9.1.2 *ASIAN/PACIFIC ISLANDER: 9.1.2.1 FINDING RESULTED IN ARREST - YES: 9.1.2.2 FINDING RESULTED IN ARREST - NO:

9.1.3 *BLACK:	84
9.1.3.1 FINDING RESULTED IN ARREST - YES:	7
9.1.3.2 FINDING RESULTED IN ARREST - NO:	77
9.1.4 *WHITE:	92
9.1.4.1 FINDING RESULTED IN ARREST - YES:	9
9.1.4.2 FINDING RESULTED IN ARREST - NO:	83
9.1.5 *HISPANIC/LATINO:	39
9.1.5.1 FINDING RESULTED IN ARREST - YES:	2
9.1.5.2 FINDING RESULTED IN ARREST - NO:	37

9.2 *No:	162
9.2.1 *ALASKA NATIVE/AMERICAN INDIAN:	0
9.2.2 *ASIAN/PACIFIC ISLANDER:	0
9.2.3 *BLACK:	52
9.2.4 *WHITE:	84
9.2.5 *HISPANIC/LATINO:	26

10 DESCRIPTION OF CONTRABAND - CCP 2.133(B)(4)

10.1 *DRUGS:	169
10.1.1 *ALASKA NATIVE/AMERICAN INDIAN:	3
10.1.2 *ASIAN/PACIFIC ISLANDER:	0
10.1.3 *BLACK:	71
10.1.4 *WHITE:	71
10.1.5 *HISPANIC/LATINO:	24

10.2 *CURRENCY:	9
10.2.1 *ALASKA NATIVE/AMERICAN INDIAN:	0
10.2.2 *ASIAN/PACIFIC ISLANDER:	0
10.2.3 *BLACK:	5
10.2.4 *WHITE:	2
10.2.5 *HISPANIC/LATINO:	2

10.3 *WEAPONS:	6
10.3.1 *ALASKA NATIVE/AMERICAN INDIAN:	0
10.3.2 *ASIAN/PACIFIC ISLANDER:	0

10.3.3 *BLACK: 10.3.4 *WHITE: 10.3.5 *HISPANIC/LATINO: 10.4 *ALCOHOL: 10.4.1 *ALASKA NATIVE/AMERICAN INDIAN: 10.4.2 *ASIAN/PACIFIC ISLANDER: 10.4.3 *BLACK: 10.4.4 *WHITE: 10.4.5 *HISPANIC/LATINO: 10.5 *STOLEN PROPERTY: 10.5.1 *ALASKA NATIVE/AMERICAN INDIAN: 10.5.2 *ASIAN/PACIFIC ISLANDER: 10.5.3 *BLACK: 10.5.4 *WHITE: 10.5.5 *HISPANIC/LATINO: 10.6 *OTHER: 10.6.1 *ALASKA NATIVE/AMERICAN INDIAN: 10.6.2 *ASIAN/PACIFIC ISLANDER: 10.6.3 *BLACK: 10.6.4 *WHITE: 10.6.5 *HISPANIC/LATINO:

11 RESULT OF STOP

11.1 *VERBAL WARNING: CCP 2.133(B)(8)11.1.1 *ALASKA NATIVE/AMERICAN INDIAN: 11.1.2 *ASIAN/PACIFIC ISLANDER: 11.1.3 *BLACK: 11.1.4 *WHITE: 11.1.5 *HISPANIC/LATINO: 11.2 *WRITTEN WARNING: 11.2.1 *ALASKA NATIVE/AMERICAN INDIAN: 11.2.2 *ASIAN/PACIFIC ISLANDER:

11.2.3 *BLACK:

11.2.4 *WHITE:

11.2.5 *HISPANIC/LATINO:

11.3 *CITATION: CCP 2.133(B)(8)

11.3.1 *ALASKA NATIVE/AMERICAN INDIAN:

11.3.2 *ASIAN/PACIFIC ISLANDER:

11.3.3 *BLACK:

11.3.4 *WHITE:

11.3.5 *HISPANIC/LATINO:

11.4 *WRITTEN WARNING AND ARREST:

11.4.1 *ALASKA NATIVE/AMERICAN INDIAN:

11.4.2 *ASIAN/PACIFIC ISLANDER:

11.4.3 *BLACK:

11.4.4 *WHITE:

11.4.5 *HISPANIC/LATINO:

11.5 *CITATION AND ARREST:

11.5.1 *ALASKA NATIVE/AMERICAN INDIAN:

11.5.2 *ASIAN/PACIFIC ISLANDER:

11.5.3 *BLACK:

11.5.4 *WHITE:

11.5.5 *HISPANIC/LATINO:

11.6 *ARREST: CCP 2.133(B)(6)

11.6.1 *ALASKA NATIVE/AMERICAN INDIAN:

11.6.2 *ASIAN/PACIFIC ISLANDER:

11.6.3 *BLACK:

11.6.4 *WHITE:

11.6.5 *HISPANIC/LATINO:

12 ARREST BASED ON - CCP 2.133(B)(6)

12.1 *VIOLATION OF PENAL CODE:

12.1.1 *ALASKA NATIVE/AMERICAN INDIAN:

12.1.2 *ASIAN/PACIFIC ISLANDER:

12.1.3 *BLACK: 12.1.4 *WHITE: 12.1.5 *HISPANIC/LATINO: 12.2 *VIOLATION OF TRAFFIC LAW: 12.2.1 *ALASKA NATIVE/AMERICAN INDIAN: 12.2.2 *ASIAN/PACIFIC ISLANDER: 12.2.3 *BLACK: 12.2.4 *WHITE: 12.2.5 *HISPANIC/LATINO: 12.3 *VIOLATION OF CITY ORDINANCE: 12.3.1 *ALASKA NATIVE/AMERICAN INDIAN: 12.3.2 *ASIAN/PACIFIC ISLANDER: 12.3.3 *BLACK: 12.3.4 *WHITE: 12.3.5 *HISPANIC/LATINO: 12.4 *OUTSTANDING WARRANT: 12.4.1 *ALASKA NATIVE/AMERICAN INDIAN: 12.4.2 *ASIAN/PACIFIC ISLANDER: 12.4.3 *BLACK: 12.4.4 *WHITE: 12.4.5 *HISPANIC/LATINO:

13 WAS PHYSICAL FORCE RESULTING IN BODILY INJURY USED DURING STOP?

CCP 2.132(B)(6)(D), 2.133(B)(9)

13.1 *YES: 13.1.1 *ALASKA NATIVE/AMERICAN INDIAN: 13.1.2 *ASIAN/PACIFIC ISLANDER: 13.1.3 *BLACK: 13.1.4 *WHITE: 13.1.5 *HISPANIC/LATINO: *RESULTING IN BODILY INJURY To
13.1.6 SUSPECT:

***RESULTING IN BODILY INJURY TO**
13.1.7 **OFFICER:**

***RESULTING IN BODILY INJURY TO**
13.1.8 **BOTH:**

13.2 ***No:**

13.2.1 ***ALASKA NATIVE/AMERICAN INDIAN:**

13.2.2 ***ASIAN/PACIFIC ISLANDER:**

13.2.3 ***BLACK:**

13.2.4 ***WHITE:**

13.2.5 ***HISPANIC/LATINO:**

14 NUMBER OF COMPLAINTS OF RACIAL PROFILING

14.1 ***TOTAL:**

14.1.1 ***RESULTED IN DISCIPLINARY ACTION:**

14.1.2 ***DID NOT RESULT IN DISCIPLINARY ACTION:**

***Electronically Sign:** ☒

***By checking this box, you certify that this information is correct.**

SUBMITTED ELECTRONICALLY TO



THE TEXAS COMMISSION ON LAW ENFORCEMENT

Submit Form

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
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14	15	16	17	18	19	20
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28	29	30				

May						
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			1	2	3	4
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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]