

**CITY OF SHERMAN
CITY COUNCIL REGULAR MEETING AGENDA
COUNCIL CHAMBERS OF THE CITY HALL
220 WEST MULBERRY STREET
SHERMAN, TEXAS
MONDAY, NOVEMBER 3, 2008
5:00 P.M.**

- A.1 [CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN](#)
- A.2 [PLEDGE OF ALLEGIANCE](#)
- A.3 [INVOCATION BY COUNCIL MEMBER PAMELA L. HOWETH](#)
- A.4 [APPROVE MINUTES OF THE REGULAR CITY COUNCIL MEETING OF OCTOBER 20, 2008](#)

Public Hearing

- B.1 [INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5571](#)
Providing for Permanent “Stop” Signs at the Intersections of Rivercrest and Idlewood, North Haven and Cypress Grove, North Haven and Idlewood, Liberty Hill and Travis Street, and North Creek and Travis Street within the City Limits of the City of Sherman; Providing for a Penalty Provision
- B.2 [INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5572](#)
Repealing Ordinance No. 5484; Establishing Assignment Pay Schedules for Firefighters and Police Officers
- B.3 [INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5573](#)
Amending Chapter 1 of the Code of Ordinances, “General Provisions”, at Article 1.02, “Administration”, to Add Section 1.02.003 to Establish an Identity Theft Prevention Program; Providing for Definitions, Policies and Procedures for Implementation of the Identify Theft Prevention Program

Close Public Hearing and Consider Adoption of Ordinances

- B.4 [ADOPTION OF ORDINANCES](#)
Consider Adoption of Ordinance Numbers:
 - a) 5571
 - b) 5572
 - c) 5573

B.5 [TABLED AT MARCH 17, 2008 COUNCIL MEETING:](#)
[ADOPTION OF ORDINANCE NO. 5523](#)

Amending Chapter 13 of the Code of Ordinances, “Utilities”, at Article 13.07, “Water, Sewers and Sewage Disposal”, by Amending Division 3, “Sewers and Sewage Disposal”, and Adding Division 6, “Fats, Oil, Grease and Sediment Control”

B.6 [CONSENT AGENDA](#)

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

Resolutions

C.1 [RESOLUTION NO. 5284](#)

Authorizing Execution of a License Agreement with Enterprise Texas Pipeline, LLC for a Utility Easement at Various Locations throughout the City of Sherman

C.2 [* RESOLUTION NO. 5285](#)

Authorizing Execution of a Development Agreement with Sherman Bible Church for the Construction of Public Facilities in the O'Hanlon Ranch Phase II, Block 3, Lot 10 within the City of Sherman

C.3 [* RESOLUTION NO. 5286](#)

Authorizing Execution of a Development Agreement with Tin Star Homes, LLC for the Construction of Public Facilities in the Country Ridge Subdivision, Section 4 within the City of Sherman

C.4 [* RESOLUTION NO. 5287](#)

Authorizing Execution of a Contract with Weisinger Water Wells, Inc. for Emergency Repairs to Luella 3 Trinity Water Well

Requests to Advertise

D.1 [REQUEST TO ADVERTISE](#)

Annual Supply of Avgas (Aviation Gas) for the Sherman Municipal Airport

D.2 [* REQUEST TO ADVERTISE](#)

Purchase of Replacement Loader Backhoe for Water Utilities

Other Business

D.3 [OTHER BUSINESS](#)

Consider Request of the Red River Valley Chapter of the MVPA and the Texoma Area Veteran's Council to Temporarily Close Certain Streets for the Veteran's Day Parade on Saturday, November 8, 2008

D.4 [OTHER BUSINESS](#)

Consider Calling a Special Meeting of the City Council for 12:00 noon on Thursday, November 20, 2008, to Hold the Second Reading and Public Hearing and to Consider the Adoption of Ordinance No. 5568 (Enterprise Texas Pipeline, LLC Franchise)

D.5 [* OTHER BUSINESS](#)

Approve Quarterly Investment Report for Period ending September 30, 2008

D.6 [CITIZEN REQUESTS](#)

D.7 [MEDIA QUESTIONS](#)

D.8 [COUNCIL COMMENTS](#)

Executive Session

E.1 [EXECUTIVE SESSION](#)

In Accordance with Chapter 551, Government Code, V.T.C.S. (Open Meetings Law), “The City Council Will Now Hold a Closed Executive Meeting Pursuant to the Provisions of the Open Meetings Law, Chapter 551, Government Code, Vernon’s Texas Codes Annotated, in Accordance with the Authority Contained in the Following Sections”

Section 551.074

Personnel Matters:

- (a) Consider the Qualifications, Appointment and Removal of Members to Boards and Commissions:
 - (i) Planning and Zoning Commission (1)

The Council reconvenes into General Session

F.1 [OPEN MEETING](#)

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

F.2 [ADJOURNMENT](#)

[COUNCIL CALENDAR](#)



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. A.1

CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. A.2

PLEDGE OF ALLEGIANCE

The Honorable Pamela L. Howeth, Council Member



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. A.3

INVOCATION BY COUNCIL MEMBER PAMELA L. HOWETH



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. A.4

APPROVE MINUTES

THE REGULAR CITY COUNCIL MEETING OF OCTOBER 20, 2008

October 20, 2008

**MEMBERS PRESENT: MAYOR BILL MAGERS; DEPUTY MAYOR CARY WACKER.
COUNCIL MEMBERS ADAMI, HOWETH, SMITH, SOFTLY,
STEELE.**

CALL TO ORDER

CALL TO ORDER

APPROVE MINUTES

APPROVE MINUTES

“CHAMBER OF COMMERCE WEEK” – OCTOBER 20-24, 2008

**CHAMBER OF
COMMERCE WEEK
(OCT. 20-24, 2008)**

"NATIONAL BUSINESS WOMEN'S WEEK" -- OCTOBER 20-24, 2008

**NATIONAL BUSINESS
WOMEN'S WEEK
(OCT. 20-24, 2008)**

Ms. Patterson thanked the Mayor and City Council for recognizing the efforts of the Sherman B&PW.

**FIRST READING, PUBLIC HEARING AND FIRST VOTE ON
ORDINANCE NO. 5568**

Mayor Magers called for the first reading, public hearing, and first vote on Ordinance 5568:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, GRANTING TO ENTERPRISE TEXAS PIPELINE L.L.C., A TEXAS LIMITED LIABILITY COMPANY, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE FOR THE PURPOSE OF TRANSPORTING OF GAS THROUGH SAID MUNICIPALITY FOR ALL PURPOSES; PROVIDING FOR THE PAYMENT OF A FEE OR CHARGE FOR THE USE OF THE PUBLIC RIGHTS-OF-WAY; PROVIDING THAT IT SHALL BE IN LIEU OF OTHER FEES AND CHARGES, EXCEPTING AD VALOREM TAXES; PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS AND LIMITATIONS UNDER WHICH SUCH FRANCHISE SHALL BE EXERCISED; PROVIDING FOR A MOST FAVORED NATIONS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

**ORD 5568
GAS FRANCHISE
TO ENTERPRISE
PIPELINE**

Jim Andrews, agent for Enterprise Texas Pipeline, LLC, appeared to answer any questions from the City Council.

Enterprise Texas Pipeline is requesting permission to cross the City's property at various locations for the construction of a 36-inch natural gas pipeline. The only plans for crossing the City's rights-of-way relate to crossings at Farmington Road and South First Street.

The franchise ordinance provides for an annual regulation fee of \$1,000 per crossing and a franchise fee of 5% of the quarterly gross revenues if Enterprise Texas Pipeline becomes a distribution line instead of a transmission line.

Mayor Magers confirmed that this was the pipeline that Panda Energy was considering using. Council Member Steele verified that the 5% fee would only be collected if the line is tapped into and gas is sold to a distribution company.

Mr. Andrews said the City could also benefit from the size of the natural gas pipeline and its availability in the Blalock Industrial Park and from ad valorem taxes.

No other citizens appeared before the City Council to discuss Ordinance 5568.

ACTION TAKEN.

Motion by Council Member Smith to approve the first reading of Ordinance No. 5568, as presented. Second by Deputy Mayor Wacker.

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

VOTING NAY: None.

MOTION CARRIED ON FIRST READING.

Mr. Andrews said the City's Charter requires that the ordinance be read a second time, 30 days from now. Since there is only 28 days between now and the next regular Council Meeting, Mr. Andrews said they would have to wait until the December 1 meeting. He asked if the ordinance could be read on November 17 and made effective after the 30 days.

Peter Munson, Interim City Attorney, said the Charter requires that the second reading must take place 30 days or more after the first reading. Mayor Magers said the Council would consider a Called City Council Meeting since the issue is time sensitive.

INTRODUCTION AND PUBLIC HEARING OF ORDINANCES

Mayor Magers introduced Ordinance 5569 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, DENYING ONCOR ELECTRIC DELIVERY COMPANY'S REQUESTED INCREASES TO ITS ELECTRIC TRANSMISSION AND DISTRIBUTION RATES AND CHARGES WITHIN THE CITY; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE COMPANY; REQUIRING NOTICE OF THIS ORDINANCE TO THE COMPANY AND LEGAL COUNSEL FOR THE STEERING COMMITTEE; PROVIDING FOR A REPEALER.

ORD 5569
DENY ONCOR
ELECTRIC'S RATE
INCREASE

No citizens appeared before the City Council to discuss Ordinance 5569.

Mayor Magers introduced Ordinance 5570 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ESTABLISHING A MAXIMUM RATE OF SPEED ON U.S. HIGHWAY 82 IN THE CORPORATE LIMITS OF SHERMAN, GRAYSON COUNTY, TEXAS, DURING THE TEXAS DEPARTMENT OF TRANSPORTATION'S CONSTRUCTION PROJECT PTF 2008 (247); FIXING PENALTIES FOR VIOLATION THEREOF; DECLARING AN EMERGENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

ORD 5570
SPEED LIMIT
ON HWY 82

No citizens appeared before the City Council to discuss Ordinance 5570.

The Ordinances were introduced and the Public Hearing was closed.

CLOSE PUBLIC
HEARING

ADOPTION OF ORDINANCES

Ordinance 5569

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, DENYING ONCOR ELECTRIC DELIVERY COMPANY'S REQUESTED INCREASES TO ITS ELECTRIC TRANSMISSION AND DISTRIBUTION RATES AND CHARGES WITHIN THE CITY; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE

ORD 5569
DENY ONCOR
ELECTRIC'S RATE
INCREASE

COMPANY; REQUIRING NOTICE OF THIS ORDINANCE TO THE COMPANY AND LEGAL COUNSEL FOR THE STEERING COMMITTEE; PROVIDING FOR A REPEALER.

Ordinance 5570

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ESTABLISHING A MAXIMUM RATE OF SPEED ON U.S. HIGHWAY 82 IN THE CORPORATE LIMITS OF SHERMAN, GRAYSON COUNTY, TEXAS, DURING THE TEXAS DEPARTMENT OF TRANSPORTATION'S CONSTRUCTION PROJECT PTF 2008 (247); FIXING PENALTIES FOR VIOLATION THEREOF; DECLARING AN EMERGENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

**ORD 5570
SPEED LIMIT
ON HWY 82**

Mayor Magers said the speed limit change is designed to slow traffic down at the Highway 289 construction site and is a temporary measure. After construction is complete, the ordinance will be repealed.

Council Member Adami verified that the speed will be reduced from 70 miles per hour to 60 miles per hour. The completion date is anticipated to be October 2009, for one year of construction.

ACTION TAKEN.

Motion by Council Member Steele to approve Ordinance Nos. 5569 and 5570, as presented. Second by Council Member Smith.

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

VOTING NAY: None.

MOTION CARRIED.

CONSENT AGENDA

The Council reviewed the Consent Agenda. Deputy Mayor Wacker moved to approve the Consent Agenda, as presented. Second by Council Member Adami. All present voted AYE.

CONSENT AGENDA

RESOLUTIONS

RESOLUTION NO. 5281 - AUTHORIZING THE CITIES AGGREGATION POWER PROJECT, INC. (CAPP) TO NEGOTIATE AN ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY AND NECESSARY, RELATED SERVICES EFFECTIVE JANUARY 1, 2009; AUTHORIZING CAPP TO ACT AS AN AGENT ON BEHALF OF THE CITY TO ENTER INTO A CONTRACT FOR ELECTRICITY; APPROVING CAPP CONTRACTING WITH FPL ENERGY AND DIRECT ENERGY AND AUTHORIZING THE CHAIRMAN OF CAPP TO EXECUTE AN ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY EFFECTIVE JANUARY 1, 2009; COMMITTING TO BUDGET FOR ENERGY PURCHASES AND TO HONOR THE CITY'S COMMITMENTS TO PURCHASE POWER THROUGH CAPP FOR ITS ELECTRICAL NEEDS BEGINNING JANUARY 1, 2009, THROUGH DECEMBER 31, 2013

**RES 5281
PURCHASE OF
ELECTRIC SERVICE**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE CITIES AGGREGATION POWER PROJECT, INC. (CAPP) TO NEGOTIATE AN ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY AND NECESSARY, RELATED SERVICES EFFECTIVE JANUARY 1, 2009; AUTHORIZING CAPP TO ACT AS AN AGENT ON BEHALF OF THE CITY TO ENTER INTO A CONTRACT FOR ELECTRICITY; APPROVING CAPP CONTRACTING WITH FPL ENERGY AND DIRECT ENERGY AND AUTHORIZING THE CHAIRMAN OF CAPP TO EXECUTE AN ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY EFFECTIVE JANUARY 1, 2009; COMMITTING TO BUDGET FOR ENERGY PURCHASES AND TO HONOR THE CITY'S COMMITMENTS TO PURCHASE POWER THROUGH CAPP FOR ITS ELECTRICAL NEEDS BEGINNING JANUARY 1, 2009, THROUGH DECEMBER 31, 2013.

CONSENT AGENDA.

RESOLUTION NO. 5282 – AUTHORIZING EXECUTION OF AN AGREEMENT WITH BARTON CAPITAL, LTD FOR THE ABATEMENT OF AD VALOREM PROPERTY TAXES FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 1508 SOUTH MONTGOMERY STREET

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT WITH BARTON CAPITAL, LTD FOR THE ABATEMENT OF AD VALOREM PROPERTY TAXES FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 1508 SOUTH MONTGOMERY STREET.

CONSENT AGENDA.

RES 5282
RESIDENTIAL TAX
ABATEMENT
(1508 S.
MONTGOMERY)

RESOLUTION NO. 5283 – AUTHORIZING EXECUTION OF AN AGREEMENT WITH BARTON CAPITAL, LTD FOR THE ABATEMENT OF AD VALOREM PROPERTY TAXES FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 1512 SOUTH MONTGOMERY STREET

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT WITH BARTON CAPITAL, LTD FOR THE ABATEMENT OF AD VALOREM PROPERTY TAXES FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 1512 SOUTH MONTGOMERY STREET.

CONSENT AGENDA.

RES 5283
RESIDENTIAL TAX
ABATEMENT
(1512 S.
MONTGOMERY)

REQUEST TO ADVERTISE
LUELLA 3 TRINITY WELL REPAIRS

The City Council approved the request to advertise for a bid to repair the Luella 3 Trinity water well, which has experienced a loss of production. Funds are available for well repairs in the Water Production budget.

CONSENT AGENDA.

REQ TO ADVERTISE
WATER WELL
REPAIRS

CHANGE ORDER NO. 1
TRAVIS STREET WATER MAIN REPLACEMENT BETWEEN
U.S. HIGHWAY 75 AND WASHINGTON STREET; \$8,007.59,
INCREASE

The City Council approved a change order for the Travis Street Water Main Replacement. The change order is a final reconciliatory change order to adjust the final project quantities for the Travis Street Water Main Replacement between U.S. Highway 75 and Washington Street. The change order results in an \$8,007.59 increase in the contract amount, yielding a final contract price of \$148,569.78. Capital Improvement Program funds are available to cover the change order.

CONSENT AGENDA.

PAYMENT APPROVAL
APPROVE PAYMENT TO A-S 71 SHERMAN-PHASE III, L.P., A
TEXAS LIMITED PARTNERSHIP (NEWQUEST PROPERTIES),
IN RELATION TO THE PURCHASE OF INFRASTRUCTURE AT
THE SHERMAN TOWN CENTER

Robby Hefton, Assistant City Manager/CFO, explained that the payment is under a development agreement for Phase II of the Sherman Town Center, and includes J.C. Penney, Best Buy, and the infrastructure on the north side of the development.

The agreement was that if NewQuest Properties created at least \$1.25 million in additional infrastructure and \$5 million in taxable value, then the City will reimburse them for their infrastructure. They have actually created \$20 million in additional taxable value. Therefore they have significantly exceeded their obligations.

Mr. Hefton said the payment will be made of excess cash that was generated because it has outperformed the projected revenues, and the issuance of debt in the Spring for the remainder of the payment.

ACTION TAKEN.

Motion by Council Member Adami to approve payment to A-S 71 Sherman – Phase III, L.P., in relation to the purchase of infrastructure at the Sherman Town Center, as presented. Second by Council Member Steele.

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

VOTING NAY: None.

MOTION CARRIED.

OTHER BUSINESS
SEEKING COUNCIL DIRECTION ON VARIOUS ZONING
ISSUES

Mayor Magers asked Jason Sofey, Chairman of the Planning and Zoning Commission, to address the City Council concerning recommendations from Kendig Keast during the City's Comprehensive Plan process.

CHANGE ORDER
TRAVIS STREET
WATER MAIN
REPLACEMENT

PAYMENT APPROVAL
INFRASTRUCTURE
PURCHASE AT
SHERMAN TOWN
CENTER

DIRECTION ON
ZONING ISSUES

Several areas have been identified for potential modification of the City's zoning and development ordinances for immediate consideration by the City Council and the Planning and Zoning Commission.

Mayor Magers said one issue for consideration is the way property is considered under new annexations. Currently newly annexed property is brought in as "SF-1", single family residential, and they suggest bringing it in as "RA" or residential agriculture.

Mr. Sofey said another potential change is to expand the overlay district regulations to accommodate new commercial development in other areas, especially major thoroughfares such as Lamberth Road, Loy Lake Road, Travis Street, and Taylor Street. Standards could also be adopted in all commercial areas. These new standards would apply to new construction or a change of use.

Mayor Magers said the recommendation from the City Council would be for the Planning and Zoning Commission to study the suggestions and make a recommendation to the City Council. Mr. Sofey said the Planning and Zoning Commission will form a sub-committee to study the suggestions.

CITIZENS REQUESTS

There were no citizen's requests.

CITIZENS REQUESTS

MEDIA QUESTIONS

ENTERPRISE TEXAS PIPELINE CLARIFICATION

Kathy Williams, Herald Democrat Reporter, asked for clarification on the 5% fee on the Enterprise Texas Pipeline. If they can't distribute, why is the 5% in the franchise.

ENTERPRISE TEXAS PIPELINE CLARIFICATION

Mr. Andrews explained that if the line ever became a distribution line rather than a transmission line, then a franchise fee of 5% would need to be paid. If Panda Energy wants to use the natural gas, the owner of the gas in the lines will sell to a distribution company and they would sell to Panda Energy. The 5% franchise fee would then come from the distribution company not from Enterprise Texas Pipeline.

COUNCIL COMMENTS

HAPPY BIRTHDAY TO COUNCIL MEMBER WILLIE STEELE

Council Member Smith wished Council Member Willie Steele a happy birthday tomorrow. Other Council Members also wished him a happy birthday.

HAPPY BIRTHDAY TO COUNCIL MEMBER WILLIE STEELE

AUSTIN COLLEGE HOMECOMING

Mayor Magers reminded everyone that Austin College will be holding their homecoming this weekend.

AUSTIN COLLEGE HOMECOMING

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.

SECTION 551.074 --

PERSONNEL MATTERS:
CONSIDER THE
QUALIFICATIONS, APPOINTMENT
AND REMOVAL OF MEMBERS TO
BOARDS AND COMMISSIONS:
PLANNING AND ZONING
COMMISSION (1)

Council Member Steele asked if the Council would consider an appointment to the Planning and Zoning Commission without going into Executive Session.

**CONSIDER THE QUALIFICATIONS, APPOINTMENT AND REMOVAL OF MEMBERS TO BOARDS AND COMMISSIONS:
PLANNING AND ZONING COMMISSION (1)**

Mayor Magers said Sherman has been fortunate in the excellent leadership they have had on the Planning and Zoning Commission. He acknowledged past and present Chairmen, Kelly Bickerstaff, Willie Steele, and Jason Sofey. He also recognized the hard work of Scott Shadden, Director of Developmental Services.

EXECUTIVE SESSION

PLANNING &
ZONING
COMMISSION

ACTION TAKEN.

Motion by Council Member Steele to reappoint Jason Sofey, to the Planning and Zoning Commission for a term from November 8, 2008 to November 8, 2011.

Second by Deputy Mayor Wacker.

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

VOTING NAY: None.

MOTION CARRIED.

ADJOURNMENT

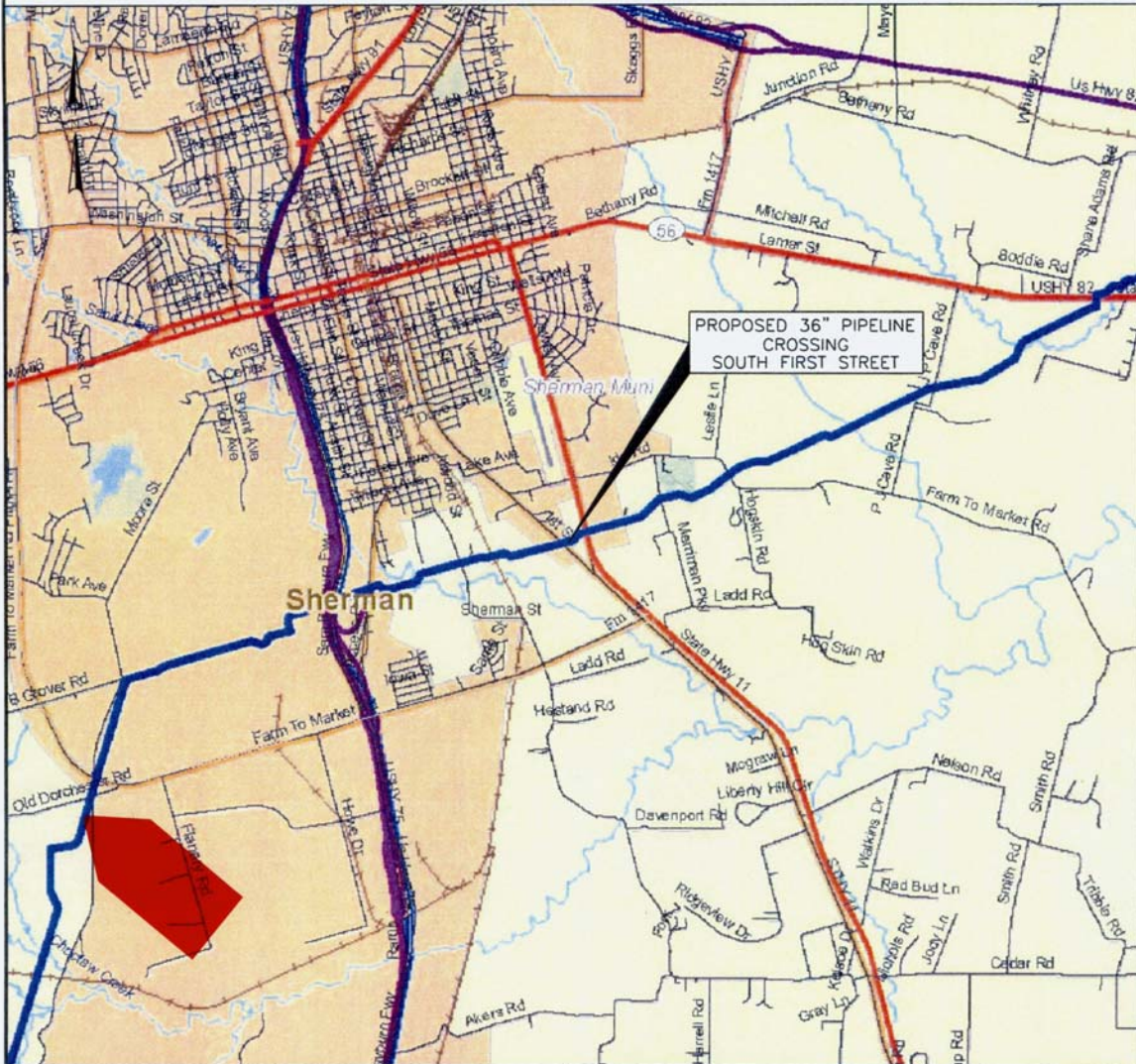
On Motion duly made and carried, the meeting adjourned at 5:22 p.m.

ADJOURNMENT

MAYOR

CITY CLERK

GRAYSON COUNTY, TEXAS
ROBERT THOMPSON SURVEY, A-1200



Enterprise Texas Pipeline LLC

VICINITY MAP FOR PROPOSED 36" PIPELINE
CROSSING UNDER
SOUTH FIRST STREET
GRAYSON COUNTY, TEXAS

SHEET 1 OF 2

REVISIONS						APPROVED	
NO.	DATE	DESCRIPTION	BY	CHKD	APPR	ENGINEERING MANAGER	
A		ISSUED FOR PERMIT	UEI	DJ	WAK	EPC-9830A-7090V	REV. A

DRAWN BY: UEI
CHKD. BY: DJ
APPR. BY: WAK
SCALE: N.T.S.

DATE: 06/16/08
DATE: 06/16/08
DATE: 06/16/08
JOB NO.: 9830.000

DRAWING NO.
EPC-9830A-7090V



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. B.1

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5571

Providing for Permanent “Stop” Signs at the Intersections of Rivercrest and Idlewood, North Haven and Cypress Grove, North Haven and Idlewood, Liberty Hill and Travis Street, and North Creek and Travis Street within the City Limits of the City of Sherman; Providing for a Penalty Provision

Issue

To consider adopting an ordinance providing for permanent “Stop” signs at the intersections of Rivercrest and Idlewood, North Haven and Cypress Grove, North Haven and Idlewood, Liberty Hill and Travis Street, and North Creek and Travis Street

Background

As a part of the developer’s agreement for two new subdivisions, “Stop” signs were installed at key intersections in the North Haven Addition and in Austin Landing. The signs have been in place for 90 days; and no complaints have been received.

Origination

Department of Public Works

Financial Consideration

The only financial consideration is the City’s cost for installing ten (10) signs, totaling \$1,680.00.

Staff Recommendation

It is recommended that the City Council adopt the proposed ordinance for “Stop” signs to be placed at the stated intersections in the North Haven Addition and in Austin Landing.

Alternatives

The Council could reject the proposed ordinance for the “Stop” signs.

Attachments

Ordinance No. 5571

Exhibits “A” and “B” (Location Maps)

Prepared by:

Jeff Miller, Director of Public Works

Approved by:

George Olson, City Manager

ORDINANCE NO. 5571

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, PROVIDING FOR PERMANENT “STOP” SIGNS AT THE INTERSECTIONS OF RIVERCREST AND IDLEWOOD, NORTH HAVEN AND CYPRESS GROVE, NORTH HAVEN AND IDLEWOOD, LIBERTY HILL AND TRAVIS STREET, AND NORTH CREEK AND TRAVIS STREET WITHIN THE CITY LIMITS OF THE CITY OF SHERMAN; PROVIDING FOR A PENALTY PROVISION; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

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

At the intersection of Rivercrest and Idlewood, stopping northbound and southbound traffic on Rivercrest; at the intersection of North Haven and Cypress Grove, stopping northbound traffic on North Haven; at the intersection of North Haven and Idlewood, stopping southbound traffic on North Haven; at the intersection of Liberty Hill and Travis Street, stopping eastbound traffic on Liberty Hill; and at the intersection of North Creek and Travis Street, stopping eastbound traffic on North Creek, as shown by Exhibits “A” and “B” attached hereto and incorporated herein for all purposes.

SECTION 2. That the Director of Public Works is directed to designate this action by the appropriate markings and signs.

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

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

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

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

INTRODUCED on this the _____ day of _____, 2008.

ADOPTED on this the _____ day of _____, 2008.

EFFECTIVE DATE on this the _____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

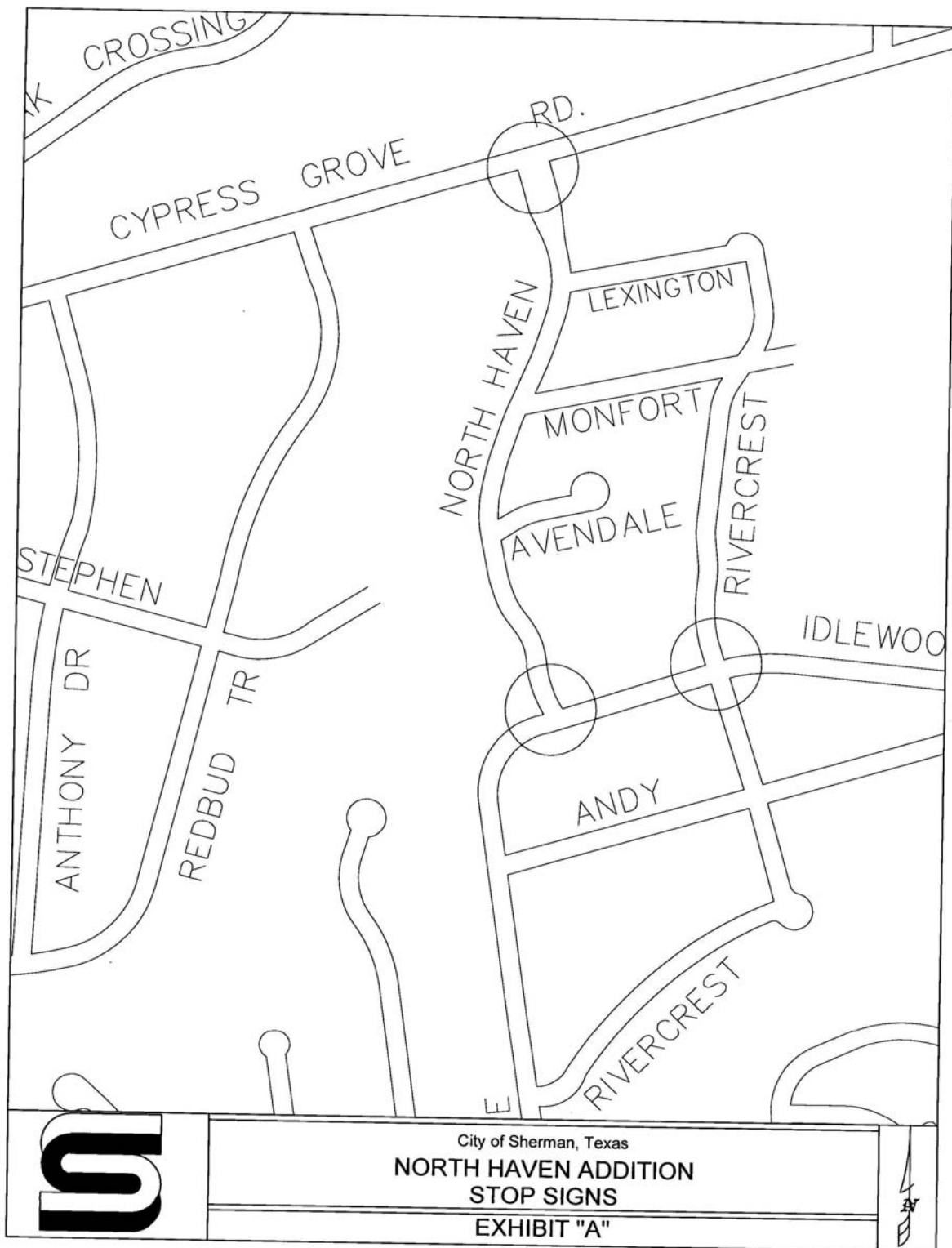
BY: _____
BILL MAGERS, MAYOR

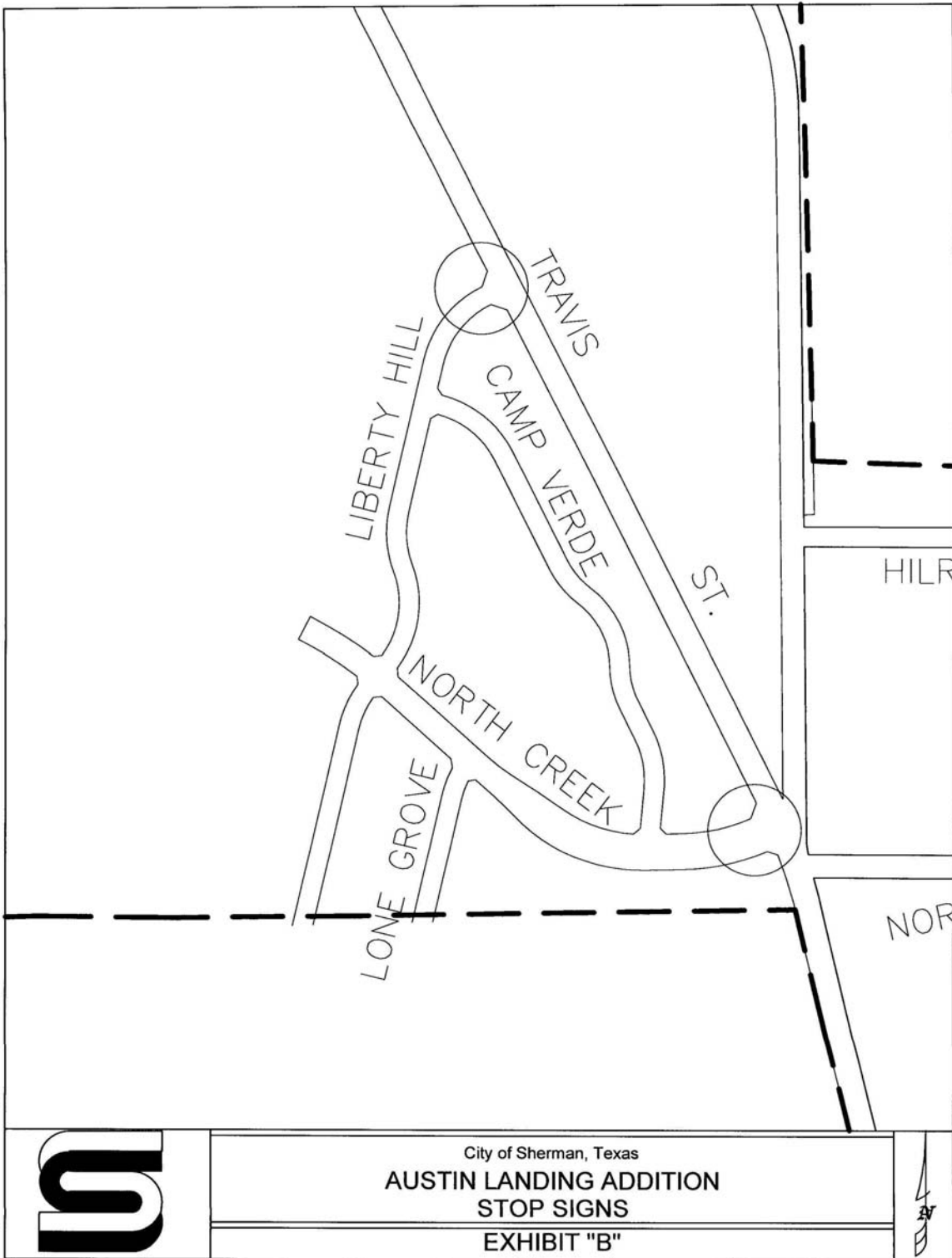
ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

BY: _____
INTERIM CITY ATTORNEY







SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. B.2

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5572

Repealing Ordinance No. 5484; Establishing Assignment Pay Schedules for Firefighters and Police Officers

Issue

The City Council is required by state law to establish assignment pay schedules for members of the classified service.

Background

The City Council authorized the assignment pay amounts for firefighters and police officers as part of the fiscal year 2008-2009 budget process. This proposed ordinance reflects the adoption of the following assignment pay changes within the Fire Department:

- Providing assignment pay for additional Fire Inspectors;
- Elimination of assignment pay for the Emergency Management Coordinator;
- Adoption of assignment pay for the Operations Captain;
- Providing assignment pay for additional Assistant Emergency Management Coordinators; and
- Providing assignment pay for additional SWAT Medics.

Origination

City Council

Financial Consideration

Funds were appropriated in the recently adopted 2008-2009 budget for these assignment pay changes, the increases of which total about \$2,400.00 annually.

Staff Recommendation

Staff recommends approval of the proposed ordinance.

Alternatives

The City Council could choose not to approve this ordinance, leaving unchanged the fire and police assignment pay schedules adopted on September 17, 2007 by Ordinance No. 5484.

Attachments

Ordinance No. 5572

Prepared by:
Jeffrey J. Jones, Fire Chief

Approved by:
George Olson, City Manager

ORDINANCE NO. 5572

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, REPEALING ORDINANCE NO. 5484; ESTABLISHING ASSIGNMENT PAY SCHEDULES FOR FIREFIGHTERS AND POLICE OFFICERS; PROVIDING FOR 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.

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

SECTION 1. That Ordinance No. 5484, adopted at the September 17, 2007 City Council meeting, is hereby repealed in its entirety.

SECTION 2. That, from and after the effective date of this ordinance, the following Assignment Pay Schedule shall be adopted for the Sherman Fire Department:

- (a) Assignment Pay in the amount of \$200.00 per month shall be paid to the employee assigned by the Fire Chief as the Training Officer.
- (b) Assignment Pay in the amount of \$200.00 per month shall be paid to the employees assigned by the Fire Chief as the Fire Inspector.
- (c) Assignment Pay in the amount of \$200.00 per month shall be paid to the employee assigned by the Fire Chief as the Emergency Medical Services Coordinator.
- (d) ~~Assignment Pay in the amount of \$200.00 shall be paid to the employee assigned by the Fire Chief as the Emergency Management Coordinator.~~
- (d) *Assignment Pay in the amount of \$200.00 per month shall be paid to the employee assigned by the Fire Chief as the Operations Captain.*
- (e) Assignment Pay in the amount of \$200.00 per month shall be paid to the employees assigned by the Fire Chief as the Assistant Emergency Management Coordinator.
- (f) Assignment Pay in the amount of \$100.00 per month shall be paid to the employees assigned by the Fire Chief to the Klown Company.
- (g) Assignment Pay in the amount of \$100.00 per month shall be paid to the employees assigned by the Fire Chief to the Technical Rescue Team.

- (h) Assignment Pay in the amount of \$100.00 per month shall be paid to the employees assigned by the Fire Chief as ~~the~~ SWAT Medic.

SECTION 3. That, from and after the effective date of this ordinance, the following Assignment Pay Schedule shall be adopted for the Sherman Police Department:

- (a) Assignment Pay in the amount of \$100.00 per month shall be paid to the employees assigned by the Chief of Police as Field Training Officers.

SECTION 4. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. 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 as required by law.

INTRODUCED on this the _____ day of _____, 2008.

ADOPTED on this the _____ day of _____, 2008.

EFFECTIVE DATE on this the _____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

BY: _____
INTERIM CITY ATTORNEY



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. B.3

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5573

**Amending Chapter 1 of the Code of Ordinances, "General Provisions",
at Article 1.02, "Administration", to Add Section 1.02.003 to Establish an
Identity Theft Prevention Program; Providing for Definitions, Policies and Procedures
for Implementation of the Identify Theft Prevention Program**

Issue

Following a brief presentation, the City Council will be asked to consider the adoption of an Identify Theft Prevention Program for the City of Sherman's operations.

Background

In 2003, the Federal Trade Commission enacted legislation, called the "Red Flag Rule", requiring creditors to adopt a written Identity Theft Prevention Program by the end of 2008. This legislation was aimed at requiring that entities have a program in place to identify instances of possible identity theft and have procedures in place for reporting such instances to appropriate authorities. For the City, the area most susceptible to identity theft is the Utility Billing operations, whereby thousands of accounts have changes annually to customer data. The staff formed a committee to develop a policy and to oversee the operation of this program.

Origination

Section 114 of the Fair and Accurate Credit Transactions Act of 2003
The City of Sherman's Identify Theft Prevention Committee

Financial Consideration

There is no direct cost to adopting this program. In the future, minimal costs may be incurred to cover training and education-related expenses for this program.

Staff Recommendation

The staff recommends adoption of this policy as presented.

Alternatives

The Council could offer alternatives for inclusion in the policy.

Attachments

Ordinance No. 5573

Prepared by:
Robby Hefton, Assistant City Manager/CFO

Approved by:
George Olson, City Manager

ORDINANCE NO. 5573

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 1 OF THE CODE OF ORDINANCES, "GENERAL PROVISIONS", AT ARTICLE 1.02, "ADMINISTRATION", TO ADD SECTION 1.02.003 TO ESTABLISH AN IDENTITY THEFT PREVENTION PROGRAM; PROVIDING FOR DEFINITIONS, POLICIES AND PROCEDURES FOR IMPLEMENTATION OF THE IDENTITY THEFT PREVENTION PROGRAM; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the Federal Trade Commission adopted rules pertaining to Identity Theft Prevention pursuant to the Red Flags Rule, which implements Section 114 of the Fair and Accurate Credit Transactions Act of 2003 requiring that creditors adopt an Identity Theft Prevention Program; and

WHEREAS, the Red Flags Rule defines "creditor" to include a city that owns and provides services and/or accepts payments for city services and is therefore classified as a creditor; and

WHEREAS, an Identify Theft Prevention Committee was formed and has developed such an Identity Theft Prevention Program; and

WHEREAS, such committee members recommend the Identity Theft Prevention Program be adopted and implemented; and

WHEREAS, the City Council has reviewed the Program and believes it fulfills, complies with, and implements the Red Flags Rule and other requirements outlined by the Federal Trade Commission; and

WHEREAS, the City Council finds that it is in the public interest to approve the Identity Theft Prevention Program;

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

SECTION 1. That Chapter 1, Article 1.02 of the Code of Ordinances of the City of Sherman, Texas is hereby amended by adding Section 1.02.003, entitled "Identity Theft Prevention Program," said section to read as follows:

Sec. 1.02.003 Identity Theft Prevention Program

I. Program Purpose and Definitions

(a) Fulfilling requirements of the Red Flags Rule

Under the Red Flags Rule, every financial institution and creditor is required to establish an “Identity Theft Prevention Program” tailored to its size, complexity, and the nature of its operation. Each program must contain reasonable policies and procedures to:

1. Identify relevant Red Flags for new and existing covered accounts and incorporate those Red Flags into the Program;
2. Detect Red Flags that have been incorporated into the Program;
3. Respond appropriately to any Red Flags that are detected to prevent and mitigate Identity Theft; and
4. Ensure the Program is updated periodically, to reflect changes in risks to customers or to the safety and soundness of the creditor from Identity Theft.

(b) Red Flags Rule Definitions used in this Program

The Red Flags Rule defines “Identity Theft” as “fraud committed using the identifying information of another person” and a “Red Flag” as “a pattern, practice, or specific activity that indicates the possible existence of Identity Theft.”

According to the Rule, a City is a creditor subject to the Rule requirements. The Rule defines creditors “to include finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies. Where non-profit and government entities defer payment for goods or services, they, too, are to be considered creditors.”

City accounts held by customers of the City used mostly for personal, family, or household purposes, and that involve multiple payments or transactions are covered by the Rule. Under the Rule, a “covered account” is:

1. Any account the City offers or maintains primarily for personal, family or household purposes, that involves multiple payments or transactions; and
2. Any other account the City offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the City from Identity Theft.

“Identifying information” is defined under the Rule as “any name or number that may be used, alone or in conjunction with any other information, to identify a specific person,” including: name, address, telephone number, social security number, date of birth, government issued driver’s license or identification number, employer or taxpayer identification number, unique electronic identification number, computer’s Internet Protocol address, or routing code.”

II. Risk Assessment

The City of Sherman evaluated the effectiveness of its current procedures in identifying, detecting, and responding to identity theft. The City also identified the areas most susceptible to identity theft:

- New accounts opened In Person
- New accounts opened via Telephone
- New accounts opened via Fax
- New accounts opened via Web
- Account information accessed In Person
- Account information accessed via Telephone (Person)
- Account information accessed via Web Site
- Identity theft occurred in the past from someone falsely opening a City account

III. Identification of Red Flags

In order to identify relevant Red Flags, the City considers the types of accounts that it offers and maintains, the methods it provides to open its accounts, and the methods it provides to access its accounts. The City identifies the following red flags, in each of the listed categories:

(a) Suspicious Documents

Red Flags

1. Identification document or card that appears to be forged, altered or inauthentic;
2. Identification document or card on which a person’s photograph or physical description is not consistent with the person presenting the document;
3. Other document with information that is not consistent with existing customer information (such as if a person’s signature on a check appears forged); and
4. Application for service that appears to have been altered or forged.

(b) Suspicious Personal Identifying Information

Red Flags

1. Identifying information presented that is inconsistent with other information the customer provides;
2. Identifying information presented that is inconsistent with other sources of information;
3. Identifying information that is inconsistent with information on the customer's file/account;
4. Identifying information presented that is the same as information shown on other applications or accounts;
5. Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);
6. Identification presented that is the same as one given by another customer; and
7. A person fails to provide complete personal identifying information on an application when reminded to do so (however, by law, social security numbers must not be required).

(c) Suspicious Account Activity or Unusual Use of Account

Red Flags

1. Change of address for an account followed by a request to change the account holder's name;
2. Mail sent to the account holder is repeatedly returned as undeliverable;
3. Notice to the City that a customer is not receiving mail sent by the City;
4. Notice to the City that an account has unauthorized activity; and
5. Breach in the City's computer system security.

(d) Alerts from Others

Red Flag

Notice to the City from a customer, identity theft victim, law enforcement or other person that it has opened or is maintaining a fraudulent account for a person engaged in Identity Theft.

IV. Detecting Red Flags

(a) New Accounts

In order to detect any of the Red Flags identified above associated with the opening of a **new account**, City personnel shall take the following steps to obtain and verify the identity of the person opening the account:

Detect

1. Require certain identifying information such as name, residential or business address, principal place of business for an entity, valid driver's license or other state issued identification;
2. Verify the customer's identity (for instance, review a driver's license or other identification card);
3. Review documentation showing the existence of a business entity; and
4. Independently contact the customer.

(b) Existing Accounts

In order to detect any of the Red Flags identified above for an **existing account**, City personnel shall take the following steps to monitor transactions with an account:

Detect

1. Verify the identification of customers if they request information (in person, via telephone, via facsimile, via email);
2. Verify the validity of requests to change billing addresses; and
3. Verify changes in banking information given for billing and payment purposes.

V. Preventing and Mitigating Identity Theft

In the event City personnel detect any identified Red Flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the Red Flag:

(a) Prevent and Mitigate

1. Continue to monitor an account for evidence of Identity Theft;
2. Contact the customer and/or property owner;
3. Change any passwords or other security devices that permit access to accounts;
4. Not open a new account;
5. Close an existing account;
6. Reopen an account with a new number;
7. Notify the Program Administrator for determination of the appropriate step(s) to take;
8. Notify law enforcement; or
9. Determine that no response is warranted under the particular circumstances.

(b) Protect Customer Identifying Information

In order to further prevent the likelihood of Identity Theft occurring with respect to City accounts, the City shall take the following steps with respect to its internal operating procedures to protect customer identifying information:

1. Only specially identified employees with a legitimate need shall have access to secured areas/cabinets.
2. Files containing personally identifiable information shall be kept in a locked area/cabinet except when an employee is working on the file.
3. Employees shall not leave sensitive papers out on their desks when they are away from their workstations.
4. Access to offsite storage facilities shall be limited to employees with a legitimate business need.

5. Visitors who must enter areas where sensitive files are kept shall be escorted by an employee of the City/department.
6. No visitor shall be given any entry codes or allowed unescorted access to the office.
7. Access to sensitive information shall be controlled using “strong” passwords. Employees shall choose passwords with a mix of letters, numbers, and characters. User names and passwords shall be different. Passwords shall be changed every 90 days.
8. Individual passwords shall not be shared; system passwords shall not be posted near workstations.
9. Password-activated screen savers shall be used to lock employee computers after a period of inactivity.
10. When installing new software, vendor-supplied default passwords shall be changed to a more secure strong password.
11. Sensitive information that is sent to third parties over public networks shall be encrypted.
12. Anti-virus programs shall be run on individual computers and on servers daily.
13. Personal identification information shall not be sent via email.
14. When sensitive data is received or transmitted, secure connections shall be used.
15. Laptop users shall not store sensitive information on their laptops.
16. The computer network shall have a firewall where the laptop user’s network connects to the Internet.
17. Any wireless network in use shall be secured.
18. Before employees are hired who will have access to sensitive data, references and background checks will be performed.
19. New employees shall sign an agreement to follow the company’s confidentiality and security standards for handling sensitive data.
20. Access to customer’s personal identity information shall be limited to employees with a “need to know.”

21. When an employee leaves or transfers to another department, access to systems and sensitive information shall be immediately disabled.
22. Employees shall be trained on identifying and responding to red flags.
23. Employees shall be alert to attempts at phone phishing.
24. Employees shall be required to notify the Program Administrator immediately if there is a potential security breach.
25. Employees who violate security policy shall be subjected to discipline, up to and including dismissal.
26. Service providers shall notify the employee of any security incidents they experience, even if the incidents may not have led to an actual compromise of the City's data.
27. Paper records shall be shredded before being placed into the trash.
28. Any data storage media shall be disposed of by shredding, punching holes in, or incineration.

VI. Program Updates

The Program Administrator shall periodically review and update this Program to reflect changes in risks to customers and the soundness of the City from Identity Theft. In doing so, the Program Administrator shall consider the City's experiences with Identity Theft situations, changes in Identity Theft methods, changes in Identity Theft detection and prevention methods, and changes in the City's business arrangements with other entities. After considering these factors, the Program Administrator shall determine whether changes to the Program, including the listing of Red Flags, are warranted. If warranted, the Program Administrator shall update the Program or present the City Council with his or her recommended changes; and the City Council will make a determination of whether to accept, modify, or reject those changes to the Program.

VII. Program Administration

(a) Oversight

Responsibility for developing, implementing, and updating this Program shall lie with an Identity Theft Committee for the City, headed by a Program Administrator. The Program Administrator shall be responsible for the Program administration, for ensuring appropriate training of City staff on the Program, for reviewing any staff reports regarding the detection of Red Flags and the steps for preventing and mitigating Identity Theft, for determining which steps of

prevention and mitigation should be taken in particular circumstances, and for considering periodic changes to the Program.

(b) Staff Training and Reports

City staff responsible for implementing the Program shall be trained either by or under the direction of the Program Administrator in the detection of Red Flags and the responsive steps to be taken when a Red Flag is detected.

(c) Service Provider Arrangements

In the event the City engages a service provider to perform an activity in connection with one or more accounts, the City shall take the following steps to ensure the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of Identity Theft.

1. Require, by contract, that service providers have such policies and procedures in place; and
2. Require, by contract, that service providers review the City's Program and report any Red Flags to the Program Administrator.

SECTION 2. That it is the intention of the City Council of the City of Sherman, Texas, that the provisions of this ordinance shall become a part of the Code of Ordinances of the City of Sherman, Texas, and that sections of this ordinance may be renumbered or re-lettered to accomplish such intention.

SECTION 3. That the provisions of this ordinance are servable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity of effectiveness of the remainder of the ordinance.

SECTION 4. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

INTRODUCED on this the _____ day of _____, 2008.

ADOPTED on this the _____ day of _____, 2008.

EFFECTIVE DATE on this the _____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

BY: _____
INTERIM CITY ATTORNEY



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. B.4

ADOPTION OF ORDINANCES

Consider Adoption of Ordinance Numbers: 5571, 5572 and 5573

B.1 INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5571

Providing for Permanent “Stop” Signs at the Intersections of Rivercrest and Idlewood, North Haven and Cypress Grove, North Haven and Idlewood, Liberty Hill and Travis Street, and North Creek and Travis Street within the City Limits of the City of Sherman; Providing for a Penalty Provision

B.2 INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5572

Repealing Ordinance No. 5484; Establishing Assignment Pay Schedules for Firefighters and Police Officers

B.3 INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5573

Amending Chapter 1 of the Code of Ordinances, “General Provisions”, at Article 1.02, “Administration”, to Add Section 1.02.003 to Establish an Identity Theft Prevention Program; Providing for Definitions, Policies and Procedures for Implementation of the Identify Theft Prevention Program



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. B.5

TABLED AT MARCH 17, 2008 COUNCIL MEETING:

ADOPTION OF ORDINANCE NO. 5523

Amending Chapter 13 of the Code of Ordinances, "Utilities", at Article 13.07, "Water, Sewers and Sewage Disposal", by Amending Division 3, "Sewers and Sewage Disposal", and Adding Division 6, "Fats, Oil, Grease and Sediment Control"

Issue

This agenda item is to amend the "Water, Sewers and Sewage Disposal" code provisions at Division 3, "Sewers and Sewage Disposal", and add Division 6, "Fats, Oil, Grease and Sediment Control". **As this item was tabled following public hearing at the March 17th City Council meeting, a motion and order are required to remove it from the table for consideration at this meeting.**

Background

Following public hearing, proposed Ordinance No. 5523 was tabled at the March 17th Council meeting. The Mayor and City Council had questions and concerns and needed additional information from the City staff before they would consider enacting the ordinance. This additional information has been provided to the City Council; and staff will be on hand to answer any other questions or concerns.

Proposed Ordinance No. 5523 updates the portion of the Sherman City Code which regulates the non-domestic introduction of fats, oils, grease, and sediment into the City's sanitary sewer system. Written to be compatible with the model ordinance directed by the Texas State Legislature in 2003, these changes to the City Code will:

1. help protect the sanitary sewer system and wastewater treatment plant from blockages, interferences, and deterioration caused by fats, oils, grease, and sediments; and
2. help protect downstream property owners and citizens from damage caused by the illicit discharge of these materials.

Adoption of these code changes is consistent with the City's participation in its Sanitary Sewer Overflow (SSO) Initiative Program; and it affords the City with an affirmative defense against enforcement by the State for sanitary sewer overflow violations of our wastewater discharge permit. The overall impact of these ordinance changes is to make non-domestic dischargers responsible for their own actions and to help prevent the problems caused by the discharge of fats, oils, grease and sediment.

Origination

Engineering and Utility Department

Financial Consideration

None to the City. A proposed schedule of penalties for non-compliance will be presented for Council approval following adoption of the ordinance.

Staff Recommendation

The staff recommends that the Council adopt the proposed ordinance.

Alternatives

The Council could direct that further revisions be made to the ordinance prior to considering its adoption.

Attachments

- 1) City Manager's Memo of October 22, 2008
- 2) Overview of the Proposed FOG Ordinance
- 3) Ordinance No. 5523
- 4) FOG Guide

Prepared by:
Mark Gibson, Engineering & Utilities Director

Approved by:
George Olson, City Manager

memorandum

DATE: Wednesday, October 22, 2008

TO: The Honorable Mayor Bill Magers and Members of the Sherman City Council

MC: Robby Hefton, Assistant City Manager/CFO
Mark Gibson, Director of Utilities and Engineering

FROM: George Olson, City Manager

SUBJECT: Proposed Fats, Oils and Grease (FOG) Ordinance

The attached Fats, Oils and Grease (FOG) Ordinance is a revision of the original ordinance submitted for Council consideration last March. This ordinance has been revised to shorten its content; and a FOG Guide has been developed to help users understand the basic requirements of the ordinance in a condensed format.

As you know, the 78th Texas Legislature, through amendments to the Texas Water Code, required the Texas Commission on Environmental Quality (TCEQ) to establish standards for sewer system operators to follow in order to prevent the discharge of wastewater due to blockages from grease. TCEQ will consider that a community has taken reasonable procedures to prevent overflows due to grease blockages if the municipality has adopted these minimum standards through an ordinance.

The adoption of this proposed FOG Ordinance will essentially codify the procedures currently being utilized by our staff and not create a significant change in City practices related to existing FOG enforcement. It will also provide the City flexibility to assist users to achieve compliance and protect the City from penalties that could arise from future sanitary sewer overflows.

It is my plan to include this proposed Ordinance on the November 3rd Council meeting agenda for your consideration. During the interim, should you have any questions or desire additional information or clarification, please do not hesitate to contact me.

GO:pc

Attachments: Overview of Proposed FOG Ordinance
Proposed FOG Ordinance
FOG Guide



OVERVIEW OF THE PROPOSED FOG ORDINANCE

1. *What is the purpose of the FOG Ordinance?*

This ordinance is designed to bring the City into full compliance with TCEQ requirements. Specifically, it will:

- Help reduce the presence of FOG in the collection system.
- Reduce the number of SSOs the City experiences.
- Help protect citizens' homes and businesses from sewer backups due to FOG problems.
- Help reduce human exposure to disease causing organisms present in SSO waters.
- Protect local streams, creeks, and surface waters from SSO pollution.
- Will help preserve the carrying capacity in our current collection system and limit costs of providing additional or expanded sewer service. This will help support the City's goal of encouraging development.
- Will help reduce O&M costs in the City's collection system through reduced cleaning requirements, reduced blockage clearing, reduced infrastructure and equipment deterioration and replacement.
- Will help lower our vulnerability to SSO violations along with attendant enforcement actions.
- Uphold our commitment under the SSO Outreach Initiative to implement an acceptable FOG ordinance.
- Reduce, but not eliminate, pressure for staff growth to manage the program.

Significantly, the FOG issues being addressed are state and federal requirements. Adoption of this ordinance will not disadvantage Sherman relative to any other cities. These requirements will apply anywhere a business wishes to locate within the State of Texas and throughout the Nation.

2. *Is the City in compliance today?*

Sherman's existing ordinance provisions for controlling fats, oils and grease (Article 13.07, Division 3) are outdated and no longer adequate to satisfy state and federal requirements. Updating the City Code language became necessary in order to modernize our program, adopt enforcement authority, and to satisfy the state's new requirements.

The City is not in "full compliance" because we have no enforcement language in the present City Code which provides penalties or a response plan for violation of the code's FOG management provisions.

The proposed ordinance is very similar to ordinances in other cities throughout Texas and the nation. The ordinance length is largely governed by the necessity of incorporating all the features that TCEQ requires. The proposed ordinance has been revised to a length of 46 pages.

3. *What would the changes mean to a business/owner?*

Impacts upon business will be little different than are currently being experienced. New businesses will generally be required to install a grease trap. Businesses which already are properly operating grease traps will see very little impact. Existing businesses without grease traps may see some degree of “grandfathering” until they are found to be causing a problem, change ownership, or undergo an upgrade.

The proposed ordinance provides provisions for appeals and variances that are not available under the existing code. The proposed ordinance is written to communicate requirements, but still leave flexibility in the system to work with each customer.

4. *What would be the cost to businesses to comply with the proposed ordinance?*

The typical range of costs for a business to install a grease trap runs from approximately \$3,000 to \$20,000. The actual cost will depend on type, size, and configuration of the business. Typical costs of operating (i.e., pumping) a grease trap are currently about \$0.16 – \$0.17 per gallon. Pumping requirements are proposed to be four times per year (minimum).

5. *Is the program cost effective from the City’s standpoint?*

According to EPA estimates, Sherman could see potential cost savings of over \$200,000 per year city-wide just from preventing SSOs related to FOG.

6. *What are the consequences to the City if the FOG Ordinance is not adopted?*

Adoption of the FOG Ordinance is a requirement of the City’s continued participation in the State’s Sanitary Sewer Overflow (SSO) Outreach Initiative. Failure to adopt the FOG Ordinance could result in the City being removed from the SSO Initiative and result in escalating penalties for each future sanitary sewer overflow.

ORDINANCE NO. 5523

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES, "UTILITIES", AT ARTICLE 13.07, "WATER, SEWERS AND SEWAGE DISPOSAL", BY AMENDING DIVISION 3, "SEWERS AND SEWAGE DISPOSAL", AND ADDING DIVISION 6, "FATS, OIL, GREASE AND SEDIMENT CONTROL"; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER CLAUSE; 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 Article 13.07, "Water, Sewers and Sewage Disposal" shall be amended at Division 3, "Sewers and Sewage Disposal," as follows:

Sec. 13.07.110 - 13.07.140138 Reserved

Division 3. Sewers and Sewage Disposal

Part I. In General

Sec. 13.07.139 Administration

Except as otherwise provided herein, the Director of Utilities and Engineering (the "director") shall administer, implement and enforce the provisions of this division. Any powers granted to or duties imposed upon the director may be delegated to other city personnel.

Sec. 13.07.13840 Definitions

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this division, shall have the meanings hereinafter designated:

- (1) Act. *The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.*
- (2) Building sewer. *A sewer conveying wastewater from the premises of user to the POTW.*
- (3) City. *The city, or any authorized person acting in its behalf.*
- (4) Control authority. *The city or its designated representative.*

- (5) Director of utilities and engineering (director). The person designated by the city to supervise the POTW and be responsible for water pollution control for the city, and who is charged with certain duties and responsibilities by this division, or his duly authorized representative.
- (6) Domestic or sanitary wastes (Liquid). Wastewater from normal residential activities including, but not limited to wastewater from kitchen, bath, and laundry facilities; or wastewater from the personal sanitary conveniences (toilets, showers, bathtubs, fountains, non-commercial sinks and similar structures) of commercial, industrial or institutional buildings, provided that the wastewater exhibits characteristics that are similar to those of wastewater from normal residential activities.
- (7) Excessive. Amounts of discharge in which the average concentration exceeds more than two hundred fifty (250) mg/l for BOD and TSS.
- (8) Fats, oils and greases (FOG). Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136, and amendments thereto. All are sometimes referred to herein as "grease."
- (9) Garbage. Animal and vegetable wastes and residue from preparation, cooking and dispensing of food; and from the handling, processing, storage and sale of food products and produce.
- (10) Holding tank waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.
- (11) Infiltration. The penetration of water through the ground surface into sub-surface soil or the penetration of water from the soil into sewer or other pipes through defective joints, connections, or manhole walls.
- (12) Inflow. Water other than wastewater that enters a sewer system (including sewer service connections) from sources such as roof leaders, cellars drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from infiltration.
- (13) Municipal separate storm sewer system (MS4). The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, culverts, pipes, or storm drains) owned and operated by the city and designed or used for collecting or conveying storm water, and which is not used for collecting or conveying sewage.

- (14) Non-Domestic User or Industrial User. A source of indirect discharge which does not constitute a discharge of pollutants under regulations issued pursuant to Section 402 of the Act; any person including those located outside the jurisdictional boundaries of the City, who contribute, cause or permits the contribution or discharge of non-domestic wastewater into the POTW, including persons who contribute such wastewater from mobile sources.
- (15) Non-Domestic Wastewater. Wastewater resulting from any industrial, commercial, manufacturing, food preparation or food processing operation or from development of any natural resource, or any mixture of these with water or domestic wastewater.
- (16) Normal domestic wastewater. Wastewater excluding industrial wastewater discharged by a person into sanitary sewers and in which the average concentration of TSS is not more than two hundred fifty (250) mg/l and BOD is not more than two hundred fifty (250) mg/l.
- (17) Overload. The addition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity.
- (18) pH. A measure of the acidity or alkalinity of a substance, expressed in standard units.
- (19) Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, successors, or assigns. This definition includes all federal, state or local governmental entities.
- (20) Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, agricultural, industrial wastes and municipal wastes, and the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor).
- (21) Pollution. The manmade or man-induced introduction of a harmful quantity of any pollutant into water or wastewater.
- (22) Publicly owned treatment works or POTW. A “treatment works” as defined by section 212 of the act (33 U.S.C. 1292), which is owned by the state or municipality (as defined by section 502(4) of the act). This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the industrial users and responsibility for the operations and maintenance of the treatment works.

- (23) Sanitary sewer. A pipe or conduit that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters.
- (24) Sewer. A pipe or conduit that carries wastewater or drainage water.
- (25) Storm drain (sometimes termed "storm sewer"). A drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source into which domestic wastewater or industrial wastewater is not intentionally passed.
- (26) Stormwater. Any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snowmelt.
- (27) Unpolluted water. Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and the POTW.
- (28) Wastewater (sewage). The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.
- (29) Wastewater collection system. The piping, conduits, pumping stations, force mains, and all other constructions, devices, and appurtenance appliances used to transport wastewater.

Sec. 13.07.141 *Emergency suspension of water supply and/or discharge*

(a) Whenever the director finds that an emergency exists which requires immediate action, 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 suspending a user's city-provided water supply and/or wastewater discharge when such suspension is necessary in the opinion of the director to stop an actual or threatened discharge which:

- (1) Presents or may present imminent and substantial danger to the environment or to the health or welfare of persons;*
- (2) Presents or may present imminent and substantial danger to the POTW; or*
- (3) Causes or will cause pass through or interference of the POTW.*

(b) If time permits, the director should notify the user prior to the suspension.

(c) Any user notified of a suspension of its water supply and/or wastewater discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to comply immediately and voluntarily with the suspension order, the director may take such steps as deemed necessary to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. Such steps may include immediate severance of the user's water service and sewer connection.

(d) The user shall not recommence its water service/discharge until the director so authorizes and:

- (1) The user presents proof satisfactory to the director that the non-compliant discharge has ceased;
- (2) The user presents proof satisfactory to the director that the conditions creating the threat of imminent and substantial danger have been eliminated;
- (3) The user pays the city for all costs incurred by the city in responding to the discharge or threatened discharge; and
- (4) The user pays the city for all costs the city will incur in reinstating services.

(e) 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 director shall be afforded a hearing as soon as possible, as provided by section 13.07.877 of this article.

(f) The remedies provided by this section are in addition to any other remedies set out in this article. Exercise of this remedy shall not be a bar against nor a prerequisite for, taking other action against a violator.

Sec. 13.07.142—Authority to disconnect services

~~The city may terminate water and wastewater disposal service and disconnect an industrial customer from the system when:~~

- ~~(1) A governmental agency informs the city that the effluent from the POTW is no longer of a quality permitted for discharge to a receiving stream and it is found that the customer is delivering wastewater to the city's system that cannot be sufficiently treated or requires treatment that is not provided by the city as normal wastewater treatment; or~~
- ~~(2) The industrial customer non-domestic user fails to pay monthly bills for water and sanitary sewers or natural watercourse.~~
- ~~(3) If service is discontinued pursuant to subsection (1) or (2) of this section, the city shall:~~

~~(A) Disconnect the customer;~~

~~(B) Supply the customer with the governmental agency's report and require additional pretreatment or other facilities designed to remove the objectionable characteristics from his industrial wastes.~~

~~(4) Any person failing to pay industrial surcharge bills when due shall be in violation of this division and shall be so notified in writing and be given thirty (30) days to make payment.~~

~~(5) Any person failing to pay administrative fees required by section 13.07.751 of this division.~~

Sec. 13.07.142 *Non-emergency termination of water supply and/or discharge*

(a) A user who violates the following conditions is subject to the termination of its city-provided water supply and/or its discharge:

(1) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(2) Failure to provide reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

(3) Failure to pay FOG control program fees, surcharges or other applicable fees.

(b) The user will be notified of the proposed termination of its water supply and/or discharge, and may petition for a reconsideration and hearing as provided by section 13.07.877 of this article prior to the termination of services.

(c) The user shall not recommence its discharge until the director so authorizes and:

(1) The user presents proof satisfactory to the director that all noncompliance has been corrected; and

(2) The user pays the city for all costs the city will incur in reinstating services.

(d) Exercise of this option by the director shall not be a prerequisite for taking any other action against the user.

[the rest of Part I remains the same]

Part II. General ~~Industrial~~ Non-Domestic User Requirements

Sec. 13.07.176 ~~Requirements for traps~~ *Reserved*

~~(a) Discharges requiring a trap include, but are not limited to:~~

- ~~(1) Grease or waste containing grease in excessive amounts;~~
- ~~(2) Oil;~~
- ~~(3) Sand;~~
- ~~(4) Flammable wastes; and~~
- ~~(5) Other harmful ingredients.~~

~~(b) Any person responsible for discharges requiring a trap shall, at his own expense, and as required by the control authority:~~

- ~~(1) Provide equipment and facilities of type and capacity approved by the control authority;~~
- ~~(2) Locate the trap in a manner that provides ready and easy accessibility for cleaning; and~~
- ~~(3) Maintain the trap in effective condition.~~

Sec. 13.07.177 Requirements for building sewers

Any person responsible for discharges through a building sewer carrying industrial *or non-domestic* wastes shall at his own expense and as required by the ~~control authority~~ city:

- (1) Install an accessible and safely located control manhole *as required in section 13.07.179*;
- (2) Install meters, *sample ports* and other appurtenances to facilitate observation, sampling, and measurement of the waste *and flows discharging into the POTW as specified in divisions 5 and 6 of this article*; and
- (3) Maintain the equipment and facilities.

Sec. 13.07.178 Payment and agreement required

When discharges of industrial *or non-domestic* waste are approved by the ~~city control authority~~, the city or its representative shall enter into an agreement or arrangement providing:

- (1) Terms of acceptance by the city; and
- (2) Payment by the person making the discharge.

Sec. 13.07.179 Control chambers

(a) Any person discharging or desiring to discharge an industrial *or non-domestic* waste mixture into the sewers or POTW of the city, or any sewer connected therewith, shall provide and maintain in a suitable accessible position on his premises, or such premises occupied by him, an inspection chamber, or manhole, near the outlet of each sewer, drain, pipe, channel, or connection which communicates with any sewer or POTW of the city, or any sewer connected therewith. ~~Every such manhole or inspection chamber shall be of such design and construction which will prevent infiltration by ground and surface waters.~~

(b) Plans for the construction of control manholes or inspection chamber, including such flow measuring devices as may be hereinafter required, shall be approved by the director of ~~utilities and engineering~~ prior to the beginning of construction.

Sec. 13.07.180 Volume of waste

(a) When the public water supply is used exclusively, the water consumption during the previous month, as determined from the meter records of the water department, shall be the valid basis for computing sewage flow, unless actual sewage flow is measured by a recording meter of a type to be approved by the director of utilities and engineering. The owner shall maintain such device in proper condition to accurately measure such flow. Upon failure to do so, the water consumption shall be the basis for charges.

(b) In cases where all or part of the water consumed is obtained from private supplies, wells, etc., such persons shall provide and maintain at all times suitable metering and recording devices, approved by the director of water utilities, in connection with each or all sources of private water unless the control manhole provided for in section 13.07.179 shall be equipped with an approved volume measuring and recording device. The volume of private water consumed during the previous month, together with the consumption of public water as determined from the records of the water department, shall be the basis for computing the sewage volume or the owner may install at his own expense an approved metering device to accurately measure flow as before mentioned.

(c) When water is contained in a product or is evaporated or is discharged as unpolluted waste in an uncontaminated condition to surface drainage, an application may be made for a reduction in the volume of waste discharged to the public sewer, provided supporting data satisfactory to the director of water utilities is furnished.

(d) This data shall include a flow diagram, destination of the water supply and/or wastes, supported by sub-metering data installed on such process piping at the expense of the private owner.

Sec. 13.07.181 Protection of the wastewater collection system

(a) Protection from damage and tampering

- (1) No person shall intentionally, knowingly, or with criminal negligence, break, damage, deface, or tamper with any structure, appurtenance, or equipment which is part of the wastewater collection system.*
- (2) Unless approved by the director, no person shall cover any manhole, sewer cleanout, or other openings in the wastewater collection system with earth, paving, or otherwise render it inaccessible.*
- (3) No building or structure shall be located on top of the wastewater collection system.*
- (4) No person shall remove the cover (lid) from any manhole, sewer cleanout, or other openings in the wastewater collection system for any purpose except as authorized by the city.*

(b) Protection from inflow and infiltration

- (1) Connections to the wastewater collection system from roof headers, catch basins, unroofed area drains (e.g., commercial car washing facilities, solid waste container storage areas, etc.) or any other direct or indirect connection which allows inflow from stormwater or runoff to enter the wastewater collection system are prohibited.*
- (2) All portions of the user's building sewer and/or private sewer system connected to the city's wastewater collection system directly or indirectly, including, but not limited to, piping, connections, cleanouts, and manholes shall be properly maintained to prevent the introduction of infiltration from entering the wastewater collection system through defective joints, connections, manhole walls or other sources.*
- (3) The city may require users to implement best management practices (BMPs) as specified in section 13.07.793 of this article or take other measures necessary to reduce and/or eliminate inflow or infiltration from entering the user's building sewer system, treatment devices, or other connections to the city's wastewater collection system.*

(c) Storage of chemicals, materials, substances or wastes

- (1) No chemicals, materials, or substances, including but not limited to, paints, solvents, boiler or water treatment chemicals, sludges, chemicals, or wastes shall be stored in proximity to a floor drain or other sewer openings. Containers shall be clearly labeled and stored in a place where the chemicals, materials,*

substances or wastes, in case of leakage or rupture of the container, cannot enter the wastewater collection system.

- (2) The storage of any chemicals, materials, substances or wastes that leak or have potential to leak or discharge into the wastewater collection system which, because of discharge or leakage from such storage, may create an explosion hazard or in any way have a deleterious effect to the POTW or constitute a nuisance or a hazard to POTW personnel, the general public, the environment, or the receiving stream shall be subject to review by the city.*
- (3) The director may require a user to provide reasonable safeguards to prevent the discharge or leakage of stored chemicals, materials, substances or wastes into the wastewater collection system. These safeguards include, but are not limited to:*
 - (A) Providing physical containment that is adequate to contain at least one hundred twenty percent (120%) of the maximum volume of the stored chemicals, materials, substances or wastes;*
 - (B) Labeling, moving or relocating containers of stored chemicals, materials, substances or wastes;*
 - (C) Providing material safety data sheets (MSDS) or other necessary documentation to identify constituents in the chemicals, materials, substances or wastes stored;*
 - (D) Providing temporary spill protection such as booms, pigs or drain covers, or more permanent spill protections such as sealing floor drains to prevent stored chemicals, materials, substances or wastes from discharging or leaking into the wastewater collection system; or*
 - (E) Analyzing chemicals, materials, substances or wastes to determine if wastes exhibit toxic or hazardous characteristics.*
- (4) The director may also require a user to develop and implement best management practices (BMPs) or a slug control plan as defined in section 13.07.393 to prevent the discharge or leakage of such chemicals, materials, or wastes.*
- (5) The requirements to install safeguards or the city's approval of slug control plans or BMPs shall not exempt the user from compliance with any other applicable code, ordinance, rule, regulation or order of any governmental authority. Additionally, these requirements or approvals shall not be construed as or act as a guaranty or assurance that the user is, or will be, in compliance with any other applicable code, ordinance, rule, regulation or order of any governmental authority.*

- (6) *The costs for implementing any safeguards, slug control plans, BMPs or other requirements established by the city are the responsibility of the user.*

Secs. 13.07.1842 - 13.07.205 Reserved

Part III. Prohibited Discharges

Sec. 13.07.206 ~~Deposit~~ Discharge of sewage so as to pollute water supply

No person shall discharge or cause the discharge of ~~It shall be unlawful for any person to dump or otherwise deposit any sewage of any kind~~ pollutants, substances, or wastewater in any abandoned water well or at or in any other place which would pollute any source of water supply.

Sec. 13.07.207 ~~Deposit of garbage, offal, etc.~~ Prohibited pollutants, substances or wastewater

It shall be unlawful for any person to throw or deposit or cause to be thrown or deposited in any sewer opening or receptacle connecting with the sewer system any garbage, offal, dead animal, vegetable parings, ashes, cinders, rags or any other matter or thing whatsoever, except feces, urine and the necessary toilet paper or substance other than toilet paper that is suitable for passing through sanitary sewers.

(a) *No person shall discharge or cause the discharge of the following in the wastewater collection system:*

- (1) *Prohibited materials including, but not limited to ashes, wax, paraffin, cinders, sand, mud, straw, wood shavings, sawdust, bone, paunch manure, hair, hides or fleshings, entrails, whole blood, feathers, beer or distillery slops, grain processing wastes, compounds and residues from grinding operations (excluding food grinders), acetylene generation sludge, chemical residues, acid residues, plastics, rubber, tar, asphalt residues, food processing bulk solids, or any rubbish, refuse, sludge or other discarded materials requiring disposal as a solid waste as defined in Article 13.06 of this Code;*
- (2) *Solids or viscous substances, including, but not limited to fats, oils, and grease in amounts which cause obstruction of flow resulting in pass through or interference of the POTW and/or result in sanitary sewer overflows that discharge into the MS4;*
- (3) *Wastewater containing excessive amounts of fats, oils, and grease in amounts which may, alone or in combination with other wastes, cause accumulation and/or result in blockages or obstruction of flow in the wastewater collection system, interfere with the normal operations of pumps and their control, and/or contribute waste of a strength or form that is beyond the treatment capability of the wastewater treatment plant;*

- (4) *Garbage that is not properly shredded to such an extent that all particles will be carried freely under the flow conditions normally prevailing in the wastewater collection system, with no particles having greater than one-half inch (1/2") cross-sectional dimension;*
- (5) *Wastes from interceptors and traps, including, but not limited to: wastes collected from cleaning or pumping grease/sand interceptors, grease traps, oil/water separators, sand traps or other similar waste collection devices;*
- (6) *Pollutants, substances or wastewater which imparts color which cannot be removed by the existing wastewater treatment plant processes, including, but not limited to: tannins, dye wastes and vegetable canning solutions;*
- (7) *Wastewater containing materials which can exert, cause, or contain unusual concentrations of solids, including but not limited to: inert total suspended solids, fuller's earth, lime slurries, lime residues, or unusual concentrations of dissolved solids including, but not limited to, sodium chloride, calcium chloride and sodium sulfate;*
- (8) *Pollutants, substances or wastewater not amenable to treatment by the existing processes and facilities employed by the city's wastewater treatment plant and/or pollutants, substances or wastewater that is amenable to treatment only to such a degree that the wastewater treatment plant effluent cannot meet the requirements of the city's TPDES wastewater discharge permit;*
- (9) *Specific prohibitions listed in section 13.07.352 of this article; or*
- (10) *Pollutants, substances or wastewater that exceed specific pollutant limitations established in section 13.07.356 of this article.*

Sec. 13.07.208 — ~~Greasy, oily substances~~

~~No person may discharge into sanitary sewers any grease or oil containing substances that may:~~

- ~~(1) Deposit grease or oil into sanitary sewers in such a manner as to clog sewers;~~
- ~~(2) Overload skimming and grease handling equipment at the POTW;~~
- ~~(3) Pass to the receiving stream without being effectively treated by normal wastewater treatment processes due to the nonamenability of the substance to bacterial action; or~~
- ~~(4) Deleteriously affect the treatment process due to excessive quantities.~~

Sec. 13.07.208 *Prohibited discharge practices*

(a) *The following discharge practices are prohibited unless otherwise authorized by the director:*

- (1) *Removing wastes collected in a grease trap, grease/sand interceptor, waste collection tank or other treatment device and reintroducing any portion of the wastes back into the wastewater collection system either directly or indirectly;*
- (2) *Discharging pollutants, substances, or wastewater directly into a manhole or other opening in the wastewater collection system other than through an approved sewer service line;*
- (3) *Discharging hauled waste which has been transported from another site onto a residential, commercial, or industrial site except as outlined in section 13.07.361 of this article; and*
- (4) *Discharging pollutants, substances, or wastewater from non-domestic sources into the collection system at a residential or other domestic wastewater source.*

~~Sec. 13.07.209 — Substances which are nontreatable, resistant to treatment~~

~~No person may discharge any substance into sanitary sewers which:~~

- ~~(1) — Is not amenable to treatment only to or reduction by the processes and facilities employed;~~
- ~~(2) — Is amenable to treatment only to such a degree that the POTW effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving stream.~~

Sec. 13.07.209 Wastewater discharges into the MS4

(a) No person shall discharge or cause the discharge of pollutants, substances or wastewater from a building sewer or wastewater collection system onto any portion of the MS4.

Secs. 13.07.210 - 13.07.235 Reserved

SECTION 2. That Article 13.07, “Water, Sewers and Sewage Disposal” shall be amended to add Division 6, “Fats, Oil, Grease and Sediment Control,” said division to read as follows:

Division 6. Fats, Oil, Grease and Sediment Control

Part I. In General

Sec. 13.07.760 Purpose and policy

(a) This division is established to prevent the discharge of fats, oils and grease, flammable wastes, sand and other objectionable wastes into the non-domestic user’s building drainage system or the POTW by requiring users to provide a device to intercept and treat objectionable

wastes, and to set forth uniform requirements for installing, operating, monitoring, and maintaining these devices.

(b) *The objectives of this division are:*

- (1) *To prevent the introduction of wastewater containing fats, oils and grease in amounts which may cause and/or contribute to blockages or obstruction of flow, or in any other way prevent or inhibit operation of the POTW;*
- (2) *To prevent blockages in sewer service lines, laterals, mains, manholes, lift stations or any other portions of the wastewater collection system which cause and/or contribute to back-ups or sanitary sewer overflows onto public or private property resulting in potential liability to the city;*
- (3) *To enable the City of Sherman, Texas to comply with its Texas Pollutant Discharge Elimination System (TPDES) permit conditions and any federal or state laws to which the POTW is subject;*
- (4) *To implement procedures to recover costs incurred in cleaning, maintaining and disposing of fats, oils and grease, flammable wastes, sand and other objectionable wastes that cause and/or contribute to accumulation or blockages in the POTW or cause and/or contribute to back-ups or sanitary sewer overflows into the MS4;*
- (5) *To implement procedures to recover costs for any liability incurred by the city for damage caused by blockages in the POTW that cause and/or contribute to back-ups or sanitary sewer overflows resulting in the flooding of public or private property;*
- (6) *To establish uniform requirements for the sizing, installation, operation, and maintenance of treatment devices and sample ports;*
- (7) *To establish legal authority to carry out all inspection, surveillance and monitoring procedures to ensure compliance with this division;*
- (8) *To establish administrative review procedures and reporting requirements;*
- (9) *To establish enforcement procedures for violations of any part or requirement of this division; and*
- (10) *To establish fees for the recovery of costs resulting from the Fats, Oils & Grease and Sediment (FOG) control program established herein.*

Sec. 13.07.761 Administration

Except as otherwise provided herein, the Director of Utilities and Engineering (the “director”) shall administer, implement and enforce the provisions of this division. Any powers granted to or duties imposed upon the director may be delegated to other city personnel.

Sec. 13.07.762 Definitions

(a) Except as otherwise provided herein, abbreviations, terms and phrases as defined in other divisions of this article shall apply to the extent they are not in conflict with the provisions of this division.

(b) Unless the context specifically indicates otherwise, the following terms and phrases used in this division shall have the meanings hereafter designated:

- (1) Best management practices (BMP). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of the MS4 and waters of the United States; implementation of procedures and practices that reduce the discharge of fats, oils and grease, sand and other objectionable wastes to the building sewer drain and to the POTW. BMP also includes treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- (2) Biochemical oxygen demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty (20) degrees centigrade expressed in terms of mass per volume concentration (milligrams per liter (mg/l)).
- (3) Bioremediation media. Bacterial cultures, enzymes, or other media that are designed, intended, or used to eliminate or reduce the need for mechanical cleaning of traps.
- (4) Brown grease. Grease trap wastes that are designated for recycling or disposal.
- (5) Carpet cleaning and extraction facilities. Mobile units specifically designed for carpet cleaning and extraction operations.
- (6) Chemical oxygen demand (COD). The measure of the oxygen equivalent of the organic matter content of a sample that is susceptible to oxidation by a strong chemical oxidant present in water or wastewater expressed in mg/l.
- (7) City or city. The City of Sherman, Texas, or any authorized person acting in its behalf.
- (8) Efficient operating condition. A condition of operation where there is no obstruction to the flow of wastewater due to fats, oils and grease or other harmful pollutants occurs in the sewer lateral, sewer main, or the manhole to which the facility discharges, and/or in the opinion of the city, no significant amounts of fats, oils and grease or other wastes accumulates or settles inside the sewer lateral, sewer main, manhole, or lift station to which the facility discharges.

- (9) Fats, oils and greases (FOG). Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136, and amendments thereto. All are sometimes referred to herein as “grease.”
- (10) FOG control program. A source control program designed to protect the city’s POTW by controlling discharges of fats, oils and grease, sediment and other objectionable wastes that cause and/or contribute to blockages, obstruction of flow, back-ups in the wastewater collection system, or sanitary sewer overflows that discharge onto public or private property resulting in potential liability to the city. This program includes the requirements established in this division of the ordinance in addition to the FOG Control Guide which may include specific standard operating procedures, standardized forms, and other documentation.
- (11) Food service establishments. Restaurants, food courts, food packagers, grocery stores, bakeries, lounges, churches, schools, institutions, food manufacturers, food processors, hospitals, hotels, motels, prisons, nursing homes, mobile food vendors, cold dairy and frozen foodstuff preparation and serving establishments, and any other facility preparing, serving, or otherwise making any foodstuff available, or any establishment that is required to have a Grayson County Health Department food permit, and that performs one or more of the following preparation activities:
- (A) Frying, baking, broiling, grilling, sautéing, rotisserie cooking, boiling, blanching, roasting, toasting, or poaching;
 - (B) Infrared heating, searing, barbequing; and/or
 - (C) Any other food manufacturing, processing, preparation or food service activity that generates wastes and/or requires clean-up in a plumbing receptacle connected to the building sewer which discharges or has the potential to discharge to the wastewater collection system.
- (12) Food grinder. Any device installed in a user’s building sewer system for the purpose of grinding food waste or food preparation products for the purpose of disposing it in the wastewater collection system.
- (13) Garages and service stations. Facilities where automobiles are serviced, greased, repaired or washed or where gasoline, diesel fuel, or other petroleum-based fuel is dispensed.
- (14) Generator. Any person who owns or operates an interceptor, separator and trap, or whose act or process produces a waste.

- (15) Grease trap/grease interceptor. A passive device that is utilized to affect the separation of grease and oils in wastewater effluents from food service and related establishments. These devices also serve to collect settleable solids, generated by and from food/product preparation activities, prior to the wastes exiting the device and entering the wastewater collection system. Such traps or interceptors may be of the "outdoor" or underground type normally referred to as large grease interceptors, or the "under-the-sink" package units normally referred to as the smaller grease traps.
- (16) Hazardous waste. A hazardous waste in accordance with Title 40 of the Code of Federal Regulations, Part 261.3.
- (17) Holding tank. A receptacle not connected to the wastewater collection system, designed to hold objectionable waste that is prohibited from being discharged into the wastewater collection system, the contents of which must be hauled to a recycling or disposal site.
- (18) Incompatible wastes. Wastes that have different processing, storage or disposal requirements, or whose mixture would inhibit the proper disposal or treatment of each type of waste or combination of wastes; or wastes that if mixed may cause a dangerous chemical or physical reaction.
- (19) Intensified dwellings. Users such as adult day care facilities, assisted living facilities, convalescent homes, nursing and child care facilities, halfway houses, homes for the mentally challenged, nursing homes, retirement and life care facilities, or other facilities where there is a commercial food preparation service or the facility requires a food service license as required by the Grayson County Health Department or other appropriate regulatory agency.
- (20) Interceptor. A receptacle designed and constructed to intercept, separate and prevent the passage of sand, grit or other objectionable solids into the system to which it is connected.
- (21) Laundries. Commercial laundries, laundromats, dry cleaners, or parts of a facility which perform laundering operations.
- (22) Living quarters. A facility or an area of a facility where a person or family has a distinct living area, which includes individual kitchen and bath facilities, utilized solely by that person or family.
- (23) Municipal separate storm sewer system (MS4). The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, culverts, pipes, or storm drains) owned and operated by the city and designed or used for collecting or conveying storm water, and which is not used for collecting or conveying sewage.

- (24) Non-domestic user or industrial user. A source of indirect discharge which does not constitute a discharge of pollutants under regulations issued pursuant to Section 402 of the Act; any person(s) including those located outside the jurisdictional boundaries of the City, who contribute, cause or permit the contribution or discharge of non-domestic wastewater into the POTW, including persons who contribute such wastewater from mobile sources.
- (25) Reasonable hours. Any time during which a facility is open for business to the public and any time when a facility is closed to the public when a owner, manager, employee, and/or contractor is present at the facility that is involved in cleanup, food preparation, or any business activity.
- (26) Remodeling or renovating. A physical change or operational change including, but not limited to, changes to a user's building plumbing system, an increase in the public seating or serving area of a facility, an increase in the size of the kitchen or other area of a facility where objectionable wastes can be generated, or any change in the size, type or number of food preparation/equipment or plumbing fixtures which increases or has the potential to increase the amount of fats, oils and grease, flammable wastes, sand or other pollutants discharging to the wastewater collection system.
- (27) Residential users. Single-family dwellings, duplexes, multiplex housing and apartments where the individual units are each on a separate water meter; or in cases where two (2) or more units are served by one (1) meter; excludes intensified dwellings.
- (28) Sample port. A manhole or other approved device installed in the building sewer specifically designed to facilitate sampling of the wastewater discharge.
- (29) Separator or oil/water separator. A receptacle designed to remove oils and grease from wastewater by separation, usually by simple flotation, physical separation, or by chemical addition where the oils or greases are soluble or emulsified. For the purpose of this division, the term shall apply to oil/water separators used for vehicle wash facilities or other non-food related establishments.
- (30) Sewer lateral. A building sewer as defined in the plumbing code adopted by the city; also means the wastewater connection between the building's sewer facilities and the public sewer system.
- (31) Transporter. A person who is registered with and authorized by the TCEQ to transport sewage sludge, water treatment sludge, domestic septage, chemical toilet waste, grit trap waste, or grease trap waste in accordance with 30 TAC § 312.141 or amendments thereto.

- (32) Treatment devices. Grease traps, grease interceptors, oil/water separators, sand or grit traps, lint traps, catch basins, interceptors, reclamation equipment, acid/caustic dilution, basins or any other device designed to use the differences in specific gravities to separate and retain light density liquids, waterborne fats, oils, and greases prior to the wastewater entering the POTW.
- (33) TSS (total suspended solids). Solids that either float on the surface, or are in suspension in, water, wastewater, or other liquids, and which are generally removable by a laboratory filtration device. TSS is expressed in milligrams per liter.
- (34) Twenty-five percent (25%) rule. A requirement for treatment devices to be maintained such that the combined fats, oil and grease and solids accumulation does not exceed twenty-five percent (25%) or more of the wetted capacity of the treatment device, as measured from the bottom of the device to the static level of liquid in the device. This ensures that the minimum hydraulic retention time and required available hydraulic volume is maintained to effectively intercept and retain objectionable wastes from discharging to the wastewater collection system.
- (35) Vehicle wash facilities. Automatic and hand wash facilities, detail shops, mobile vehicle washing operations, hand wash bays in service stations, truck washing operations, and other facilities with similar installations.
- (36) Yellow grease. Used cooking oil, fryer grease or any other recycled oil or grease that does not originate from any interceptor or trap.

Sec. 13.07.763 Applicability

(b) This division shall apply to all non-domestic users with the potential to discharge fats, oil & grease, flammable substances, sand and other harmful wastes into the wastewater collection system which may be incompatible with the POTW, whether the user discharges into the POTW, transports the wastes to the POTW where allowed in section 13.07.361 of this article or such user has been issued a wastewater discharge permit as required in section 13.07.428 of this article.

(c) Compliance with this division is a required condition for sewer service by the city.

Sec. 13.07.764 User exemptions

The private living quarters of residential users where food is prepared or served for guests and individual family consumption is exempted from the requirements of this division unless there are commercial uses within the dwelling that generate amounts of non-domestic wastes including, but not limited to fats, oil and grease beyond that generated by a residential dwelling.

Secs. 13.07.765 - 13.07.779 Reserved

Part II. Prohibitions

Sec. 13.07.780 Prohibited discharges

- (a) No person shall discharge or cause the discharge of any yellow grease or waste oil to the MS4 or any drains or grease trap, interceptor, separator, cleanout, manhole or other opening which is part of the wastewater collection system. Such waste shall be placed in a container specifically designed to hold such waste and either be recycled or disposed of at suitable locations.*
- (b) No person shall discharge or cause the discharge of any pollutants, substances, or wastewater prohibited by section 13.07.207 of this article into the wastewater collection system.*
- (c) No person shall allow any sanitary wastes from toilets, urinals, wash basins, or other fixtures from restroom facilities containing fecal coliform to discharge to grease traps, interceptors or other treatment devices.*

Sec. 13.07.781 General prohibitions

- (a) No person shall bypass any installed treatment device or sample port to avoid complying with the requirements of this division.*
- (b) Any wastes prohibited by this division shall not be processed or stored in such a manner that they could be discharged to the wastewater collection system or MS4.*
- (c) No person shall allow an accumulation of fats, oils and grease, or solids to occupy more than twenty-five percent (25%) or more of the wetted capacity of the treatment device, as measured from the bottom of the device to the static level of liquid in the device (25% Rule).*
- (d) No fats, oils and grease or solids accumulated in a grease trap shall be allowed to pass into the wastewater collection system or MS4 during maintenance activities.*
- (e) No liquid wastes shall be returned to a treatment device or holding tank during or after cleaning, either from the same device or holding tank or from other treatment devices or holding tanks.*
- (f) No person shall increase the use of water or in any other way attempt to dilute a wastestream in lieu of adequate treatment.*
- (g) No person shall introduce, cause, permit, or suffer the introduction of any additives that include, but are not limited to: enzymes, emulsifiers, chemicals, degreasers, surface active agents (surfactants), solvents, or other agents into a treatment device which allows fats, oils and grease or other objectionable wastes to pass through the treatment device into the wastewater collection system.*

(h) *It is an affirmative defense to an enforcement action under subsection (g) of this section that the use of surfactants or soaps is incidental to normal kitchen hygiene operations.*

Secs. 13.07.782 - 13.07.789 *Reserved*

Part III. Pretreatment and Storage of Wastes

Sec. 13.07.790 Requirement for treatment devices

(a) *Treatment devices shall be provided for the proper handling of wastes containing fats, oils and grease, flammable wastes, sand and other pollutants which may be harmful to the non-domestic user's building sewer system or the wastewater collection system for the following:*

- (1) *Food service establishments not specifically exempted by section 13.07.764;*
- (2) *Vehicle wash facilities;*
- (3) *Automotive repair facilities including, but not limited to: machine shops or any facility or part of a facility which manufacturers, rebuilds, repairs, overhauls, or maintains motors, transmissions, hydraulic systems, or similar facilities where fluids are changed, shall not have floor drains or other devices draining to the wastewater collection system.*
 - (A) *Areas described above shall be physically separated, either by berm, separate buildings, or other suitable method from any area with drains connected to the wastewater collection system.*
 - (B) *Drainage from areas described above shall be discharged into a holding tank or shall be picked up with a suitable absorbent and disposed of properly.*
- (4) *Garages and service stations shall be equipped with a separator.*
- (5) *Carpet cleaning and extraction facilities will ensure efficient removal of the non-biodegradable sand and grit.*
- (6) *Laundries shall be equipped with an interceptor in order to reduce the quantity of lint and silt that enters the wastewater collection system.*
- (7) *Bottling Establishments shall be equipped with an interceptor that will provide for the separation of broken glass or other solids before discharging into the wastewater collection system.*
- (8) *Slaughterhouses including, but not limited to: those areas used for slaughtering or dressing shall be equipped with a separator that will prevent the discharge of feathers, entrails and other materials that cause clogging.*

(b) *Interceptors or other treatment devices installed for laundries, bottling establishments, slaughterhouses, or other facilities with the potential to discharge large solids must include a wire basket or similar device, removable for cleaning, that prevents the passage into the wastewater collection system of solids 0.5 inches (12.7 mm) or larger in size, strings, rags, buttons, or other materials detrimental to the wastewater collection system.*

(c) *The city may require non-domestic users to implement additional pretreatment measures as required in section 13.07.392 of this article.*

(d) *Anyone wishing to request an exemption from requirements to install a treatment device shall apply to the city, in writing, for an exemption. The written request shall include, at a minimum, the information provided on an exemption request or other similar form developed by the city.*

Sec. 13.07.791 Alternate grease removal devices or technologies

(a) *A non-domestic user may propose the use of an alternate grease removal device (AGRD) or other technologies in lieu of a treatment device in those cases where the user can demonstrate that it is impossible or impractical to install, operate, or maintain such a device due to one or more of the following conditions:*

- (1) *Archeological or historical circumstances prevent the disturbance of the ground or structure where the passive treatment device and/or plumbing connecting the building fixtures to the passive treatment device must be installed;*
- (2) *There is not adequate space or alternate locations for installing and maintaining a treatment device;*
- (3) *There is not adequate slope for gravity flow in the sewer lateral between plumbing fixtures in the building and the passive treatment device and/or between the treatment device and the city's sewer system;*
- (4) *Other conditions or obstacles, in the opinion of the city, prevent the installation of an adequately sized treatment device and sample port as required by this division.*

(b) *Alternate grease removal devices or technologies may include, but are not limited to dissolved air flotation, system baffling, active devices, automated grease removal devices, electronic alarms and shut offs or any combination of devices and procedures that in the opinion of the city will generate a discharge in compliance with this division.*

(c) *Proposals for the installation of alternate grease removal devices or technologies shall be made in writing to the city and shall contain specifications, calculations or other documentation necessary to demonstrate treatment capabilities sufficient to maintain compliance with this division. Proposals shall be signed by a registered professional engineer.*

(d) *Alternate grease removal devices or technologies shall be approved by the city in writing prior to the commencement of the installation. This approval by the city in no way endorses the design, device, or its performance, or relieves the user of responsibility to comply with requirements specified in this division.*

(e) *Where the user proposes alternate grease removal devices or technologies, the city may require data demonstrating the user is able to comply with the limitations or other requirements outlined in this division. The user may also be subject to periodic monitoring to demonstrate continued compliance.*

(f) *Installed alternate grease removal devices or technologies shall be maintained in an efficient operating condition and shall consistently produce an effluent in compliance with requirements of this division as demonstrated by analytical data or other requirements specified by the city.*

(g) *The decision of the city to disapprove the use of alternate grease removal devices or technologies shall be final.*

Sec. 13.07.792 *Alternative treatment*

(a) *Bioremediation media may be used with the city's approval if the person has proven to the satisfaction of the city that laboratory testing which is appropriate for the type of treatment device to be used has verified that:*

- (1) *The media is a pure live bacterial product, which does not contain any surfactants, emulsifiers, or substances which act as a solvent or is not inactivated by the use of domestic or commercial disinfectants and detergents, strong alkalis, acids, other additives commonly used in the facility, and/or water temperatures greater than 160 °F (71 °C);*
- (2) *The use of the media does not reduce the buoyancy of the oil or grease layer in the treatment device and does not increase the potential for oil and grease to be discharged to the wastewater collection system;*
- (3) *The use of bioremediation media does not cause foaming, downstream coalescence, or blockages in the wastewater collection system;*
- (4) *The BOD₅, COD, and TSS levels discharged to the wastewater collection system after the use of the media does not exceed the BOD₅, COD, and TSS levels which would be discharged if the product were not used and the treatment device was properly sized and maintained; and*
- (5) *The use of the bioremediation media does not cause the pH levels to exceed allowable pH limits at the total facility discharge point.*

(b) All testing designed to satisfy the criteria set forth in this section shall be scientifically sound and statistically valid. All tests to determine oil and grease, BOD₅, COD, TSS, pH and other pollutant levels shall be based on approved methods as defined in 40 CFR, Part 136 or 30 TAC § 319.11.

(1) Testing shall be open to inspection by the city, and shall meet the city's approval.

(2) The costs of all tests shall be the responsibility of owner/operator of the treatment device.

(c) The approval of alternate treatment products such as bioremediation media shall be made on a case-by-case basis. If a product is accepted for use by the city, each user shall be subject to the requirements of this section and shall obtain written permission from the city to use the product.

(d) The city may revoke permission to use alternate treatment products where the effluent from a user's treatment device in which the product is used fails to meet the requirements of this division.

(e) The use of alternate treatment products shall not relieve the user of minimum pumping, cleaning and inspection requirements specified in this division.

(d) Any waste pumped from the treatment device after use of the media must be acceptable at disposal sites for that particular type of wastes.

(g) The decision of the city to disapprove the use of alternate treatment options shall be final.

Sec. 13.07.793 Requirement for best management practices

(a) The city may require non-domestic users to implement best management practices established in the FOG control program to reduce and/or eliminate:

(1) The discharge of fats, oils and grease, flammable wastes, sand and other objectionable wastes from entering the wastewater collection system; or

(2) Inflow or infiltration from stormwater sources that discharge into the user's building sewer system, treatment devices, or other connections to the wastewater collection system.

(b) Food service establishments may be required to implement one or more of the following best management practices, when required in this division:

(1) Structural BMPs that require a physical device, appurtenance, or container to be installed or removed.

- (2) *Non-structural BMPs that depend on a non-domestic user's employee, operator and/or owner to implement pollution prevention measures or other practices necessary to comply with requirements of this division.*

(c) *The city may require non-domestic users other than food service establishments to implement similar best management practices when in the opinion of the city, these practices are necessary to comply with requirements established in this division or other sections of this article.*

Sec. 13.07.794 Requirement for sample ports

(a) *Any user that is required to install, operate or maintain a treatment device as specified in this division shall install a sample port as approved by the city.*

(b) *The city may require non-domestic users to install meters, manholes, sample ports and other appurtenances to facilitate observation, sampling, and measurement of wastes and flows discharged as specified in section 13.07.177 of this article.*

(c) *Sample ports shall be readily accessible to the city at all times.*

Sec. 13.07.795 Requirement for holding tanks

(a) *Food Service Establishments*

- (1) *Holding tanks shall be provided for storage of any yellow grease including used cooking oil, fryer grease or any other recycled oil, grease or objectionable waste that does not originate from an interceptor or trap.*

- (2) *Holding tanks shall be constructed to prevent leakage and splashing and shall be maintained to preclude odors and other nuisances.*

- (3) *Holding tanks shall not be connected to the wastewater collection system or in any way be allowed to discharge to the wastewater collection system or the MS4.*

(b) *Other Non-Domestic Users*

- (1) *Appropriate holding tanks or containers shall be used to store waste oils, antifreeze and other objectionable wastes prior to recycling or disposal at a site approved by the appropriate regulatory agency.*

- (2) *Holding tanks shall be constructed to prevent leakage and splashing and shall be maintained to preclude odors and other nuisances.*

- (3) *Holding tanks shall not be connected to the wastewater collection system or in any way be allowed to discharge to the wastewater collection system or the MS4.*

Sec. 13.07.796 - 13.07.799 Reserved

Part IV. Treatment Devices - Installation Requirements

Sec. 13.07.800 Generally

(a) *New Facilities.* All non-domestic users listed in section 13.07.790 that begin new operations on or after the effective date of this division shall be required to design, install, operate and maintain a treatment device and sample port. These users are considered new facilities when one or more of the following conditions are met:

- (1) *An entire facility is newly proposed or constructed and the city has not issued a certificate of occupancy for the facility prior to the effective date of this division; or*
- (2) *An existing facility in whole or part, will be remodeled or renovated, where such facilities did not exist prior to the effective date of this division and the remodeling or renovation will increase or has the potential to increase the amount of fats, oils and grease, flammable wastes, sand and other pollutants that discharge to the wastewater collection system.*

New facilities shall not commence any operations until installed treatment devices and sample ports are inspected by the city's plumbing inspector and laboratory services department and the facility receives a certificate of occupancy.

(b) *Existing Facilities.* All non-domestic users existing within the city prior to the effective date of this division shall maintain existing treatment devices, at the user's expense, in an efficient operating condition at all times.

- (1) *The city may require an existing non-domestic user that ceases operations and/or undergoes a change in ownership or tenant occupancy to install new or additional treatment devices and/or sample ports or modify/repair any non-compliant plumbing, existing treatment device or sample port prior to re-commencing operations when one of the following conditions exist:*
 - (A) *Prior to re-commencing operations, the new owner and/or operator performs remodeling or renovation to the existing facility which will increase or has the potential to increase the amount of fats, oils and grease, flammable wastes, sand and other pollutants that discharge to the wastewater collection system;*
 - (B) *The prior owner and/or operator of the existing facility experienced compliance problems and/or failed to design, install and/or maintain required treatment devices or sample ports prior to ceasing operations;*

- (C) *The prior owner and/or operator of the existing facility had an undersized, irreparable or defective treatment device or sample port; or*
- (D) *The prior owner and/or operator of the existing facility did not have plumbing connected to a treatment device and sample port in compliance with the requirements of this division.*

Existing facilities shall not re-commence any operations until installed treatment devices and sample ports are inspected by the city's plumbing inspector and laboratory services department and the facility receives a certificate of occupancy.

- (2) *The city may require an existing non-domestic user to install new or additional treatment devices and/or sample ports within 90 days of written notification by the city or modify/repair any non-compliant plumbing, existing treatment device or sample port within 30 days of written notification by the city when any one or more of the following conditions exist:*
 - (A) *The user, either alone or in conjunction with other users, is contributing fats, oils and grease, sand or other pollutants in quantities sufficient to cause accumulation or necessitate increased maintenance on the POTW or causes interference at the wastewater treatment facility;*
 - (B) *The user is not maintaining the existing treatment device in an efficient operating condition at all times;*
 - (C) *The user has an undersized, irreparable or defective treatment device or sample port;*
 - (D) *The user does not have plumbing connected to a treatment device and sample port in compliance with the requirements of this division; and/or*
 - (E) *The existing facility is experiencing difficulty in achieving compliance with this division or other portions of article 13.07.*
- (3) *The director may authorize an extension of time to achieve compliance with this section for an additional 90 days unless the non-domestic user, either alone or in conjunction with other users is:*
 - (A) *Interfering with the operation of the POTW by contributing fats, oils and grease, sand or other pollutants in quantities sufficient to cause blockages, obstructions, or pass-through;*
 - (B) *Contributing fats, oils and grease, sand or other pollutants in quantities sufficient to cause back-ups or sanitary sewer overflows onto public or private property or into the MS4;*

- (C) *Posing a threat to public health or the environment; or*
- (D) *Violating requirements specified in this division or other sections of article 13.07.*
- (4) *In any circumstance where, in the opinion of the city, the existing treatment device and sample port or the absence of a treatment device or sample port poses a serious threat or an ongoing problem to the POTW, is a public nuisance, or poses a threat to public health or to the environment, the city may require the treatment device or sample port be installed or replaced on a more stringent compliance schedule.*

Sec. 13.07.801 *General specifications*

- (a) *All permitting, construction and inspection activities must be completed in accordance with Chapter 3, Building Regulations, of the city's ordinance.*
- (b) *All treatment devices and sample ports shall be installed by a licensed plumber. Treatment devices and sample ports shall be subject to inspection by the city's plumbing inspector and laboratory services department prior to the issuance of a certificate of occupancy.*
- (c) *Specifications outlined in the FOG control program shall be considered minimum requirements only. It shall be the responsibility of each user to have a treatment device and sample port designed, installed and maintained to comply with the requirements of this division.*
 - (1) *Treatment devices, sample ports or other appurtenances shall meet or exceed the specifications and requirements set forth in the FOG control program and other applicable local, state or federal requirements.*
 - (2) *An existing treatment device, sample port or other appurtenance which is upgraded or replaced shall also meet or exceed the specifications and requirements set forth in the FOG control program and other applicable local, state or federal requirements.*
- (d) *Treatment devices, sample ports or other appurtenances shall be located to be readily and easily accessible for cleaning and inspection of the device.*

Sec. 13.07.802 *General sizing requirements*

- (a) *Sizing requirements described in the FOG control program are intended as guidance in determining treatment device sizing that will provide a minimum degree of protection against wastes containing fats, oils and grease, flammable wastes, sand and other pollutants which may be harmful to the user's building drainage system or the POTW.*
- (b) *The city will provide minimum sizing requirements for treatment devices based on information provided by the non-domestic user or their contractors. Accordingly, the non-*

domestic user or their contractor is responsible for ensuring the appropriate level of treatment necessary to achieve compliance with this division or other portions of this article.

(c) This section is not intended to create any liability for the city for the failure of a system to adequately treat wastewater to achieve compliance with this division or other portions of this article.

Sec. 13.07.803 Grease trap specifications and sizing

(a) The city shall establish minimum sizing criteria for “under-the-sink” grease traps using the drainage fixture unit sizing method described in the FOG control program.

(b) When wastes from two or more fixtures are combined to be served by one grease trap, a single flow control device shall be used.

(c) Grease traps shall be constructed in accordance with the city’s specifications.

(d) The connection of food grinders or commercial dishwashers to these devices is prohibited.

Sec. 13.07.804 Grease interceptor specifications and sizing

(a) The city shall establish minimum sizing criteria for grease interceptors using the drainage fixture unit sizing method described below:

- (1) The hydraulic loading from each fixture unit is equal to 7.5 gallons per minute (gpm);*
- (2) The total hydraulic loading on the grease interceptor is determined by the sum of fixture units multiplied by 7.5 gpm;*
- (3) A minimum of a 12-minute retention time is required through the grease interceptor even though all fixtures may not discharge simultaneously;*
- (4) Minimum grease interceptor capacity = total number of fixture units x 7.5 gpm x 12 minute retention time.*

*Table 1-1
Fixture Unit Chart*

<i>Fixture Description</i>	<i>Fixture Unit</i>
<i>Single Compartment Sink</i>	<i>2</i>
<i>Double Compartment Sink</i>	<i>2</i>
<i>Triple Compartment Sink</i>	<i>3</i>
<i>Hygiene “Only” Sink</i>	<i>1</i>
<i>Dish Machine</i>	<i>6</i>

<i>Garbage Grinder</i>	<i>4</i>
<i>Pre-Rinse Sink</i>	<i>2</i>
<i>Mop Sink</i>	<i>3</i>
<i>Tilt Kettle Trough Receptor</i>	<i>3</i>
<i>Grease Extracting Hood Receptor</i>	<i>3</i>
<i>Wok Stove</i>	<i>4</i>
<i>Dipper Well</i>	<i>2</i>
<i>2" Floor Drain/Sink</i>	<i>2</i>
<i>3" Floor Drain/Sink</i>	<i>3</i>
<i>4" Floor Drain/Sink</i>	<i>4</i>

(b) Grease interceptors shall be constructed in accordance with city specifications, and shall have a minimum of two compartments with fittings designed for grease retention.

(c) All grease bearing wastes streams must be routed through the treatment device.

(d) Drains that receive only "clear wastes" from ice machines, condensate lines, or other applicable fixtures, may be plumbed to the sanitary sewer without passing through a treatment device with the condition that the receiving drain is a "hub" type that is a minimum of two inches (2") above the finished floor.

Sec. 13.07.805 Other Treatment Devices

Minimum sizing criteria for other treatment devices will be based on current engineering practice and approved by the City on a case-by-case basis.

Sec. 13.07.806 Food waste grinders

(a) Any non-domestic user that installs and/or commences the operation of food waste grinders on or after the effective date of this ordinance will be required to install a properly-sized solids separator prior to discharging to a grease interceptor. Alternately, where allowed by ordinance, the city may increase or modify the size of a grease interceptor to provide sufficient capacity to handle solids from food waste grinders where a solids separator is not installed.

(b) In those cases where an existing non-domestic user has a food waste grinder installed and/or operational prior to the effective date of this ordinance, the city may require the user to implement best management practices as described in section 13.07.793 of this division when the device:

- (1) Contributes excessive food solids that reduce the efficiency of existing treatment devices;*
- (2) Interferes with the operation of the POTW by contributing fats, oils and grease, solids or other pollutants in quantities sufficient to cause blockages, obstruction*

of flow, pass-through, and/or contributes to accumulation or increased maintenance on the POTW;

- (3) Contributes fats, oils and grease, solids or other pollutants in quantities sufficient to cause back-ups or sanitary sewer overflows onto public or private property or into the MS4;*
- (4) Poses a threat to public health or the environment; or*
- (5) Causes and/or contributes to the user's non-compliance with requirements specified in this division or other sections of this article.*

Sec. 13.07.807 - 13.07.809 Reserved

Part V. Permitting Requirements

Sec. 13.07.810 - 13.07.825 Reserved

Part VI. Cleaning and Maintenance Requirements

Sec. 13.07.826 General cleaning and maintenance

(a) All areas surrounding treatment devices, sample ports and holding tanks shall be kept clean and free of fats, oils and grease, and other objectionable wastes to preclude any odors that may be deemed a public nuisance. Additionally, these areas shall be maintained to facilitate immediate access for cleaning by the user and inspection by the city at all times.

- (1) Wastes shall not be spilled, splashed, allowed to overflow, or otherwise placed on the area surrounding treatment devices.*
- (2) In the event wastes are spilled, splashed, allowed to overflow, or otherwise placed on the area surrounding the treatment device, the user shall assure the wastes are cleaned from the area and properly disposed.*

(b) Treatment devices shall be maintained in an efficient operating condition by the owner or operator at his expense and shall produce a discharge that complies with this division or other sections of article 13.07.

(d) A user shall not remove any inlet or outlet piping or otherwise alter a treatment device in any way which may allow fats, oils and grease, flammable wastes, sand or other objectionable wastes to pass through the treatment device into the wastewater collection system.

(e) During cleaning activities, residues shall be removed from piping and walls of the treatment devices. Additionally, the piping and walls of the treatment device shall be inspected to assure the integrity of the device is maintained.

Sec. 13.07.827 Minimum pumping frequencies

(a) Treatment devices shall be completely evacuated (pumped), cleaned, and inspected as often as necessary to ensure the efficiency and integrity of the treatment device; to ensure the discharge is compliant with screening limits, local discharge limits or requirements specified in this division; and to ensure no visible grease or oil is observed in the user's discharge.

(1) Grease interceptors. The city may require non-domestic users to pump, clean, and/or inspect grease interceptors at a minimum of every ninety (90) days. More frequent pumping may be required when:

(A) Twenty-five percent (25%) or more of the wetted capacity of the treatment device, as measured from the bottom of the device to the static level of liquid in the device, contains fats, oils and grease, sand or other objectionable wastes;

(B) The non-domestic user's discharge exceeds the established oil & grease screening limit of 200 mg/L;

(C) The non-domestic user's total facility discharge exceeds BOD₅, COD, TSS, pH or other pollutant limits established by the POTW;

(D) Fats, oils and grease, solids or other objectionable wastes are not retained in the treatment device and the wastes subsequently pass through the device to the POTW;

(E) The non-domestic user has a history of non-compliance with this division or other sections of article 13.07;

(F) The city provides written notice that the user must pump the treatment device on an emergency or accelerated pumping frequency as required in section 13.07.828; or

(G) The city has previously established requirements to pump the treatment device on a more stringent schedule than specified in this section.

(2) Oil/water separators and sand/grit traps. The city may require non-domestic users to pump, clean, and/or inspect oil/water separators and sand/grit traps a minimum of every one-hundred eighty (180) days. More frequent pumping may be required when:

(A) Twenty-five percent (25%) or more of the wetted capacity of the treatment device, as measured from the bottom of the device to the static level of liquid in the device, contains fats, oils and grease, sand or other objectionable wastes;

- (B) *The non-domestic user's discharge exceeds the established TPH screening limit of 30 mg/L;*
 - (C) *The non-domestic user's total facility discharge exceeds BOD₅, COD, TSS, pH or other pollutant limits established by the POTW;*
 - (D) *Oils, sand or other objectionable wastes are not retained in the treatment device and the wastes subsequently pass through the device to the POTW;*
 - (E) *The non-domestic user has a history of non-compliance with this division or other sections of article 13.07;*
 - (F) *The city provides written notice that the user must pump the treatment device on an emergency or accelerated pumping frequency as required in section 13.07.828; or*
 - (G) *The city has previously established requirements to pump the treatment device on a more stringent schedule than specified in this section.*
- (3) *The city may establish pumping, cleaning and/or inspection requirements for other treatment devices on a case-by-case basis to ensure non-domestic users comply with requirements specified in this division.*

(b) *Where pumping frequencies are inadequate to produce a discharge that complies with requirements specified in this division, the user shall increase pumping frequencies as often as necessary to comply with the requirements established herein.*

Sec. 13.07.828 *Emergency or accelerated pumping requirements*

(a) *The city may require a non-domestic user to pump a treatment device on an emergency basis if the user is discharging fats, oils, grease, sand or other pollutants in quantities sufficient to:*

- (1) *Cause the user's total facility discharge to exceed BOD₅, COD, TSS, pH or other pollutant limits established by the POTW;*
- (2) *Cause and/or contribute to a back-up or sanitary sewer overflow onto public or private property or the MS4; or*
- (3) *Pose a threat to public health or the environment.*

(b) *The city may require a non-domestic user to accelerate the pumping of a treatment device from the prescribed pumping frequency if the user:*

- (1) *Discharges fats, oils, grease, sand or other pollutants in quantities sufficient to cause the user's effluent from the treatment device to exceed screening limits for oil & grease or TPH where established by the POTW;*
- (2) *Does not maintain the existing treatment device in an efficient operating condition at all times;*
- (3) *Has an undersized, irreparable or defective treatment device;*
- (4) *Discharges wastewater that interferes with the operation of the POTW, causes and/or contributes to blockages or obstructions of flow, causes accumulation or necessitates increased maintenance in the POTW; or*
- (5) *Experiences difficulty achieving compliance with this division or other sections of article 13.07.*

(c) If the non-domestic user fails to totally evacuate or pump a treatment device on an emergency or accelerated basis after receiving notice by the city of such requirement, the city may have a licensed transporter pump the treatment device and bill the user for any costs incurred by the city or terminate water or sewer services as allowed by this division.

Sec. 13.07.829 Variances to pumping frequencies

(a) Any non-domestic user who owns or operates a treatment device may request a variance to the minimum pumping frequencies established in section 13.07.827. The city may grant a variance to minimum pumping frequencies for non-domestic users on a case-by-case basis when:

- (1) *The user has demonstrated the treatment device(s) will produce a discharge, based on defensible analytical results, in consistent compliance with established screening limits for oil & grease or TPH, local discharge limits such as BOD₅, COD, TSS, pH, or other parameters as determined by the city;*
- (2) *The user can demonstrate that the treatment device did not contain amounts of fats, oils and grease, sand or other objectionable wastes that occupied twenty-five percent (25%) or more of the device's capacity at any time during the previous twelve (12) months;*
- (3) *The user has maintained the treatment device(s) in an efficient operating condition and can demonstrate through closed circuit television inspections or other means, that the discharges from the user has not caused and/or contributed to any accumulation, blockages, obstruction of flow, necessitated increased maintenance in the user's sewer lateral downstream from the treatment device during the previous twelve (12) months;*
- (4) *The user has an adequately sized treatment device with an appropriate sample port installed after the treatment device as required in this division;*

- (5) *The user meets all recordkeeping requirements specified in this division; and*
- (6) *The user has implemented a FOG control plan where required by the city.*

(b) Any user requesting a variance to the minimum pumping frequencies established in this division shall notify the city, in writing, to apply for a variance. The written request shall include, at a minimum, the information provided on a variance request or other similar form developed by the city.

Sec. 13.07.830 Full pump-out requirements

(a) Treatment devices required by this division shall be fully evacuated when pumped by the transporter unless the volume of the device is greater than the tank capacity on the transporter's vacuum truck, in which case the transporter shall arrange for additional transportation capacity so each device is fully evacuated within a 24-hour period.

(b) In those cases where the non-domestic user's facility has two or more treatment devices located either on different sewer lateral lines or connected in series on the same sewer lateral line, each device is considered a separate device and shall be fully evacuated within a 24-hour period.

Sec. 13.07.831 Self-cleaning requirements

(a) Grease trap self-cleaning owner/operator must receive approval from the city annually prior to removing fats, oils and grease from their own grease trap(s) located inside a building, provided:

- (1) The grease trap is no more than fifty (50) gallons in liquid/operating capacity;*
- (2) Proper on-site material disposal methods are implemented (e.g., absorb liquids into solid form and dispose into trash);*
- (3) The city's solid waste division allows such practices;*
- (4) The grease trap wastes are placed in a leak proof, sealable container(s) located on the premises in an accessible area for a transporter to pump-out (where applicable); and*
- (5) Detailed records on these activities are maintained.*

(b) Grease trap self-cleaning owner/operators must submit a completed trap self-cleaning request to the city for approval. This request shall include, at a minimum, the information outlined in the FOG Control Guide.

(c) Grease trap self-cleaning owner/operators must adhere to standard cleaning procedures, detailed recordkeeping, and all requirements specified in this division to ensure compliance. A

maintenance log shall be kept by self-cleaning owner/operators that indicates, at a minimum, the information outlined in the FOG Control Guide.

(d) Where necessary, the city may establish requirements for a self-cleaning owner/operator to develop and implement a FOG control plan as specified in section 13.07.866.

(e) Violations incurred by grease trap self-cleaning owner/operators will be subject to enforcement remedies which include, but are not limited to: fees, removal from the self-cleaner program or other remedies as allowed by this division or other sections of this article.

Sec. 13.07.832 Manifest or trip ticket requirements

(a) Each pump-out of a treatment device must be accompanied by a manifest to be used for recordkeeping purposes.

(b) Persons who generate, collect, and/or transport wastes described in this division shall maintain a record of each individual collection and deposit of wastes. Such records shall be in the form of a manifest which shall include the minimum information required by the FOG Control Guide.

Sec. 13.07.833 Facility closures and treatment devices

(a) When a non-domestic user's facility closes or ceases operations and the facility utilized a treatment device, the following conditions shall apply:

- (1) If the facility is demolished or moved to another location, the treatment device shall be physically removed or severed from the wastewater collection system and filled with sand;*
- (2) If the facility is remodeled or renovated such that installing, operating and/or maintaining a treatment device and sample port is no longer required by this division, then the device may be left in place if the following conditions are met:*
 - (A) The treatment device has been totally evacuated, cleaned thoroughly and the devices are left charged with clean water; and*
 - (B) The building plumbing is modified to bypass the existing treatment device while leaving the devices in place for further use by another business.*
- (3) If the facility is replaced with a type of business that is not required to maintain a treatment device as specified in this division, then the user shall either:*
 - (A) Physically remove the treatment device; or*
 - (B) The treatment device shall be totally evacuated, cleaned thoroughly and left charged with clean water and the building plumbing is modified to*

bypass the existing treatment device while leaving the devices in place for further use by another business.

(b) The city may require a non-domestic user to repair and/or remove a treatment device as required in this section when the device is contributing to inflow or infiltration problems in the wastewater collection system. The cost of removing or repairing the treatment device shall be the responsibility of the owner and/or operator of the treatment device.

Sec. 13.07.834 - 13.07.849 Reserved

Part VII. Monitoring and Inspection Requirements

Sec. 13.07.850 Compliance monitoring

(a) The city, state or EPA shall have the right to enter the facilities of any non-domestic user to ascertain whether the purpose of this division, and any order issued hereunder, is being met and whether the non-domestic user is complying with all requirements thereof. The city shall have the right to inspect and monitor non-domestic users, at a minimum, once annually. The non-domestic user shall allow the city, upon the presentation of credentials, to:

- (1) Enter upon the non-domestic user premises without unreasonable delay, where a regulated facility or activity is located or conducted or where records are maintained which must be kept under the conditions of this division;*
- (2) Have access to and copy records which must be kept under conditions of this division;*
- (3) Inspect, at any reasonable time, including times of emergency, any facilities, equipment, practices, or operations regulated under this division;*
- (4) Sample or monitor any substances or parameters to assure compliance, in lieu of the information provided by the non-domestic user;*
- (5) Use a camera to photograph any areas of the facility as deemed necessary for carrying out the requirements of the FOG control program, including, but not limited to, documentation of the non-domestic user compliance status, and for reinforcement of required written reports:*
 - (A) The non-domestic user shall have the right to request and obtain copies of the photographs or to take concurrent photographs. In no case shall the non-domestic user be allowed to obtain original negatives or other original memory devices.*
 - (B) The non-domestic user shall have the right to request that photographs be considered confidential information in accordance with requirements specified in section 13.07.853 of this division.*

- (6) *Conduct inspections of a non-domestic user's treatment device, sewer lateral line, privately owned service line, control manhole, sampling port or other appurtenances that connect to the city's wastewater collection system using closed circuit television (CCTV). These CCTV inspections may be used to:*
- (A) *Verify that a user is operating a treatment device in an efficient operating condition;*
 - (B) *Determine contributing factors that cause blockages, obstructions of flow, or sanitary sewer overflows such as sources of FOG accumulations, defective infrastructure, accumulated roots and/or debris;*
 - (C) *Seek visual evidence of FOG accumulation between the site of blockages, obstructions of flow, or sanitary sewer overflows in the city's wastewater collection system and upstream users; or*
 - (D) *Help determine costs to assess to a user for contributing to a blockage, obstruction of flow, or sanitary sewer overflow.*

(b) *Unreasonable delays (as determined by the city based on prevailing circumstances) in allowing city personnel access to the non-domestic user's premises shall be a violation of this division and may constitute further enforcement action.*

(c) *Search warrants. If the city has been refused access to a building, structure or property or any part thereof, and/or if the city has demonstrated probable cause to believe that there may be a violation of this division, or that there is a need to inspect as part of a routine inspection program designed by the city to verify compliance with this division or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then, the city shall seek a search and/or seizure warrant describing the specific location subject to the warrant.*

Sec. 13.07.851 Analytical requirements

All handling, preservation, and laboratory analyses of wastewater samples collected to determine compliance with this division shall be performed in accordance with requirements specified in section 13.07.505 of this article.

Sec. 13.07.852 Sample collection

(a) *Except as indicated in subsection (b), wastewater samples used to determine compliance with this division shall be collected using flow proportional composite sample techniques. In the event that flow proportional composite sampling is not feasible, the director may authorize the use of time proportional composite sampling or other acceptable techniques that will provide a representative sample of the effluent being discharged.*

(b) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides and volatile organic compounds shall be obtained using grab sample collection techniques. In some cases, the city may require a user to collect multiple grab samples during a monitoring period to determine compliance with applicable requirements.

(c) The city may use a grab sample to determine compliance with instantaneous discharge limits.

Sec. 13.07.853 Confidentiality and proprietary information

Information and data on a user obtained from reports, surveys, and monitoring programs, and from the director's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the director, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the non-domestic user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the TPDES program or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

Sec. 13.07.854 - 13.07.859 Reserved

Part VIII. Recordkeeping Requirements

Sec. 13.07.860 Retention of records

(a) Any non-domestic users subject to the reporting requirements established in this division shall be required to retain and make available upon request for inspection and copying by the city, records that include, but are not limited to:

- (1) Monitoring information, including calibration and maintenance records, laboratory reports, self-cleaning logs, standard operating procedures, training records, and any other record of data required to determine compliance with this division. These records shall be retained for a period of at least three (3) years from the date of the sample, measurement, or activity.
- (2) Manifests or other records of information pertaining to the generation, transporting, and disposal of liquid wastes. These records shall be retained for a period of at least five (5) years.

(b) *The periods of record retention may be automatically extended for the duration of any unresolved litigation concerning compliance with this division, or extended at any time by request of the city.*

(c) *All records subject to enforcement or litigation activities brought by the city shall be retained and preserved as defined in section 13.07.510(a) of this article.*

Sec. 13.07.861 *Receipt of reports or correspondence*

(a) *Written reports or correspondence submitted to the city shall be deemed submitted on the date postmarked. For reports or correspondence which is not mailed, postage paid into a mail facility serviced by the United States Postal Service, the date of receipt by the city shall govern.*

(b) *All reports and correspondence required by this division shall be submitted to the city at the mailing address provided in the FOG control program.*

Sec. 13.07.862 *Sampling and analysis records*

Records contents for all sampling and analysis required by this division shall meet minimum requirements specified in section 13.07.510(b) of this article.

Sec. 13.07.863 *Wastewater questionnaire or survey*

When requested by the director, non-domestic users must submit information on the nature and characteristics of their wastewater operations by completing a wastewater questionnaire or similar form developed by the city. Failure to complete and return this questionnaire shall constitute a violation of this division.

Sec. 13.07.864 *Standardized forms or reports*

The director may develop standardized forms for the non-domestic user to submit information required in this division. The user shall use these standardized forms unless authorized otherwise. These forms may be updated as needed.

Sec. 13.07.865 *Duty to provide information*

(a) *Non-domestic users shall furnish to the city, within the prescribed time period, any information which the city may request to determine compliance with the requirements of this division unless stated otherwise in this article.*

(b) *Non-domestic users shall notify the city in writing, prior to the prescribed due date, if additional time is needed to submit records, reports, or correspondence requested by the city. The city will approve these extensions on a case-by-case basis only.*

Sec. 13.07.866 FOG control plan

The city may require non-domestic users to develop and implement a FOG control plan where necessary to document how the user will comply with the requirements of this division.

- (a) If the plan submitted by the user is inadequate, the city may require subsequent modifications.*
- (b) Once the user submits the plan, the city will provide the user with written notice of its acceptance.*
- (c) Failure to implement any element of an accepted plan is a violation and may subject the user to enforcement remedies described in this division.*

Sec. 13.07.867 - 13.07.869 Reserved

Part IX. Enforcement Remedies

Sec. 13.07.870 Notice of deficiency

- (a) The city will use a notice of deficiency as an official communication to notify a user that a deficiency has occurred.*
- (b) This written notice will be an initial response to isolated minor deficiencies with requirements of the FOG control program where previous informal communications have been unsuccessful.*
- (c) Within ten (10) business days from receipt of such notice, the user must reply, acknowledging receipt of the notice, and the user's intended corrective actions. Failure to respond to this notice would constitute a further violation of the FOG control program.*

Sec. 13.07.871 Field notice of violation

- (a) During an inspection of a non-domestic user, if violations are noted, a field notice of violation (FNOV) may be served to the user. Such notices shall be either personally served or delivered by certified mail, return receipt requested.*
- (b) This document will identify the specific violation(s), the date(s) for corrective action to be completed, and other compliance actions that may be required.*
- (c) Failure to comply with requirements contained in the FNOV shall constitute a further violation of the FOG control program.*

Sec. 13.07.872 Notice of violation

- (a) The city will use a notice of violation (NOV) as an official communication to notify the user that a violation of a notice, agreement, order or requirement specified in the FOG control program has occurred or is continuing to occur. Such notices shall be either personally served or delivered by certified mail, return receipt requested.*
- (b) Within ten (10) business days from receipt of such notice, the user must reply, acknowledging receipt of the notice, and the user's intended corrective actions. Failure to respond to this notice would constitute a further violation of the FOG control program.*
- (c) Nothing in this section shall limit the authority of the city to take any action, including emergency suspension or termination of services, prior to issuing the NOV.*

Sec. 13.07.873 Compliance schedule agreements

- (a) The city may require a non-domestic user to enter into a compliance schedule agreement (CSA) in those cases where the user is in violation of provisions of the FOG control program and/or the city will require the user to install treatment devices, sample ports, appurtenances, or otherwise implement structural BMPs as described in section 13.07.793 of this division.*
- (b) The issuance of a CSA may contain other terms and conditions necessary to ensure compliance with the FOG control program.*
- (c) The director shall not enter into a CSA until such time that all monetary amounts owed to the city, including administrative fees, or other amounts are paid in full.*
- (d) If compliance is not achieved in accordance with the terms and conditions of the CSA during its term, the director may issue notice to the user that the CSA will be suspended or revoked and the director will escalate enforcement actions.*

Sec. 13.07.874 Increased monitoring and reporting

When a non-domestic user has demonstrated a history of noncompliance, the city may increase surveillance requirements of that user, including, but not limited to, additional monitoring and reporting activities.

Sec. 13.07.875 Emergency suspension of services

The city may immediately suspend a user's city-provided water supply and/or wastewater discharges without providing advanced notice when such suspension is necessary to stop actual or threatened discharges as described in section 13.07.141 of this article. A non-domestic user may petition the director as provided by section 13.07.877 of this article as soon as possible after the suspension of services.

Sec. 13.07.876 *Non-emergency termination of services*

The city may terminate a user's city-provided water supply and/or wastewater discharges after providing notice of such actions as described in section 13.07.142 of this article. A non-domestic user may appeal to the director for a show cause hearing as provided by section 13.07.877 of this article.

Sec. 13.07.877 *Show cause hearing*

The director may order any non-domestic user which causes or contributes to violation(s) of this division, or orders issued hereunder, to appear before the director and show cause prior to the non-emergency termination of water supply and/or wastewater discharge, or at the discretion of the director, prior to taking any enforcement action. Notice shall be served on the non-domestic user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) business days prior to the hearing. Such notice may be served on any authorized representative of the non-domestic user. Whether or not the non-domestic user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the user.

Sec. 13.07.878 *Public nuisances*

(a) Any discharge to the POTW that causes and/or contributes to blockages, obstruction of flow or other conditions, that alone or in conjunction with other users, cause and/or contribute to back-ups or sanitary sewer overflows onto public or private property may be declared a public nuisance and shall be corrected or abated as required by the director.

(b) Any person(s) creating a public nuisance shall be subject to the provisions of the city code in article 6.05 governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying said nuisance.

Sec. 13.07.879 *Citations to municipal court*

(a) Notwithstanding any enforcement remedies specified in section 13.07.872 thru section 13.07.879 of this division, the director may cite any user in municipal court for violations of this division.

(b) Any non-domestic user that violates any provision of this division or any orders issued hereunder, or any other requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine as provided in section 1.01.009 of this code per violation, per day.

Sec. 13.07.880 Remedies non-exclusive

(a) The provisions of section 13.07.871 thru 13.07.879 of this division are not exclusive remedies. The city reserves the right to take any, all, or any combination of these enforcement actions against a user that violates division 3 or division 6 of this article. While the enforcement of violations will generally be in accordance with the FOG control program, the city is empowered to take more than one enforcement action, depending on the magnitude and type of non-compliance.

(b) In those cases where the user's discharge, alone or in conjunction with other users, causes pass through or interference that results in a violation of any requirement of the city's TPDES permit, then the city may initiate administrative or judicial enforcement remedies as allowed in division 5 of this article.

Sec. 13.07.881 - 13.07.885 Reserved

Part X. Miscellaneous Provisions

Sec. 13.07.886 Liability

(a) The director, or any employee of the city charged with the enforcement of this division, while acting for the jurisdiction, shall not be rendered liable personally, and is hereby relieved from all personal liability for any damages accruing to persons or property as a result of any act required or permitted in the discharge of official duties required under this division.

(b) The director or any employee of the city shall not be liable for costs in any action, suit or proceedings that is instituted in pursuance of the provisions of the division, and the director or any employee of the city acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

Sec. 13.07.887 City's right of revision

The city reserves the right to establish, by ordinance, notice, compliance schedule agreement, or other orders, more stringent standards or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in section 13.07.760 or the prohibited discharge practices and prohibitions included in section 13.07.780 and section 13.07.781 of this division.

Sec. 13.07.888 FOG control program fees

(a) The city may adopt reasonable fees for the reimbursement of costs necessary to operate the FOG control program which include, but are not limited to:

1. Fees for issuing wastewater surveys or permit applications including the cost of processing such applications where applicable;

2. *Fees for filing variances, exemptions, or requests to self-clean grease traps where allowed in this division;*
 3. *Fees for laboratory analyses, inspections, sampling, or activities performed by the city that are related to discharger non-compliance and:*
 1. *Are not a routine part of the FOG control program;*
 2. *Are the result of non-compliance identified through program activities; or*
 3. *The user fails to perform as required by notice, compliance schedule agreement, or other order issued by the City.*
 4. *Fees to recover costs incurred in cleaning, maintaining and disposing wastes that cause and/or contribute to accumulation or blockages in the POTW or cause and/or contribute to back-ups or sanitary sewer overflows into the MS4;*
 5. *Fees for administrative and technical costs necessary to issue administrative, supplemental, or judicial actions specified in this division or other sections of this article; and*
 6. *Other fees deemed necessary to carry out the requirements contained herein.*
- (b) *The city may assess these fees through the user's utility bill where allowed by ordinance.*
- (c) *These fees relate solely to the matters covered by division 3 and division 6 of this article and are separate from all other fees, fines, and penalties chargeable by the city.*

Sec. 13.07.889 Surcharges

- (a) *Any non-domestic user who discharges into the POTW may be assessed an additional surcharge for discharging extra strength wastes that exceed pollutant levels for normal domestic wastewater as established by ordinance.*
- (b) *Initiation or continuation of surcharge testing for non-domestic users shall be at the discretion of the city with consideration to the nature or history of the user's discharge, the impact or potential impact to the POTW, and resources available to the city.*
- (c) *These surcharges established in a separate rate ordinance may be billed to the user separately or included as a separate item on the user's utility bill where allowed by ordinance.*

Sec. 13.07.891 - 13.07.899 Reserved

SECTION 3. That it is the intention of the City Council of the City of Sherman, Texas, that the provisions of this ordinance shall become a part of the Code of Ordinances of the City of

Sherman, Texas, and that sections of this ordinance may be renumbered or re-lettered to accomplish such intention.

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

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

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

INTRODUCED on this the _____ day of _____, 2008.

ADOPTED on this the _____ day of _____, 2008.

EFFECTIVE DATE on this the _____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

INTERIM CITY ATTORNEY

CITY OF SHERMAN



FATS, OILS, AND GREASE (FOG)
CONTROL GUIDE

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1.0 List of Definitions and Acronyms

- BMP – Best Management Practices are schedules of activities, prohibition of practices, or maintenance procedures designed to reduce pollution. *(Note: See the Code for a complete definition)*
- Code – Code of Ordinances for the City of Sherman, Texas
- FOG – Fats, Oils and Grease, sometimes referred to as “grease”.
- MS4 – Municipal Separate Storm Sewer System
- Non-domestic users – Any person(s) including those located outside the jurisdictional boundaries of the City, who contribute, cause, or permit the contribution or discharge of non-domestic wastewater into the City’s wastewater collection system, including persons who contribute wastewater from mobile sources.
- Non-domestic wastewater – Wastewater resulting from any industrial, commercial, manufacturing, food preparation or food processing operation, or from development of any natural resource, or any mixture of these with water or domestic wastewater.
- SSO – Sanitary Sewer Overflows are unauthorized discharges of raw sewage resulting from problems in the wastewater collection system.
- Wastewater collection system – The piping, conduit, pumping stations, force mains, and all other constructions, devices, and appurtenances used to transport wastewater. Also, sometimes referred to as the “sewer system.”

Note: Additional definitions are found in Article 13.07 of the Code.

2.0 Introduction

The City of Sherman has established a Fats, Oils and Grease (FOG) Control Program to protect the City’s wastewater collection system and treatment plant. This program is designed to control the discharge of FOG, sediment and other objectionable wastes which cause or contribute to blockages, obstructions of flow, back-ups in the wastewater collection system, or sanitary sewer overflows (SSOs) which impact public health or the environment.

To provide an easier understanding of the FOG Control Program, the City developed this guide to provide a summary of the program requirements included in the Code.

See the electronic version of this Code on the City’s website at www.ci.sherman.tx.us under the heading “More Items of Interest” which is located at the bottom of the web page. This guide also includes the required forms or other documentation necessary to comply with this program.

3.0 Applicability

The FOG Control Program applies to all non-domestic users with the potential to discharge FOG, sediment or other objectionable wastes which may be incompatible with the City’s wastewater collection system and/or treatment plant. Residential dwellings are exempt from the requirements of this program unless there are commercial activities within the dwelling that generate excessive amounts of objectionable wastes, including FOG.

4.0 Prohibitions

The City established general prohibitions and protective standards in Section 13.07 of the Code to prevent discharges of FOG and other objectionable wastes from impacting the City's wastewater collection system and treatment plant.

5.0 Requirements for Treatment Devices

Non-domestic users that have the potential to discharge FOG, flammable wastes, sand or other objectionable wastes into the wastewater collection system are required to provide a treatment device. This requirement applies to existing and new facilities as follows:

5.1 New Facilities

Any non-domestic user that commences new operations on or after December 1, 2008 will be required to design, install, operate and maintain a treatment device as required by the Code. Non-domestic users are considered a new facility when:

- An entire facility is newly proposed or constructed and the City has not issued a certificate of occupancy to the facility prior to December 1, 2008; or
- An existing facility in whole or part will be remodeled or renovated, where such facility did not exist prior to December 1, 2008, and the remodeling or renovation will increase, or has the potential to increase the amounts of FOG, flammable wastes, sand or other objectionable wastes that discharge to the wastewater collection system.

A new facility shall not commence any operations until installed treatment devices are inspected by the City and the facility receives a certificate of occupancy where applicable.

5.2 Existing Facilities

All non-domestic users operating within the City prior to December 1, 2008 shall maintain existing treatment devices in an efficient operating condition at all times.

The City may require an existing non-domestic user to install new or additional treatment devices or modify/repair a treatment device or non-compliant plumbing within a prescribed time period when conditions described in the Section 13.07 of the Code exist.

5.3 General Specifications

The City requires non-domestic users to comply with permitting, construction and inspection requirements established in the Code.

5.4 Sizing Requirements

The City established minimum sizing requirements for treatment devices to ensure a minimum degree of protection from the discharge of wastes containing FOG, flammable wastes, sand and other pollutants which may be harmful to the non-domestic user's building drainage system or the City's wastewater collection system. Since the treatment devices sizes are based on information provided by the non-domestic user or their contractor, the non-domestic user is responsible for ensuring the appropriate level of treatment necessary to achieve compliance with Code requirements.

See *Appendix A, Figure 1* for an example schematic of a grease interceptor and *Appendix A, Figure 2* for example forms showing how to size a grease trap or grease interceptor.

The City established sizing requirements for the following devices:

➤ **“Under the Sink” Grease Traps**

These “under the sink” grease traps are marginal treatment devices and are generally undesirable. However, in applications where they are allowed, the minimum sizing requirement for these devices are based on the draining fixture unit sizing method described in the Code. This method sizes the treatment device by calculating the total hydraulic loading of the fixtures connected to the treatment device and multiplying this total loading by a size factor. The resulting calculation determines the minimum flow rate of the grease trap in gallons per minute. (See *Appendix A, Figure 2, Grease Trap Sizing Form*)

The City established additional requirements specific to these “under the sink” grease traps.
(Re: § 13.07. 803(b-d))

➤ **Grease Interceptors**

The minimum sizing requirements for grease interceptors are based on the draining fixture unit sizing method described in the Code. This method sizes the treatment device by calculating the total hydraulic loading of the fixtures connected to the treatment device and multiplying this total loading by a 12-minute minimum retention time. The resulting calculation determines the minimum capacity of the grease interceptor in gallons. (See *Appendix A, Figure 2, Grease Interceptor Sizing Worksheet*)

The City established additional requirements specific to these grease interceptors.
(Re: § 13.07. 804(b-d))

➤ **Other Treatment Devices**

Minimum sizing requirements for other treatment devices will be based on current engineering practices and sizing specifications included in the most current version of the plumbing code adopted by the City.

➤ **Food Waste Grinders**

Any non-domestic user that installs a food waste grinder on or after December 1, 2008 must install a properly sized solids separator prior to discharging to a grease interceptor or increase the capacity of their treatment device to handle additional solid wastes if a solids separator is not installed.

If a non-domestic user has a food waste grinder installed and/or operational prior to December 1, 2008, the City may require the non-domestic user to implement BMPs (see Section 8.0 below) if the food waste grinder contributes to problems in the non-domestic user’s building drainage system or the City’s wastewater collection system.

6.0 Requirements for Sample Ports and Holding Tanks

6.1 Sample Ports

Any non-domestic user that is required to install, operate or maintain a treatment device shall install a sample port as approved by the City. See *Appendix A, Figure 1* for an example schematic of a sample port accepted by the City.

6.2 Holding Tanks

Non-domestic users are required to install appropriate holding tanks to store any yellow grease, used oils, antifreeze or other objectionable wastes prior to recycling or disposal at a site approved by the appropriate regulatory agency. These holding tanks shall not be connected to the wastewater collection system or in any way be allowed to discharge to the wastewater collection system or the municipal separate storm sewer system.

7.0 Alternate Devices, Technologies and Treatment

The City will allow non-domestic users to request the use of alternate grease removal devices or other technologies in lieu of a required treatment device in those cases where it is impossible or impractical to install, operate, or maintain such a device due to site specific conditions. These devices will be approved on a case-by-case basis only. Additionally, alternate treatment options may be used to enhance the efficiency of treatment devices if the non-domestic user has:

- Satisfied minimum requirements specified in the ordinance, and
- Received approval by the City to use such products.

8.0 Best Management Practices (BMPs)

The City may require non-domestic users to implement structural or non-structural BMPs to reduce and/or eliminate the discharge of FOG and other objectionable wastes that impact the City's wastewater collection system and treatment plant, or contribute to inflow/infiltration from stormwater sources that discharge into the non-domestic user's building sewer system, treatment devices, or other connections to the wastewater collection system. See *Appendix A, Figure 3* for a list of example BMPs that may be required under the FOG Program.

9.0 Cleaning and Maintenance Requirements

9.1 General Requirements

The City established general cleaning and maintenance requirements for non-domestic users that install and/or maintain treatment devices, sample ports or holding tanks required by the FOG Program.
(Re: § 13.07.826)

9.2 Minimum Pumping Requirements

The City established minimum frequencies for evacuating (pumping), cleaning and inspecting treatment devices to ensure the efficiency, integrity, and quality of the discharge from these devices. The City may grant a variance to these minimum pumping frequencies if the non-domestic user satisfies minimum requirements established in Section 13.07 the Code. These variances will be granted on a case-by-case basis only. (Re: § 13.07.827)

Non-domestic users may be required to pump their treatment device(s) on an emergency or accelerated basis if the user's discharge is impacting the wastewater system, causing and/or contributing to a back-up or sanitary sewer overflow, or posing a threat to public health or the environment.

Non-domestic users must fully evacuate treatment devices during pumping activities.

9.3 Self-Cleaning Requirements for “Under the Sink” Grease Traps

Non-domestic users must submit a completed “Self-Cleaner Request Form” (*Appendix B, Form 1*) to the City and receive approval prior to self-cleaning “under-the-sink” grease traps. Once approved, the non-domestic user must document all self-cleaning activities on a form similar to the “Example Grease Trap Maintenance Log” (*Appendix B, Form 2*).

9.4 Manifest or Trip Ticket Requirements

The City requires persons who generate, collect, and/or transport liquid wastes to maintain a record of each individual collection and deposit of wastes using a manifest or trip ticket form which includes at a minimum, the information listed in *Appendix A, Figure 4*.

9.5 Closure of Facilities with Treatment Devices

The City established requirements for non-domestic users that close or cease operations at a facility that utilizes a treatment device required by the FOG Program. (Re: § 13.07.833)

10.0 Monitoring and Inspections

The City has the legal authority to conduct monitoring and inspection activities to verify compliance with the FOG Control Program. Additionally, the City has procedures for non-domestic users to follow when requesting information be considered confidential or proprietary. (Re: § 13.07.850 - § 13.07.853)

11.0 Recordkeeping Requirements

Non-domestic users shall retain all required records for a period of at least three (3) years with the exception of manifests or trip tickets which shall be retained for a period of at least five (5) years. The City established additional recordkeeping requirements for non-domestic users subject to this program. (Re: § 13.07.861 - § 13.07.866)

See *Appendix B, Form 3* for example wastewater questionnaire or survey form the City will use to gather information on the nature and characteristics of non-domestic user’s operations.

12.0 Enforcement Remedies

The City established a range of enforcement remedies to ensure compliance with the FOG Control Program. As a general rule, non-compliance will be addressed through the issuance of a Notice of Violation (NOV) which will include an administrative fee, increasing in cost with each continuing violation until corrective measures have been implemented. Continued violations will result in escalated enforcement action that may include compliance schedule agreements (CSA) or termination/suspension (TS) of services. Initial offenses of a less serious nature are typically addressed through the issuance of a Notice of Deficiency (NOD) which does not include any administrative fees. (Re: § 13.07.870 - § 13.07.879)

12.1 FOG Enforcement Plan

The City’s FOG Enforcement Plan provides a framework for determining appropriate responses for violations of the FOG Control Program. This plan is not intended to cover all violations or remedies.

FOG Enforcement Plan

<u>Category of Non-Compliance</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>Additional Offenses</u>
Recordkeeping and/or Reporting Deficiencies	NOD	NOV	CSA
Failure to Pay Required Fees or Surcharges	NOD	NOV	CSA/TS
Failure to Properly Clean or Maintain Devices	NOD/NOV	NOV/CSA/TS	TS
Failure to Implement BMPs or FOG Plan	NOD/NOV	NOV/CSA	CSA/TS
Failure to Properly Install Required Devices	NOV	NOV/CSA/TS	
Violating Prohibitions/Prohibited Practices	NOV	NOV/CSA/TS	

While enforcement will generally be implemented in accordance with this FOG Enforcement Plan, the City is empowered to take more than one enforcement action, depending upon the magnitude and type of non-compliance.

The ranges of enforcement remedies are not exclusive. The City reserves the right to take any, all, or any combination of enforcement remedies against a non-domestic user that violates the requirements of the FOG Control Program.

In those cases where the non-domestic user's discharge or activities violates conditions specified in Article 13.07, Division 5 of the Code, then the City may initiate administrative or judicial remedies as allowed in this portion of the code.

13.0 Fees and Surcharges

13.1 Fees

The City may adopt reasonable fees for the reimbursement of costs necessary to operate the FOG Control Program. These fees may be assessed through the non-domestic user's utility bill where allowed by the Code.

13.2 Surcharges

Any non-domestic user that discharges into the City's wastewater collection system may be assessed an additional surcharge for discharging extra strength wastes that exceed normal domestic wastewater levels as defined by ordinance. These surcharge rates are established by Code which requires City Council approval.

14.0 Appendices

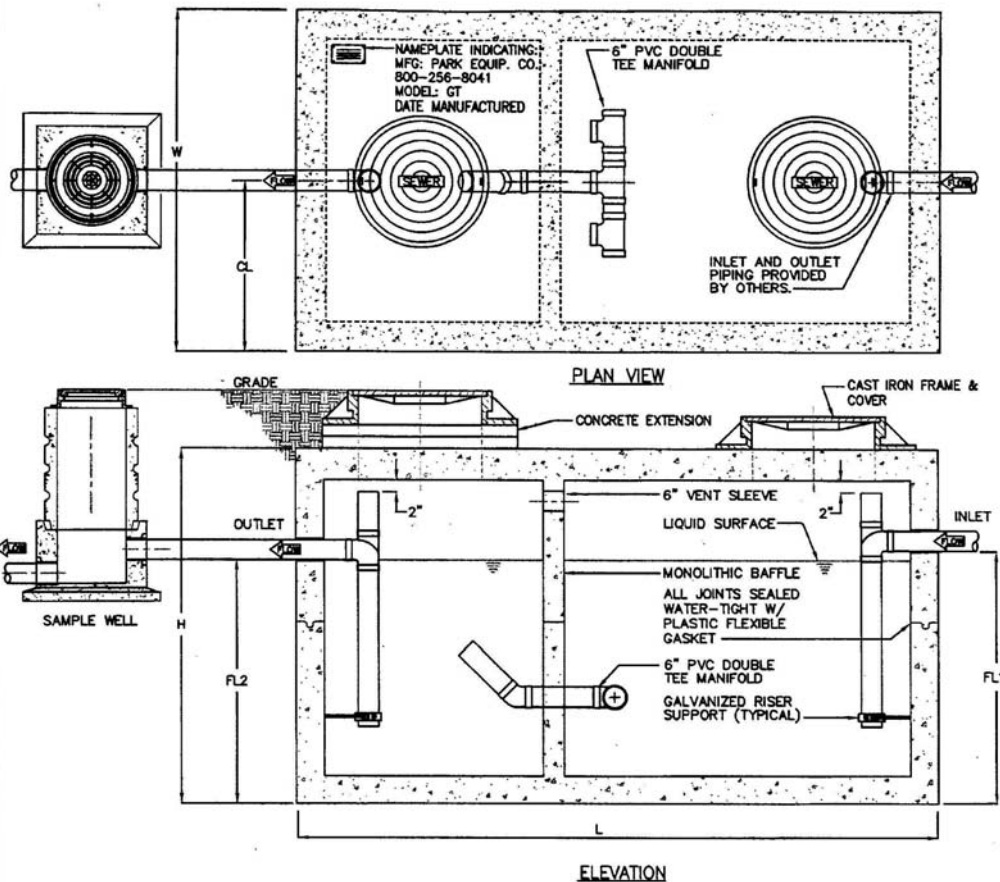
14.1 Appendix A – Figures

- Figure 1 - Treatment Device and Sample Port Schematics
- Figure 2 - Grease Trap/Grease Interceptor Sizing Form
- Figure 3 - Example Best Management Practices
- Figure 4 - Manifest or Trip Ticket Requirements

14.2 Appendix B – Forms

- Form 1 - Self-Cleaner Request Form
- Form 2 - Example Grease Trap Maintenance Log
- Form 3 - Wastewater Questionnaire or Survey Form

Appendix A, Figure 1
Treatment Device and Sample Port Schematics



© PARK 2002

Specifications

CONCRETE: Class 1 concrete with design strength of 4500 PSI at 28 days. Unit is of monolithic construction at floor, first stage of wall and baffle with sectional riser to required depth. (Monolithic baffle required, slide-in type is not acceptable) gross empty weight as indicated.

REINFORCEMENT: Grade 60 reinforced with steel rebar conforming to ASTM A615 on required centers or equal.

C.I. CASTINGS: Manhole frames, covers or grates are manufactured of grey cast iron conforming to ASTM A48-76 Class 30. Manhole shall have 24 inch inside diameter and be traffic duty.

Engineering Data

Interceptor is structurally and hydraulically engineered conforming to Uniform Plumbing Code. Nominal liquid capacity as indicated on plan.

Shop drawings shall include complete structural & buoyancy calculations certified by a registered engineer.

Field excavation and preparation shall be completed prior to delivery of interceptor. Use dimensional data as shown.

PROJECT :

CUSTOMER :

ARCHITECT :

ENGINEER :

ORDER # :

DATE :

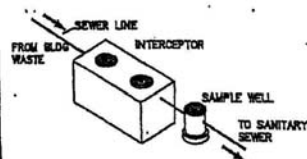
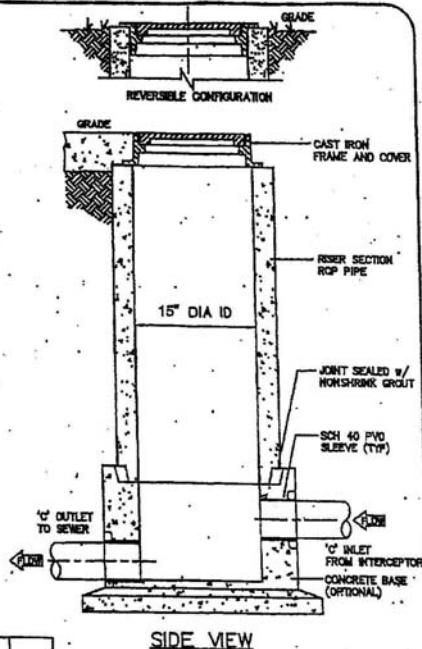
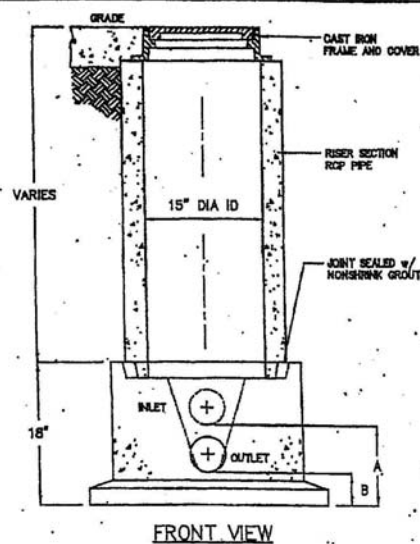


800-256-8041
www.park-usa.com

"Expect the Best"

TYPICAL GREASE INTERCEPTOR DIAGRAM

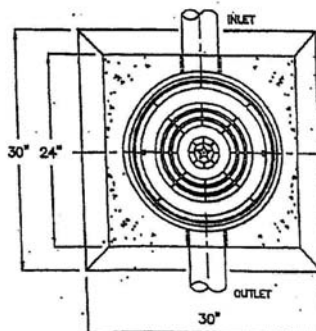
SCALE	NONE	DWG. NO.	REV.
DATE	01/02	GTINST-01	A



MODEL	PIPE SIZE "C"	A	B
SWB-154	4"	11"	4"
SWB-156	6"	9"	4"

NOTES

1. SAMPLING WELL MUST BE INSTALLED UNDER A SEPARATE PLUMBING PERMIT.
2. USE 15" T&G R.C.P. FOR INSTALLATION FOR INSTALLATION 6'-0" DEEP AND LESS.
3. USE 24" T&G R.C.P. FOR INSTALLATION GREATER THAN 6'-0" DEEP. (STD RING AND M.H. COVER REQUIRED)
4. SAMPLING WELL MUST BE SET IN A CIRCULAR OR SQUARE CONCRETE PAD. (1'-0" GREATER THAN OUTSIDE DIAMETER OF PIPE.)
5. INSIDE INSTALLATION NOT PERMITTED, WHERE OUTSIDE INSTALLATION IS POSSIBLE.
6. INSTALLATION INSIDE BLDG MUST BE POURED IN PLACE (15' MIN) NO CONCRETE PIPE IS PERMITTED. (AIR-TIGHT COVER REQUIRED.)
7. LAWN INSTALLATION MUST BE 4" ABOVE FINISHED GRADE.
8. DRIVE & SIDEWALK INSTALLATION MUST BE BROUGHT TO FINISHED GRADE.
9. TO BE INSTALLED ON PRIVATE PROPERTY, IN AN ACCESSIBLE LOCATION TO CITY PERSONNEL.



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SPECIFICATIONS

- CONCRETE : Class 1 concrete with of design strength of 4500 PSI at 28 days. Unit is of monolithic construction at floor and first stage of wall with sectional riser to required depth.
- C.I. CASTINGS: Cast iron frames and grates are manufactured of grey cast iron conforming to ASTM A48-78 Class 30, Heavy-Duty AASHTO H-20



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SAMPLE WELL BASIN

SCALE	NONE	DWG. NO.	REV.
DATE	01/02	SWB15	A

Known Vendors			
Company	Location	Phone	Products
Hausner's Limited	Durant, OK	(580)924-6988	Grease Traps, Interceptors, sample test wells
American Industrial Precast	Alvarado, TX	(817)477-5286	Grease Traps, Interceptors, sample test wells
API Industries	Tulsa, OK	(918)664-4010	Alternative Grease Removal Systems
CPI	Hewlett, TX	(800)613-8274	Grease Traps, Interceptors, sample test wells
Old Castle Precast	Mansfield, TX	(817)477-2915	Grease Traps, Interceptors, sample test wells
Park Equipment Services	Houston, TX	(800)256-8041	Grease Traps, Interceptors, sample test wells
Thermaco (Big Dipper)	Asheboro, NC	(800)633-4204	Alternative Grease Removal Systems
Montgomery Sales	Plano, TX	(972)712-6418	Molded wastewater access sample and cleanout

Appendix A, Figure 2

Grease Trap/Grease Interceptor Sizing Forms

Grease Trap Sizing Form

Name:		Date:	
-------	--	-------	--

Address:		Prepared By:	
----------	--	--------------	--

#	Description of Fixture	Fixture units each	Fixture units
1	<Include Brief Description>	2	2

Total Fixture Units (FU's)	2
----------------------------	---

Flow Rate (7.5 gpm per FU)	15
----------------------------	----

Size Factor	1.5
-------------	-----

Round up to next available size (i.e.: 10, 15, 20, 25, 35, 50)

Minimum Trap Flow Rate (gallons per minute)	22.5 25
---	---

Grease Trap Flow Rate = Total FU*7.5 gpm per FU*1.5 size factor

Interceptor installation must include the following at a minimum:

- 1) A flow control device or fitting furnished with the interceptor must be installed ahead of the interceptor in the waste line beyond the last connection from the fixture.
- 2) A sample port or sampling location must be located after the interceptor where the waste line discharges into a floor sink. Other installations will be subject to approval by City.
- 3) Interceptor must be installed in accordance with local adopted plumbing code.

Laboratory & Pretreatment Supervisor

Date Approved

* Grease interceptor sizing is a minimum measure based on information provided at the time of construction. User is responsible for removing grease prior to discharging to the City's sewer system regardless of interceptor size or discharge rate into the grease interceptor.

New Construction Plan Review Grease Interceptor Sizing Worksheet

Project: _____ Contractor: _____
 Applied Date: _____ Contacts: _____
 Property: _____

#	Description	Applied Fixture Units	Total Units
	prep sink to 3" floor sink, SK-2	3	0
	4 compartment sink to 3" floor sink, SK-1	3	0
	hot table to 3" floor sink	3	0
	dishwasher	6	0
	2" hand sink, HS-2 & 3 ¹	2	0
	3" floor drain, FD-1 ¹	3	0
	(3") floor sink, FS-1	3	0
	(3") mop basin, MB-1	3	0
Total Fixture Units (FU's)			0
Flow Rate (7.5 gpm per FU)			0
<i>Round up to next available size (i.e.: 1500, 2000, 2500, 3000)</i>			
Minimum Volume ²			0
<i>Volume = Total FU*7.5 gpm per FU*12 minute retention time</i>			

Pretreatment Staff

Laboratory & Pretreatment Supervisor

Date Completed

Date Approved

¹ Reduced fixture count applied (if applicable)

² Grease trap sizing is a minimum measure based on information provided in plumbing plans. Industrial user is responsible for removing grease prior to discharge to the City's sewer system regardless of trap size or discharge rate into the grease trap.

³ A 15" sample well with a 4" offset is required directly downstream of the grease trap.

Questions on Grease Trap Sizing and Requirements Contact:
 Laboratory and Pretreatment Department
 288 Post Oak Rd.
 (903) 892-7036

Appendix A, Figure 3

Example Best Management Practices

City of Sherman
FOG Control Program
Example Best Management Practices

Structural BMPs that require a physical device, appurtenance, or container to be installed or removed include, but are not limited to:

- Use of holding tanks for collecting and recycling yellow grease rather than pouring it down a fixture or drain;
- Removing food waste grinders (garbage disposals) where excessive food solids reduce the efficiency of treatment devices or clog portions of the user's building sewer system or the city's wastewater collection system;
- Use of drain screens in fixtures, dishwashers, floor sinks or other plumbing devices in food preparation areas to collect food wastes or solids;
- Installing flow restrictors to reduce flow through small under-sink treatment devices where allowed;
- Installing automatic dispensing devices to reduce the excessive use of surfactants, soaps or other cleaning chemicals;
- Rerouting non-grease bearing streams (e.g., hand wash sinks, condensate lines, ice machine discharges, etc.) to reduce hydraulic flow so as to increase the removal efficiency of a treatment device;
- Installing solids separators between a food grinder and the treatment device receiving the fats, oils and grease or food wastes when the user maintains a food grinder;
- Installing berms or roof structures, disconnecting roof drains or other physical means of preventing inflow of stormwater from entering the wastewater collection system; and
- Installing, upgrading, repairing, or otherwise modifying treatment devices, appurtenances or other equipment to comply with the requirements of this division; and

Non-structural BMPs that depend on a non-domestic user's employee, operator and/or owner to implement pollution prevention measures or other practices include, but are not limited to:

- Dry clean-up practices;
- Establishing spill prevention and clean-up practices;
- Establishing proper dishwashing and food service equipment cleaning practices;
- Maintenance and cleaning of treatment devices, dumpsters or holding tank areas;
- Recycling of wastes where allowed;
- Posting or displaying kitchen signage in food preparation, serving and/or dishwashing areas;
- Maintaining records and documentation as required by this division; and
- Developing and maintaining employee training programs.

Appendix A, Figure 4

Manifest or Trip Ticket Requirements

City of Sherman
FOG Control Program
Manifest or Trip Ticket Requirements

- Persons who generate, collect, and/or transport wastes regulated under the FOG Program shall maintain a record of each individual collection and deposit of wastes. Such records shall be in the form of a manifest which shall include the following information at a minimum:
 - Name, address, telephone number, and commission registration number of transporter;
 - Name, signature, address, and telephone number of the person who generated the waste and the date collected;
 - Type and amount(s) of waste collected or transported;
 - Name and signature(s) of responsible person(s) collecting, transporting, and depositing the waste;
 - Date and place where the waste was deposited;
 - Identification (permit or site registration number, location, and operator) of the facility where the waste was deposited;
 - Name and signature of facility on-site representative acknowledging receipt of the waste and the amount of waste received; and
 - The volume of the grease trap, interceptor or other treatment device.
- Manifests shall be divided into five (5) parts and the records shall be maintained as follows:
 - One part of the manifest must have the generator and transporter information completed and is given to the generator at the time of waste pick-up.
 - The remaining four (4) parts of the manifest must have all required information completely filled out and signed by the appropriate party before distribution of the manifest is completed as follows:
 - One part must go to the receiving facility;
 - One part must go to the transporter, who shall retain a copy of all manifests showing the collection and disposition of wastes;
 - One part must be returned by the transporter to the person who generated the wastes within 15 days after the waste is received at the disposal or processing facility; and
 - One part of the manifest must go to the city.
- Copies of the manifests returned to the waste generator shall be retained for five (5) years and be readily available for review by the City.

Appendix B, Figure 1
Self-Cleaner Request Form

City of Sherman
Request to Self-Clean Grease Traps

Facility Name _____ Date _____

Address _____

Phone Number _____ Fax Number _____

Owner or Operator Name/Title _____

Facility Contact Name/Title (if different than owner/operator) _____

1. How many "under the sink" grease traps does your facility have that are installed and operational? _____
2. Describe the size (in gallons), location, and general condition of the grease trap(s).

3. How often are or will the grease trap(s) be serviced, and by whom? _____

4. When was the grease trap(s) last serviced? _____
(If serviced in the last 12 months, provide records or logs of the cleaning/disposal activities.)
5. If your facility has not self-cleaned any existing grease trap(s) or your facility has recently added a grease trap(s) and would like to start self-cleaning your grease traps, provide example logs or forms your facility will use to document cleaning/maintenance activities.
6. Describe how the wastes from the grease trap(s) are or will be disposed? _____

SIGNATURE _____ DATE _____

By signing this form, your facility acknowledges that it will self-clean operational grease trap(s) on a routine basis as described above, and your facility will retain records of these cleaning activities as required by the City's FOG Control Program.

Should your facility fail to self-clean grease trap(s) at the prescribed frequency described above, retain records, and provide the City access to these records when requested, your facility will not be authorized to continue self-cleaning your grease traps.

RETURN COMPLETED FORM TO:
City of Sherman
Department 7723 – Laboratory Services
P. O. Box 1106
Sherman, Texas 75091-1106

Appendix B, Figure 2

Example Grease Trap Maintenance Log

**Example
Grease Trap Maintenance Log**

Facility Name: _____

Location of Grease Trap: _____

Date Serviced	Name of Person Servicing Device	Disposal Method Used	Gallons of Trap Waste Removed	Gallons of Recycled Oil Removed	Name of Company Removing Any Wastes Off-Site	Signature of Facility Representative

Each individual that signs this log certifies all the information recorded on this form is true and accurate.

Appendix B, Figure 3

Wastewater Questionnaire or Survey Form

City of Sherman
Food Service Establishment (FSE) Survey

Company Name _____ Date _____
Address _____
Phone/Fax _____
Company Contact _____

1. Do you have a grease trap? YES___ NO___

If you answered YES, please answer all questions.

If you answered NO, please go to question numbers 11 thru 21.

2. Describe the size, location, and general condition of the grease trap. _____

3. How often is the grease trap serviced, and by whom? _____

4. When was the grease trap last serviced? (Provide copies of manifests or trip tickets) _____

5. Does grease trap have a sample port or clean out? YES___ NO___

6. Does your establishment have a dishwasher? YES___ NO___

7. If yes, is the dishwasher connected to the grease trap? YES___ NO___

8. Does your establishment have a garbage disposal? YES___ NO___

9. Is the garbage disposal connected to the sinks? YES___ NO___

10. Are the sinks connected to your grease trap? YES___ NO___

11. How does your establishment dispose of cooking grease and deep fat fry grease? _____

12. How are the grill cleanings disposed of? _____

13. Approximately how many customers do you serve per month? _____

14. Is food processed or prepared in the establishment? YES___ NO___

15. Please describe food preparation and clean up activities. _____

16. How is the excess waste from food preparation and/or clean up disposed of? _____
17. During food preparation does the establishment prepare or serve any viscous solids? (i.e. batter, gravy, or oatmeal) YES ___ NO ___
18. If so, how is waste disposed of? _____
19. How are these wastes stored? (in reference to):
A. SOLID WASTES _____
B. OIL & GREASE _____
C. VISCOUS WASTES _____
D. LIQUID WASTES _____
20. Explain how your establishment cleans the floors and how mop/washdown water is disposed of? _____
21. If the mop/washdown water is poured into a drain, is the drain connected to the grease trap?
YES ___ NO ___

SIGNATURE _____ DATE _____

RETURN COMPLETED FORM TO:
City of Sherman
Department 7723 – Laboratory Services
P. O. Box 1106
Sherman, Texas 75091-1106
Telephone: (903) 892-7036



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. B.6

CONSENT AGENDA

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

C.2 * *RESOLUTION NO. 5285*

Authorizing Execution of a Development Agreement with Sherman Bible Church for the Construction of Public Facilities in the O'Hanlon Ranch Phase II, Block 3, Lot 10 within the City of Sherman

C.3 * *RESOLUTION NO. 5286*

Authorizing Execution of a Development Agreement with Tin Star Homes, LLC for the Construction of Public Facilities in the Country Ridge Subdivision, Section 4 within the City of Sherman

C.4 * *RESOLUTION NO. 5287*

Authorizing Execution of a Contract with Weisinger Water Wells, Inc. for Emergency Repairs to Luella 3 Trinity Water Well

D.2 * *REQUEST TO ADVERTISE*

Purchase of Replacement Loader Backhoe for Water Utilities

D.5 * *OTHER BUSINESS*

Approve Quarterly Investment Report for Period ending September 30, 2008



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. C.1

RESOLUTION NO. 5284

Authorizing Execution of a License Agreement with Enterprise Texas Pipeline, LLC for a Utility Easement at Various Locations throughout the City of Sherman

Issue

To consider granting a license agreement to Enterprise Texas Pipeline, LLC on various City of Sherman properties

Background

Enterprise Texas Pipeline, LLC has requested that the City of Sherman grant a license agreement to cross property owned by the City of Sherman at various locations throughout the City. Enterprise is planning to construct a new pipeline from Erath, Texas to Ambrose, Texas.

Origination

Enterprise Texas Pipeline, LLC

Financial Consideration

No cost to the City. License fees come to the City.

Staff Recommendation

The staff has no objections to the license agreement and recommends approval.

Alternatives

As may be directed by the City Council

Attachments

Resolution No. 5284

License Agreement

Exhibits A, B and C (Location Maps and Legal Descriptions)

Enterprise 36" Pipeline Route

Prepared by:
Mark Gibson, Director of Utilities and Engineering

Approved by:
George Olson, City Manager

RESOLUTION NO. 5284

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A LICENSE AGREEMENT WITH ENTERPRISE TEXAS PIPELINE, LLC FOR A UTILITY EASEMENT AT VARIOUS LOCATIONS THROUGHOUT 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 documents being properly completed and approved as to form and content by the interim City Attorney, to execute a license agreement with Enterprise Texas Pipeline, LLC for utility easements at various locations within the City, in accordance with the field notes and the surveys approved by the City Engineer and the interim City Attorney, attached hereto and incorporated herein for all purposes.

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

PASSED AND APPROVED on this the ____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
INTERIM CITY ATTORNEY

LICENSE AGREEMENT

This License Agreement ("Agreement") is made on this ____ day of _____, 2008, by and between the City of Sherman, Texas (the "City") and Enterprise Texas Pipeline LLC, a Texas Limited Liability Corporation ("Licensee").

RECITALS

WHEREAS, the City is the owner of the properties described in Exhibits A, B & C, which is incorporated hereby reference (hereinafter "City's Property"); and

WHEREAS, the Licensee desires to use a portion of the City's Property for the construction, installation, operation, inspection, repair, reconstruction, replacement, relocation within the License Area, removal and maintenance of a 36-inch natural gas pipeline (hereinafter "Pipeline"), and as more particularly described within this Agreement; and

WHEREAS, the City has agreed to grant to Licensee an irrevocable license, subject to the provisions of Section 10 hereof, to use a portion of the City's Property, as described in Paragraph 2 of this Agreement, in accordance with and subject to the terms, conditions and limitations of this Agreement;

NOW, THEREFORE, it is agreed as follows:

1. **Grant of License.** The City hereby grants to the Licensee an irrevocable license, subject to the provisions of Section 10 hereof, to enter upon the City's property for the use described in Paragraph 7 (the "License") subject, however, to the terms, conditions and limitations of this Agreement. The License herein granted shall be subject to all existing facilities, if any, located or to be located within the City's Property.
2. **Location of License.** This License is granted for use in the following described area (hereinafter "License Area"):

Exhibits A, B & C

3. **Term.** This Agreement and the license granted to Licensee hereunder shall commence as of the date of this Agreement and shall continue until terminated in accordance with the terms of this Agreement.
4. **Consideration.** The consideration to be paid by the Licensee to the City for the privilege granted by this Agreement shall be \$17,448.00, the receipt of which is hereby acknowledged by the City.
5. **No Interest in Land.** Licensee understands, acknowledges and agrees that this Agreement does not create an interest or estate in Licensee's favor in the City's Property, except

as provided in this Agreement. The City retains legal possession of the full boundaries of its property; and this Agreement merely grants to the Licensee the irrevocable license, subject to the provisions of Section 10 hereof, to use the License Area described above throughout the term of this Agreement and in accordance with the terms of this Agreement. Provided, however, the City shall not use the License Area in any manner that shall be inconsistent with this Agreement or that shall unreasonably interfere with the rights granted herein or endanger the Pipeline. Further, the City agrees that it shall not place any buildings, structures or other structures, or impound water upon the License Area without the prior written consent of Licensee.

This Agreement shall in no event be construed to create an assignment coupled with an interest in favor of Licensee.

6. Agreement to Protect Existing Facilities. Licensee agrees to take reasonably prudent action to protect any and all existing facilities located within the City's Property from any damage or injury caused by any work performed by or on behalf of Licensee regarding the construction, installation, operation, inspection, maintenance, repair, reconstruction, replacement, relocation, or removal of the Pipeline made the basis of this License or the failure, deterioration or collapse of such. Any damage or injury caused by Licensee or by those performing work on behalf of Licensee to the said facilities located on the City's Property shall be repaired and/or resolved at Licensee's sole cost and expense.

7. Limited Scope of License. The License granted to the Licensee is limited in scope and is for the sole purpose of installing, constructing, operating, inspecting, repairing, reconstructing, replacing, relocating within the License Area and maintaining a Pipeline on the City's Property. Licensee shall also have the right of ingress and egress to the License Area on, over and across the City's Property. Licensee shall have the right from time to time to mow and keep the License Area clear of all trees, bushes, rocks or other obstructions. Licensee shall not have the right to expand the License Area or alter or change Licensee's use of this License or the License Area.

8. Installation and Maintenance Requirements. Licensee agrees to the following installation and maintenance requirements:

- a. The License Area shall be used for the License purposes only.
- b. Any area disturbed during the installation or any maintenance related to this License shall be restored or repaired at completion of the construction to a condition as good or better than existing immediately prior to the installation or maintenance activity and at Licensee's sole cost and expense.
- c. Proper traffic control, where and when applicable, shall be maintained in accordance with current Sherman Public Works Department's Standard Specifications during all construction or maintenance of the License.

- d. The work of constructing and maintaining the Pipeline shall be done so as to not interfere with the proper and safe use or operation of the City Property and under the following general conditions:
 - i. Licensee agrees to take reasonable precautions to minimize damage to the License Area.
 - ii. Except in the event of emergency, Licensee shall provide the City with a minimum of forty-eight (48) hours notice prior to the commencement of any construction or maintenance activity.
 - iii. Licensee shall submit plans to the City and/or any other necessary party and obtain written approval before any installation, work or alteration of the Pipeline or License Area is performed, such approval not to be unreasonably withheld, conditioned or delayed. Any plans and/or installations shall comply with all federal, state, and local laws and standards. Licensee agrees that no work shall be done until it has received the written approval of the City, provided that, in the event the City has not responded within thirty (30) days following the submittal of such plans by Licensee, the City shall be deemed to have approved such plans.
- e. All costs and expenses in connection with the construction, maintenance, repair, relocation and/or removal of the Pipeline shall be borne by the Licensee, except as provided in subparagraph (f) immediately below.
- f. Licensee represents and agrees that City retains reasonable discretion to require relocation of the Pipeline, in which event City shall provide an alternate location for the Pipeline and City and Licensee shall equally share the cost for relocating the Pipeline.

9. Non-Transferability of License. The License granted to the Licensee by this Agreement is an irrevocable license granted by the City to the Licensee and is neither transferable nor assignable by the Licensee without the prior written consent of the City which will not be unnecessarily withheld. In no event will this License be transferred or assigned without the written agreement of the subsequent transferee or assignee to provide insurance coverage, as provided in Section 17 of this Agreement.

10. Termination. This Agreement and the license herein granted to Licensee is irrevocable, except upon any of the following conditions:

- a. Termination for Default of by Licensee. Licensee shall be in default under this Agreement if Licensee materially breaches any of the obligations imposed upon Licensee under this Agreement and such breach remains uncured following

ninety (90) days after written notification is provided by the City to Licensee at Licensee's address as set forth in this Agreement. Provided, however, in the event the default is not susceptible of cure within said ninety (90) day period, then Licensee shall have a reasonable period of time in which to cure such default, provided that such cure is commenced during said ninety (90) day period. Further, the period for cure shall be extended on a day for day in the event of an event of force majeure. For purposes herein, "force majeure" shall mean an act of God, riot, labor strike, war, act of the public enemy, shortages of labor or materials, or any other external factor not within the control of Licensee.

- b. Transfer of Property. This Agreement and the License herein granted to Licensee shall automatically terminate, without notice to Licensee, upon the transfer of Licensee's property, or the attempted assignment of this Agreement, or the License herein granted, except as provided in paragraph 9.
- c. Termination for Lack of Insurance. This Agreement and the License herein granted may be terminated by City in the event Licensee fails to procure and maintain the insurance coverages required by this Agreement, subject to the notice and right to cure provisions of subsection (a) hereinabove.

11. Warranties.

- a. During the term of the License, the Licensee warrants that it will not allow the use of the License Area to be used by any person or entity except for Licensee or Licensee's contractors in the performance of this License.
- b. The signatory below warrants that he/she has full authority to enter into this agreement on behalf of Licensee.

12. Recordation. This Agreement shall be recorded in the Official Records of Grayson County, Texas. Licensee shall bear the cost of such recordation. Upon termination of this Agreement, the City may cause to be recorded with the Clerk and Recorder of Grayson County, Texas a written Notice of Termination.

13. No Compensation to Licensee. In the event of termination of this Agreement, Licensee shall not be entitled to receive a refund of any portion of the consideration paid for this Agreement.

14. Permanent Removal of Pipeline at Termination. At such time as this Agreement and the License herein granted to Licensee is terminated the Licensee shall, at the option of the City, remove, at Licensee's sole cost and expense, the Pipeline installed pursuant to this License and any other material owned or maintained by Licensee in the City's Property.

15. **Maintenance.** During the term of this Agreement, the Licensee shall, at Licensee's expense, maintain the License Area in good condition.

16. **Indemnification and Duty to Defend.**

- a. Indemnification. LICENSEE AGREES TO DEFEND, INDEMNIFY AND HOLD CITY, ITS COUNCIL MEMBERS, OFFICERS, AGENTS AND EMPLOYEES (HEREINAFTER "CITY'S INDEMNIFIED PARTY"), HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES INCLUDING ATTORNEYS FEES, FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM, FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY THIRD PARTY PERSON, PERSONS OR PROPERTY, THAT MAY ARISE OUT OF OR BE OCCASIONED BY LICENSEE'S BREACH OF ANY TERMS OR PROVISIONS OF THIS AGREEMENT OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, STRICTLY LIABLE ACT, OR ANY OMISSION OF LICENSEE, ITS OFFICERS, AGENTS, EMPLOYEES, CONTRACTORS OR SUBCONTRACTORS, IN THE PERFORMANCE OF THIS AGREEMENT (HEREINAFTER "CLAIMS"); EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF CITY, ITS OFFICERS, AGENTS, EMPLOYEES, OR SEPARATE CONTRACTORS, SUBJECT TO LICENSEE'S DUTY TO DEFEND IN SOME CIRCUMSTANCES AS PROVIDED IN (B) BELOW. THIS INDEMNIFICATION SHALL ALSO APPLY TO ANY LOSS, LIABILITY, CLAIM OR SUIT ARISING FROM THE FORECLOSURE, OR ATTEMPTED FORECLOSURE, OF A MECHANIC'S OR MATERIALMEN'S LIEN FOR GOODS DELIVERED TO LICENSEE OR WORK PERFORMED BY OR FOR LICENSEE UPON OR AT THE LICENSE AREA OR THE CITY'S PROPERTY. SUCH INDEMNIFICATION SHALL INCLUDE THE CITY'S ATTORNEY'S FEES INCURRED IN CONNECTION WITH ANY SUCH LOSS, LIABILITY, CLAIM OR SUIT.
- b. Duty to Defend. In the event any action or proceeding shall be brought against the City's Indemnified Party by reason of any matter for which the City's Indemnified Party is indemnified hereunder, Licensee shall, upon timely notice from any of the City's Indemnified Party, at Licensee's sole cost and expense, resist and defend the same with legal counsel selected by Licensee and approved by the City; provided, however, that Licensee shall not admit liability in any such matter on behalf of the City's Indemnified Party without their written consent and approval. Licensee's obligation to defend shall apply if the City or the City's Indemnified Party is concurrently negligent, but not for the sole negligence or willful misconduct of the City or the City's Indemnified Party. The City's Indemnified Party shall give Licensee prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this Section. Nothing herein shall be deemed to prevent the City's Indemnified Party at their election and at their own expense from cooperating with Licensee and participating in the defense of any litigation by their own counsel. If Licensee fails to retain defense counsel within ten (10) business days after receipt of City's Indemnified Party's written notice that the City's

Indemnified Party is invoking its right to indemnification under this Agreement, City's Indemnified Party shall have the right to retain defense counsel on their own behalf, and Licensee shall be liable for all defense costs incurred by City's Indemnified Party. Notwithstanding the foregoing, Licensee's duty to defend shall not apply if Licensee is materially prejudiced in the defense of an action in which it would be obligated to defend, if the City or the City's Indemnified Party fails to notify Licensee of such action in a timely manner.

17. Insurance.

- a. Licensee shall, at its sole cost and expense, obtain, maintain, and provide, throughout the term of this Agreement, insurance in the amounts, types and coverage's in accordance with the City's requirements. Such insurance may be in the form of self-insurance to the extent permitted by applicable law or by obtaining insurance, as follows:
 - (1) Commercial general or excess liability on an occurrence or claims made form with minimum limits of five million dollars (\$5,000,000.00) per occurrence and ten million dollars (\$10,000,000.00) aggregate. To the extent that coverage is maintained on a claims made form, the minimum limits are ten million dollars (\$10,000,000.00) per occurrence and twenty million dollars (\$20,000,000.00) aggregate. This coverage shall include, but not be limited to, the following:
 - (a) Personal injury and property damage.
 - (b) Contractual liability.
 - (c) Explosion, collapse, or underground (XCU) hazards.
 - (2) Automobile liability coverage with a minimum policy limit of one million dollars (\$1,000,000.00) combined single limit. This coverage shall include all owned, hired and non-owned automobiles.
 - (3) Workers compensation and employers liability coverage. Statutory coverage limits for worker's compensation and five hundred thousand dollars (\$500,000.00) employers' liability coverage is required. Licensee must provide the City with a waiver of subrogation for worker's compensation claims.
- b. Licensee must name the City, which includes all authorities, commissions, divisions and departments, as well as elected and appointed officials, agents, and volunteers, as an additional insured under the coverage required herein, except Worker's Compensation Coverage. The certificate of insurance must state that the City is an additional insured.

-
- c. The insurance coverage required herein must include coverage for work performed by Licensee's contractors and subcontractors.
 - d. The Licensee will provide proof of insurance in accordance with this Agreement within 30 days of the effective date of the Agreement and by February 1st of each year thereafter.

18. Notices. Any notice required or permitted under this Agreement shall be in writing and shall be sufficient if personally delivered, faxed, or mailed by certified mail, return receipt requested, addressed as follows:

If to the City:
City Manager
City of Sherman
P.O. Box 1106
Sherman, Texas 75091

If to the Licensee:
Attn: Land Dept.
Enterprise Texas Pipeline LLC
P. O. Box 4324
Houston, Texas 77210-4324

Notices mailed in accordance with the provisions of this paragraph shall be deemed to have been given on the third business day following mailing. Notices personally delivered shall have deemed to have been given upon delivery. Either party may change its address for notice upon ten (10) days' prior written notice to the other party.

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

20. Waiver. If either party shall violate continuously or otherwise any of the terms of this agreement which are binding upon it, the other party shall not thereby be deemed to either have waived or relinquished any term of this agreement or to have acquiesced in any such violation thereof, unless the other party shall express their consent thereto in writing.

21. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties and supersedes any prior agreement or understanding relating to the subject matter of this Agreement.

22. Modification. This Agreement may be modified or amended only by a duly authorized written instrument executed by the parties hereto.

23. **Paragraph Headings.** Paragraph headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this Agreement.

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

IN WITNESS THEREOF on this the _____ day of _____, 2008.

CITY OF SHERMAN:

LICENSEE: Enterprise Texas Pipeline LLC

George Olson, City Manager

Gloria L. Keeter
By: GLORIA L. KEETER
Office/Title: Agent & Attorney in Fact

APPROVED AS TO FORM:

~~APPROVED AS TO FORM:~~

INTERIM CITY ATTORNEY

LICENSEE'S ATTORNEY

ACKNOWLEDGMENT

THE STATE OF TEXAS §
COUNTY OF GRAYSON §

BEFORE ME, the undersigned authority, in and for the State of Texas, on this day personally appeared George Olson, City Manager, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said City of Sherman, a municipal corporation of the State of Texas, and that he executed the same as the act of such corporation for the purpose and consideration therein expressed.

GEORGE OLSON

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the ____ day of _____, 2008.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

ACKNOWLEDGMENT

THE STATE OF TEXAS §
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, in and for the State of Texas, on this day personally appeared GLORIA L. KEETER, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Enterprise Texas Pipeline LLC, a Texas Limited Liability Corporation, and that she executed the same as the act of such corporation for the purpose and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 28th day of October, 2008.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

EXHIBIT "A"

GRAYSON COUNTY, TEXAS PRESTON KITCHEN SURVEY, ABSTRACT NO. 667

LEGEND
PROP. EXIST. PAGE
PG. FND. FND. VOLUME
I.R. IRON ROD
E. PROPERTY LINE
NAD NORTH AMERICAN DATUM
GPS GLOBAL POSITIONING SYSTEM
P.E.R.W. PERMANENT EASEMENT & RIGHT OF WAY
D.R.G.C.T. DEED RECORDS OF GRAYSON COUNTY, TEXAS
O.P.R.G.C.T. OFFICIAL PUBLIC RECORDS OF GRAYSON COUNTY, TEXAS



TRACT NO. TX-GR-0041.00100
SHERMAN HILLS COUNTRY CLUB, LTD
CALLED 1,140.08 ACRES
VOL. 3265, PG. 890
O.P.R.G.C.T.

SEE DETAIL "A"

FND. 1/2" I.R. WITH
CAP MARKED
"SARTIN3694"

TRACT NO. TX-GR-0042.00100
SHAFTER PLAZA XLII, LTD.
CALLED 130.48 ACRES
VOL. 3842, PG. 40
O.P.R.G.C.T.

TRACT NO. TX-GR-0043.00100
CITY OF SHERMAN
CALLED 1.50 ACRES
VOLUME 866, PAGE 150
D.R.G.C.T.

NOTES:

1. THE OWNERSHIP OF THE SUBJECT TRACT, SHOWN HEREON, IS BASED UPON A LIMITED TITLE CERTIFICATE (L.T.C.), PREPARED FOR TRACT NO. TX-GR-0043.00100, DATED 04/25/08, AND PREPARED BY REPRESENTATIVES OF ENTERPRISE TEXAS PIPELINE LLC. NO OTHER RESEARCH WAS PERFORMED BY THE UNDERSIGNED SURVEYOR. THE L.T.C. REFERENCED ABOVE, LISTS ONLY THOSE EASEMENTS OF RECORD THAT WERE EXECUTED DURING THE TIME OF THE LIMITED SEARCH PERIOD (25 YEARS), WHICH ARE NOT SHOWN HEREON.
2. ALL BEARINGS AND DISTANCES CONTAINED HEREIN ARE GRID, BASED UPON THE TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE, U.S. SURVEY FEET NAD 83, AS DERIVED FROM A GPS SURVEY, PERFORMED BY UNIVERSAL ENSCO, INC., JUNE 4, 2008.
3. SEE SHEET 2 OF 2 FOR DESCRIPTION.

IF THIS PLAT AND THE ACCOMPANYING DESCRIPTION ARE NOT SEALED WITH THE RAISED EMBOSSED SEAL OF THE SURVEYOR WHOSE NAME APPEARS BELOW, IT SHOULD BE CONSIDERED AS A COPY AND NOT THE ORIGINAL.

I, PHILIP G. NOLAN DO HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND UNDER MY DIRECTION AND THAT THIS PLAT CORRECTLY REPRESENTS THE FACTS FOUND AT THE TIME OF THE SURVEY.

DETAIL "A"

N.T.S.



Philip G. Nolan
Registered Professional Land Surveyor
Texas Registration No. 6061

Date 06-29-08

CITY OF SHERMAN
AREA OF PERMANENT EASEMENT: 0.03 ACRE

DRAWN	WL	DATE	06/06/08
CHECKED	PGN	DATE	06/06/08
APP'D	DHG	DATE	06/06/08
SCALE	1" = 200'	SHEET	1 OF 2
REV#	DATE	DESC.	
1	06/20/08	REVISE WORKSPACE	
2	10/29/08	REVISE WORKSPACE	
JOB NO.	9848.000		
CLIENT:	Enterprise Texas Pipeline LLC		



Enterprise Texas Pipeline LLC



4848 LOOP CENTRAL DR.
SUITE 100
HOUSTON, TX. 77081
PH. 713-977-7770

EASEMENT PLAT

PERMANENT EASEMENT & RIGHT OF WAY
CROSSING PROPERTY OF
CITY OF SHERMAN
TRACT NO. TX-GR-0043.00100

DRAWING NO. TX-GR-0043.00100
REV. 2

ENTERPRISE TEXAS PIPELINE LLC
GRAYSON COUNTY, TEXAS
UEI JOB NO. 9848.000
CITY OF SHERMAN
TRACT NO. TX-GR-0043.00100

EXHIBIT "A"

DESCRIPTION OF A
PERMANENT EASEMENT AND RIGHT OF WAY
UPON THE PROPERTY OF
CITY OF SHERMAN
GRAYSON COUNTY, TEXAS

DESCRIPTION OF A PERMANENT EASEMENT AND RIGHT OF WAY SITUATED IN THE PRESTON KITCHEN SURVEY, ABSTRACT NO. 667, GRAYSON COUNTY, TEXAS, AND BEING UPON, OVER, THROUGH AND ACROSS A PORTION OF THAT CERTAIN CALLED 1.50 ACRES TRACT OF LAND DESCRIBED IN AND CONVEYED TO CITY OF SHERMAN, BY INSTRUMENT RECORDED IN VOLUME 866, PAGE 150 OF THE DEED RECORDS OF GRAYSON COUNTY, TEXAS (D.R.G.C.T.), (REFERRED HEREINAFTER TO AS THE "ABOVE REFERENCED TRACT OF LAND"), SAID PERMANENT EASEMENT AND RIGHT OF WAY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: WITH ALL BEARINGS HEREIN BEING BASED UPON THE TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE, NAD 83 AS DERIVED FROM A GLOBAL POSITIONING SYSTEM (GPS) SURVEY PERFORMED BY UNIVERSAL ENSCO, INC. JUNE 4, 2008;

BEGINNING at a ½ inch iron rod with cap marked "SARTIN3694" found in the south line of that certain called 1,140.08 acres tract of land, described in and conveyed to Sherman Hills Country Club, Ltd. by instrument recorded in Volume 3265, Page 890 of the Official Public Records of Grayson County, Texas (O.P.R.G.C.T.), marking the common north corner of that certain called 130.48 acres tract of land, described in and conveyed to Shafer Plaza XLII, Ltd. by instrument recorded in Volume 3842, Page 40 of the O.P.R.G.C.T., and the above referenced tract of land;

THENCE North 74° 34' 16" East, along the common line of said 1,140.08 acres tract of land and the above referenced tract of land, a distance of 198.3 feet to a point;

THENCE South 70° 22' 12" West, a distance of 204.1 feet to a point in the common line of said 130.48 acres tract of land and of the above referenced tract of land;

THENCE North 03° 41' 29" East, along the common line of said 130.48 acres tract of land and the above referenced tract of land, a distance of 15.8 feet to the POINT OF BEGINNING and containing 0.03 acre of land, more or less.

For reference and further information see Dwg. No. TX-GR-0043.00100, prepared by Universal Ensco, Inc., same date.

If this description and accompanying plat are not sealed with the raised embossing seal of the R.P.L.S. whose signature appears below, it should be considered as a copy and not the original.

Philip G. Nolan

Philip G. Nolan
Registered Professional Land Surveyor
Texas Registration No. 6061
Rev. 2

10-29-08

Date

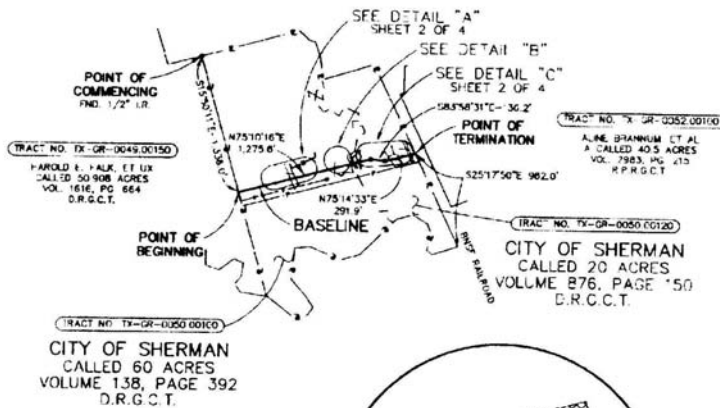


EXHIBIT "B"

GRAYSON COUNTY, TEXAS PRESTON KITCHEN SURVEY, ABSTRACT NO. 667

LLS:ND
HNDP
CK ST
PC
FND
VOL
R
R
HND
GPS
P.E.R.W.
D.R.G.C.T.
R.P.R.G.C.T.

PROPOSED
EASEMENT
RACE
FOUND
VOLUME
FROM 1800
PROPERTY LINE
NORTH AMERICAN DATUM
GLOBAL POSITIONING SYSTEM
PERMANENT EASEMENT & RIGHT OF WAY
DEED RECORDS OF GRAYSON COUNTY, TEXAS
REAL PROPERTY RECORDS OF GRAYSON COUNTY, TEXAS



NOTES

1. THE OWNERSHIP OF THE SUBJECT TRACT, SHOWN HEREON, IS BASED UPON A LIMITED TITLE CERTIFICATE (L.T.C.), PREPARED FOR TRACT NO. TX-GR-0050.00100, TX-GR-0050.00120, DATED 04/18/08, AND PREPARED BY REPRESENTATIVES OF ENTERPRISE TEXAS PIPELINE, L.L.C. NO OTHER RESEARCH WAS PERFORMED BY THE UNDERSIGNED SURVEYOR. THE L.T.C. REFERENCED ABOVE, IS ONLY THOSE EASEMENTS OF RECORD THAT WERE EXERCISED DURING THE TIME OF THE LIMITED SEARCH PERIOD (25 YEARS), WHICH ARE NOT SHOWN HEREON.
2. ALL BEARINGS AND DISTANCES CONTAINED HEREON ARE GRD, BASED UPON THE TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE, U.S. SURVEY FEET HAD AS, AS DERIVED FROM A GPS SURVEY, PERFORMED BY UNIVERSAL ENSCO, INC., JUNE 15 2008.
3. SEE SHEET 3 AND 4 FOR DESCRIPTION.

IF THIS PLAT AND THE ACCOMPANYING DESCRIPTION ARE NOT SEALED WITH THE RAISED EMBOSSED SEAL OF THE SURVEYOR WHOSE NAME APPEARS BELOW, IT SHOULD BE CONSIDERED AS A COPY AND NOT THE ORIGINAL.

I, GARY GREER DO HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND UNDER MY DIRECTION AND THAT THIS PLAT CORRECTLY REPRESENTS THE FACTS FOUND AT THE TIME OF THE SURVEY.

Gary Greer
Registered Professional Land Surveyor
Texas Registration No. 4848

DETAIL "B"
N.T.S.

CITY OF SHERMAN
TOTAL DISTANCE ACROSS PROPERTY: 1,703.7'
AREA OF PERMANENT EASEMENT: 1.96 ACRES
AREA OF TEMPORARY WORK SPACE: 2.72 ACRES
AREA OF ADDITIONAL TEMPORARY WORK SPACE: 0.90 ACRE

DRAWN BY	DATE	06/27/08
CHECKED BY	DATE	06/23/08
APP'D BY	DATE	06/23/08
SCALE	DATE	1"=1000'
REV	DATE	DESC
JOB NO.	DATE	1648 000
CLIENT	DATE	Enterprise Texas Pipeline LLC



Enterprise Texas Pipeline LLC



4848 LOOP CENTRAL DR.
SUITE 100
HOUSTON, TX 77061
PH: 713 277 7770

EASEMENT PLAT

PERMANENT EASEMENT & RIGHT OF WAY
CROSSING PROPERTY OF
CITY OF SHERMAN

TRACT NO. TX-GR-0050.00100, TX-GR-0050.00120

DRAWING NO. REV

TX-GR-0050.00100

0

GRAYSON COUNTY, TEXAS



EASEMENT PLAT	
PERMANENT EASEMENT & RIGHT OF WAY CROSSING PROPERTY OF CITY OF SHERMAN	
TRACT NO. TX-GR-0050.00100, TX-GR-0050.00120	
DRAWING NO.	REV
TX-GR-0050.00100	0

ENTERPRISE TEXAS PIPELINE LLC
GRAYSON COUNTY, TEXAS
UEI JOB NO. 9848.000
THE CITY OF SHERMAN
TRACT NO. TX-GR-0050.00100 & TX-GR-0050.00120

EXHIBIT "B"

DESCRIPTION OF A FIFTY (50) FEET WIDE
PERMANENT EASEMENT AND RIGHT OF WAY
UPON THE PROPERTY OF
THE CITY OF SHERMAN
GRAYSON COUNTY, TEXAS

DESCRIPTION OF A FIFTY (50) FEET WIDE PERMANENT EASEMENT AND RIGHT OF WAY SITUATED IN THE PRESTON KITCHEN SURVEY, ABSTRACT NO. 667, GRAYSON COUNTY, TEXAS, AND BEING UPON, OVER, THROUGH AND ACROSS A PORTION OF THAT CERTAIN CALLED 60 ACRES TRACT OF LAND AND CERTAIN CALLED 20 ACRES TRACT OF LAND DESCRIBED IN AND CONVEYED TO THE CITY OF SHERMAN, BY INSTRUMENTS RECORDED IN VOLUME 138, PAGE 392 AND VOLUME 376, PAGE 150 RESPECTIVELY OF THE DFFD RECORDS OF GRAYSON COUNTY, TEXAS (D.R.G.C.T.), (REFERRED HEREINAFTER TO AS THE "ABOVE REFERENCED TRACT OF LAND"). SAID FIFTY (50) FEET WIDE PERMANENT EASEMENT AND RIGHT OF WAY BEING SITUATED THIRTY-FIVE (35) FEET SOUTHERLY AND FIFTEEN (15) FEET NORTHERLY OF THE HERFIN DESCRIBED BASELINE, SAID BASELINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: WITH ALL BEARINGS HEREIN BEING BASED UPON THE TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE, NAD 83 AS DERIVED FROM A GLOBAL POSITIONING SYSTEM (GPS) SURVEY PERFORMED BY UNIVERSAL ENSCO, INC. JUNE 18, 2008;

COMMENCING at a ½ inch iron rod found marking the common north corner of the said 60 acres tract of land and that certain called 50.908 acres tract of land, described in and conveyed to Harold E. Falk, et ux by instrument recorded in Volume 1616, Page 664 of the D.R.G.C.T.;

THENCE South 15° 50' 11" East, along the common line of said 50.908 acres tract of land and the above referenced tract of land, a distance of 1,336.0 feet to the **POINT OF BEGINNING** of the herein described baseline;

THENCE North 75° 10' 16" East, a distance of 1,275.6 feet to a point;

THENCE South 83° 58' 31" East, a distance of 136.2 feet to a point;

THENCE North 75° 14' 33" East, a distance of 291.9 feet to a point in the west right of way line of the BNSF Rail Road, same being the east line of the above referenced tract of land, said point being the **POINT OF TERMINATION** of the herein described baseline, from which the southeast corner of the above referenced tract of land, bears South 25° 17' 50" East, a distance of 962.0 feet, said baseline having a total length of 1,703.7 feet, said Permanent Easement and Right of Way containing 1.96 acres of land, more or less.

ENTERPRISE TEXAS PIPELINE LLC
GRAYSON COUNTY, TEXAS
UEI JOB NO. 9848.000
THE CITY OF SHERMAN
TRACT NO. TX-GR-0050.00100 & TX-GR-0050.00120

TEMPORARY WORK SPACE

Being a seventy (70) feet wide strip of land, adjoined to and parallel with: the northerly side of the above described Permanent Easement and Right of Way, extending or shortening the side lines of the Temporary Work Space, at the beginning and termination of the said Permanent Easement and Right of Way lines, to intersect with the property lines of the above referenced tract of land and containing 2.72 acres of land, more or less.

TEMPORARY WORK SPACES

Being four (4) fifty (50) feet wide strips of land adjoined to and parallel with the northerly side of the above described Temporary Work Space (T.W.S.),

- 1) Beginning at a point 317 feet easterly of the intersection of the northerly side of said T.W.S. and the west line of the above referenced tract of land, extending in an easterly direction a distance of 175 feet.
- 2) Beginning at a point 887 feet easterly of said intersection, extending in an easterly direction a distance of 175 feet.
- 3) Beginning at a point 1,197 feet easterly of said intersection, extending in an easterly direction a distance of 238 feet.
- 4) Beginning at a point 1,508 feet easterly of said intersection, extending in an easterly direction a distance of 119 feet and.
- 5) Being variable width strip of land adjoined to and parallel with the northerly side of said T.W.S., beginning at a point 541 feet easterly of said intersection, having a width of 8 feet, extending in an easterly direction a distance of 175 feet, having a width of 45 feet and containing a total of 0.90 acre of land, more or less.

For reference and further information see Dwg. No. TX-GR-0050.00100, prepared by Universal Ensco, Inc., same date.

If this description and accompanying plat are not sealed with the raised embossing seal of the R.P.L.S. whose signature appears below, it should be considered as a copy and not the original.



6-24-08

Gary Groer
Registered Professional Land Surveyor
Texas Registration No. 4948

Date

EXHIBIT "C"

GRAYSON COUNTY, TEXAS ROBERT THOMPSON SURVEY, ABSTRACT NO. 1200

LEGEND
PROP. EXIST. PG. FND. VOL. LR. E. HAD GPS P.E./L.R. D.R.G.C.T. R.P.R.G.C.T. G.P.R.G.C.T.

PROPOSED EXISTING PAGE FOUND VOLUME FROM PROD PROPERTY LINE NORTH AMERICAN DATUM GLOBAL POSITIONING SYSTEM PERMANENT EASEMENT & RIGHT OF WAY DEED RECORDS OF GRAYSON COUNTY, TEXAS REAL PROPERTY RECORDS OF GRAYSON COUNTY, TEXAS OFFICIAL PUBLIC RECORDS OF GRAYSON COUNTY, TEXAS

0 300' 600'
SCALE: 1" = 600'

TRACT NO. TX-GR-0059.00100
THE CITY OF SHERMAN
CALLED 11.7685
ACRES
(SECOND TRACT)
VOL. 1342, PG. 152
D.R.G.C.T.

TRACT NO. TX-GR-0058.00100
THE CITY OF SHERMAN
CALLED 84 ACRES
(FIRST TRACT)
VOL. 1342, PG. 152
D.R.G.C.T.

TRACT NO. TX-GR-0057.00100
N.W. OUR DAYS
CALLED 23.602 ACRES
DOC. NO. 2007-00008900
D.P.R.G.C.T.

TRACT NO. TX-GR-0060.00100
AUSTIN COLLEGE
CALLED 78.430 ACRES
(TRACT NO. 1)
VOL. 2087 PG. 511
R.P.R.G.C.T.

NOTES:

1. THE OWNERSHIP OF THE SUBJECT TRACT, SHOWN HEREON, IS BASED UPON A LIMITED TITLE CERTIFICATE (L.T.C.) PREPARED FOR TRACT NO. TX-GR-0059.00100, DATED 04/08/04, AND PREPARED BY REPRESENTATIVES OF ENTERPRISE TEXAS PIPELINE LLC. NO OTHER RESEARCH WAS PERFORMED BY THE UNDERSIGNED SURVEYOR. THE L.T.C. REFERENCED ABOVE, LISTS ONLY THOSE EASEMENTS OF RECORD THAT WERE EXECUTED DURING THE TIME OF THE LIMITED SEARCH PERIOD (25 YEARS), WHICH ARE NOT SHOWN HEREON.
2. ALL BEARINGS AND DISTANCES CONTAINED HEREON ARE GRID, BASED UPON THE TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE, U.S. SURVEY FEET HAD 83, AS DERIVED FROM A GPS SURVEY, PERFORMED BY UNIVERSAL ENSCO, INC., APRIL 30, 2008.
3. SEE SHEET 2 AND 3 OF 3 FOR DESCRIPTION.

IF THIS PLAT AND THE ACCOMPANYING DESCRIPTION ARE NOT SEALED WITH THE RAISED EMBOSSED SEAL OF THE SURVEYOR WHOSE NAME APPEARS BELOW, IT SHOULD BE CONSIDERED AS A COPY AND NOT THE ORIGINAL.

I, GARY GREER DO HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND UNDER MY DIRECTION AND THAT THIS PLAT CORRECTLY REPRESENTS THE FACTS FOUND AT THE TIME OF THE SURVEY.

Gary Greer
Registered Professional Land Surveyor
Texas Registration No. 4248

DETAIL "A"
N.T.S.

THE CITY OF SHERMAN
TOTAL DISTANCE ACROSS PROPERTY: 1,622.2'
AREA OF PERMANENT EASEMENT: 1.86 ACRES
AREA OF TEMPORARY WORK SPACE: 2.61 ACRES
AREA OF ADDITIONAL TEMPORARY WORK SPACE: 0.49 ACRE

DRAWN AG DATE 05/30/08
CHECKED PGN DATE 05/30/08
APP'D OHG DATE 05/30/08
SCALE 1" = 600' SHEET 1 OF 3
REV# DATE DESC
1 05/30/08 REVISE A.T.W.S.
JOB NO. 2548.000
CLIENT: Enterprise Texas Pipeline LLC



Enterprise Texas Pipeline LLC



4848 LOOP CENTRAL DR.
SUITE 100
HOUSTON, TX 77061
PH. 713-877-7770

EASEMENT PLAT

PERMANENT EASEMENT & RIGHT OF WAY
CROSSING PROPERTY OF
THE CITY OF SHERMAN
TRACT NO. TX-GR-0059.00100

DRAWING NO.
TX-GR-0059.00100

REV.
1

ENTERPRISE TEXAS PIPELINE LLC
GRAYSON COUNTY, TEXAS
UEI JOB NO. 9848.000
THE CITY OF SHERMAN
TRACT NO. TX-GR-0059.00100

EXHIBIT "C"

DESCRIPTION OF A FIFTY (50) FEET WIDE
PERMANENT EASEMENT AND RIGHT OF WAY
UPON THE PROPERTY OF
THE CITY OF SHERMAN
GRAYSON COUNTY, TEXAS

DESCRIPTION OF A FIFTY (50) FEET WIDE PERMANENT EASEMENT AND RIGHT OF WAY SITUATED IN THE ROBERT THOMPSON SURVEY, ABSTRACT NO. 1200, GRAYSON COUNTY, TEXAS, AND BEING UPON, OVER, THROUGH AND ACROSS A PORTION OF THOSE CERTAIN CALLED 84 ACRES (FIRST TRACT) AND 11.7685 ACRES (SECOND TRACT) TRACTS OF LAND DESCRIBED IN AND CONVEYED TO THE CITY OF SHERMAN, BY INSTRUMENT RECORDED IN VOLUME 1342, PAGE 152 OF THE DEED RECORDS OF GRAYSON COUNTY, TEXAS (D.R.G.C.T.), (REFERRED HEREINAFTER TO AS THE "ABOVE REFERENCED TRACT OF LAND"), SAID FIFTY (50) FEET WIDE PERMANENT EASEMENT AND RIGHT OF WAY BEING SITUATED THIRTY-FIVE (35) FEET SOUTHERLY AND FIFTEEN (15) FEET NORTHERLY OF THE HEREIN DESCRIBED BASELINE, SAID BASELINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: WITH ALL BEARINGS HEREIN BEING BASED UPON THE TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE, NAD 83 AS DERIVED FROM A GLOBAL POSITIONING SYSTEM (GPS) SURVEY PERFORMED BY UNIVERSAL ENSCO, INC. APRIL 30, 2008;

COMMENCING at a ½ inch iron rod found in the easterly right of way line of State Highway 11 (SH 11) marking the southwest corner of the above referenced tract of land;

THENCE North 18° 42' 21" West, a distance of 812.6 feet to the POINT OF BEGINNING of the herein described baseline;

THENCE North 75° 08' 47" East, across a portion of the above referenced tract of land, a distance of 1,622.2 feet to a point in the westerly line of that certain called 78.430 acres (Tract No. 1) tract of land, described in and conveyed to Austin College by instrument recorded in Volume 2067, Page 611 of the Real Property Records of Grayson County, Texas (R.P.R.G.C.T.), same being the easterly line of the above referenced tract of land, said point being the POINT OF TERMINATION of the herein described baseline, from which a fence corner found marking the southeast corner of the above referenced tract of land, bears South 15° 26' 43" East, a distance of 777.5 feet, said baseline having a length of 1,622.2 feet, said Permanent Easement and Right of Way containing 1.86 acres of land, more or less.

ENTERPRISE TEXAS PIPELINE LLC
GRAYSON COUNTY, TEXAS
UEI JOB NO. 9848.000
CITY OF SHERMAN
TRACT NO. TX-GR-0043.00100

TEMPORARY WORK SPACE

Being a seventy (70) feet wide strip of land, adjoined to and parallel with the southerly side of the above described Permanent Easement and Right of Way, extending or shortening the side lines of the Temporary Work Space, at the beginning and termination of the said Permanent Easement and Right of Way lines, to intersect with the property lines of the above referenced tract of land and containing 0.39 acre of land, more or less.

ADDITIONAL TEMPORARY WORK SPACE

Being a forty (40) feet wide strip of land, adjoined to and parallel with the southerly side of the above described Temporary Work Space, extending or shortening the side lines of the Additional Temporary Work Space, at the beginning and termination of the said Temporary Work Space lines, to intersect with the property lines of the above referenced tract of land and containing 0.22 acre of land, more or less.

For reference and further information see Dwg. No. TX-GR-0043.00100, prepared by Universal Ensco, Inc., same date.

If this description and accompanying plat are not sealed with the raised embossing seal of the R.P.L.S. whose signature appears below, it should be considered as a copy and not the original.



Gary Groer
Registered Professional Land Surveyor
Texas Registration No. 4948
Rev. 1

6-20-08

Date



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. C.2

*** RESOLUTION NO. 5285**

**Authorizing Execution of a Development Agreement with Sherman Bible Church
for the Construction of Public Facilities in the O'Hanlon Ranch Phase II, Block 3, Lot 10
within the City of Sherman**

Issue

To consider approval of a Development Agreement with Sherman Bible Church for the extension of a water main along Lamberth Road (including the oversizing cost of \$1,524.00)

Background

Sherman Bible Church is required to extend an eight-inch water main along its remaining frontage on Lamberth Road. The City is requesting that a twelve-inch main be installed for future development needs.

Origination

Department of Utilities & Engineering

Financial Consideration

The City will be responsible for the difference in cost between the eight-inch and twelve-inch pipes. The cost is \$1,524.00.

Staff Recommendation

It is recommended that the Development Agreement be approved and that the City pay for the water main oversizing.

Alternatives

As directed by the City Council

Attachments

Resolution No. 5285

Development Agreement

Location Map

Prepared by:

Mark Gibson, Director of Utilities & Engineering

Approved by:

George Olson, City Manager

RESOLUTION NO. 5285

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT WITH SHERMAN BIBLE CHURCH FOR THE CONSTRUCTION OF PUBLIC FACILITIES IN THE O'HANLON RANCH PHASE II, BLOCK 3, LOT 10 WITHIN 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 by the Interim City Attorney, to execute a Development Agreement with Sherman Bible Church for the construction of public facilities in the O'Hanlon Ranch Phase II, Block 3, Lot 10 to the City of Sherman, Grayson County, Texas, in the same or substantially same form as the contract documents to be attached hereto and incorporated herein for all purposes.

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

PASSED AND APPROVED on this the ____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
INTERIM CITY ATTORNEY

THE STATE OF TEXAS §
COUNTY OF GRAYSON §

**DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF SHERMAN AND SHERMAN BIBLE CHURCH**

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2008 (the "Effective Date"), by and among the City of Sherman ("City"), a municipal corporation organized under the laws of the State of Texas, and Sherman Bible Church ("Developer").

WITNESSETH:

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

WHEREAS, Developer owns or controls lands located in Sherman, Texas, and described in the final plat submitted to the City by the Developer (O'Hanlon Ranch Phase II, Block 3, Lot 10) and hereinafter referred to as the "Property", and Developer intends to develop the Property by constructing improvements thereon; and

WHEREAS, the Developer desires that the City accept the water system improvements as a part of the public facilities of the City; and

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

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

**Article I.
SPECIFIC CONTRACT PROVISIONS**

- 1. Development Documents:** Upon the execution of this Agreement, the plat, plans, and specifications and orders of the City Planning and Zoning Commission and the City Council, made in connection with the approval of the Subdivision are confirmed, ratified, and agreed upon by both parties. Developer agrees to comply with such orders and Ordinance No. 2684, and its amendments, as applicable to the Subdivision; and all of the work will be done under the supervision of the City Engineer (as defined in Paragraph 4 of this Article) to City standards, and in accordance with applicable City regulations. The plat, plans, specifications, orders of the City Planning and Zoning Commission, and the City Council, and the ordinance referred to in this paragraph (hereinafter the

“Development Documents”) are incorporated into this Agreement a part thereof for all purposes.

2. **Delivery of Improvements:** The Developer will pay for and deliver to the City, free and clear of all liens and costs, all of the improvements provided in the Development Documents.
3. **Registered Civil Engineer:** All of the plans and specifications for the improvements herein mentioned in the Development Documents, shall be prepared by a Registered Professional Civil Engineer, and all of the improvements shall be built under the supervision of such engineer, and the engineer shall certify to the City that, as each segment is built, such segment as built is true and correct in accordance with the plans and specifications, and that the same was built under his supervision, and the certificate shall be signed and sealed by such engineer. All of the expense of such engineering shall be paid for by the Developer. All contracts for engineering shall be delivered to the City.
4. **City Engineer:** Before work is begun on any improvement, the City shall designate a person, hereinafter identified as “City Engineer,” who shall be notified and arrangements made for inspection by the City Engineer at such stages of construction as required by him, and no improvement constructed underground shall be covered by the Developer until inspected by the City Engineer and approved by him. At any time any construction is contrary to the plans and specifications, the City Engineer shall be, and is, empowered to stop construction and require correct construction and installation at the Developer’s risk and without liability to the City.
5. **Coordination of Work:** The work will be coordinated between the City and the Developer so that the utilities will be in place before the permanent improvements are installed.
6. **Utility Arrangements:** The Developer will make its own arrangements with gas, electric, and telephone service providers for extensions of their utilities, and upon complying with this Agreement, the City utilities will be furnished.
7. **Fees:** Other fees normally charged by the City for building permits, water taps, service connections, and similar fees will be paid as required to the City by the Developer.
8. **Guarantee:** If, within one year after the acceptance, defects should appear in the materials or workmanship, the Developer shall have such defects promptly repaired at its own expense, and shall leave the work as intended by the plans and specifications. This guarantee will apply to all parts of the work which have been accepted by the City.

9. WAIVER OF RIGHTS UNDER STATE LAW:

(a) SECTION 212.904 OF THE TEXAS LOCAL GOVERNMENT CODE

Developer understands that, pursuant to Section 212.904 of the Texas Local Government Code, the developer is entitled to an apportionment of the municipal infrastructure cost and that such apportionment must be done by a professional engineer. BY MY SIGNATURE ON THIS CONTRACT, I HEREBY FREELY, KNOWINGLY AND VOLUNTARILY WAIVE MY RIGHTS UNDER SECTION 212.904 OF THE TEXAS LOCAL GOVERNMENT CODE. I AGREE THAT THIS DEVELOPER'S AGREEMENT MAY PROCEED WITHOUT THE REQUIREMENTS IMPOSED ON THE CITY UNDER SECTION 212.904 OF THE TEXAS LOCAL GOVERNMENT CODE. I CONSENT TO THIS WAIVER AFTER HAVING THE OPPORTUNITY TO REVIEW THIS AGREEMENT AND WAIVER PROVISION WITH MY ATTORNEY.

(b) CHAPTER 395 OF THE TEXAS LOCAL GOVERNMENT CODE:

Developer also understands that any monies held in escrow by the City in accordance with the Future Installation Cost Agreement may also qualify as Impact Fees, as provided in Chapter 395 of the Texas Local Government Code. BY MY SIGNATURE ON THIS CONTRACT, I HEREBY FREELY, KNOWINGLY AND VOLUNTARILY WAIVE ANY RIGHTS UNDER I MAY HAVE UNDER CHAPTER 395 OF THE TEXAS LOCAL GOVERNMENT CODE. I AGREE THAT THIS DEVELOPER'S AGREEMENT MAY PROCEED WITHOUT THE REQUIREMENTS IMPOSED ON THE CITY IN CHAPTER 395 OF THE TEXAS LOCAL GOVERNMENT CODE. I CONSENT TO THIS WAIVER AFTER HAVING THE OPPORTUNITY TO REVIEW THIS AGREEMENT AND WAIVER PROVISION WITH MY ATTORNEY.

INSTEAD, I AGREE THAT MONIES MAY BE HELD BY THE CITY IN ACCORDANCE WITH THE FUTURE INSTALLMENT COSTS AGREEMENT AND THAT THE CITY IS NOT REQUIRED TO COMPLY WITH THE PROCEDURES IN CHAPTER 395 OF THE TEXAS LOCAL GOVERNMENT CODE.

10. Other Provisions:

- A. Upon Completion of the Subdivision, one electronic copy and one set of reproducible "Record" drawings will be supplied to the City.
- B. The City is requiring over-sizing of the required water main along Lamberth Road. Over-sizing is the difference between the 12" pipe size and the pipe size required to serve the development (8"). The amount of City participation shall not exceed One Thousand Five Hundred Twenty-Four Dollars and No Cents (\$1,524.00).

-
- C. The City will be responsible for the tap required to serve the proposed water main.

Article II.
GENERAL CONTRACT PROVISIONS

1. **Force Majeure.** If the performance of any of the parties hereto is delayed by reason of war, civil commotion, acts of God, inclement weather, unanticipated subsurface conditions, fire or other casualty, court injunction or any circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated or not, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement shall be extended for a period of time equal to the period such party was delayed. The terms above shall not apply to extend the time permitted for any payment obligations set forth in this Agreement.
2. **INDEMNIFICATION AND HOLD HARMLESS.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, DEVELOPER OBLIGATES ITSELF TO THE CITY TO FULLY AND UNCONDITIONALLY PROTECT, INDEMNIFY AND DEFEND THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, AND HOLD IT HARMLESS FROM AND AGAINST ANY AND ALL COSTS, EXPENSES, REASONABLE ATTORNEY FEES, CLAIMS, SUITS, LOSSES OR LIABILITY FOR INJURIES TO PROPERTY, INJURIES TO PERSONS (INCLUDING DEVELOPERS EMPLOYEES), INCLUDING DEATH, AND FROM ANY OTHER COSTS, EXPENSES, REASONABLE ATTORNEY FEES, CLAIMS, SUITS, LOSSES OR LIABILITIES OF ANY AND EVERY NATURE WHATSOEVER ARISING IN ANY MANNER, DIRECTLY OR INDIRECTLY, OUT OF OR IN CONNECTION HERewith, REGARDLESS OF CAUSE OR OF THE SOLE, JOINT, COMPARATIVE OR CONCURRENT NEGLIGENCE OR GROSS NEGLIGENCE OF DEVELOPER, ITS OFFICERS, AGENTS OR EMPLOYEES. THIS INDEMNIFICATION AND SAVE HARMLESS SHALL APPLY TO ANY IMPUTED OR ACTUAL JOINT ENTERPRISE LIABILITY. This indemnity does not waive any governmental immunity available to the City under Texas law and does not waive any defenses of the parties under Texas law.
3. **City to Bind and Limitation.** Each general partner or member executing this Agreement on behalf the Developer represents that, by executing this Agreement in such capacity, it acts within the scope of its authority and does not exceed the bounds of its authority to act to bind such party regarding the obligations and assurances contained in this Agreement. City represents that the execution of this Agreement as provided below has been duly authorized by the City Council as provided in the Approval Resolution.
4. **Events of Default.** A default shall exist if either party fails to perform or observe any material covenant contained in this Agreement. The non-defaulting party shall immediately notify the defaulting party in writing upon becoming aware of any change in

the existence of any condition or event which would constitute a default or, with the giving of notice or passage of time, or both, would constitute a default under this Agreement. Such notice shall specify the nature and the period of existence thereof and what action, if any, the notifying party requires or proposes to require with respect to curing the default.

5. **Remedies Available to City.** If a default by Developer shall occur and continue, after thirty (30) day's notice to cure default, City may, at its option, pursue any and all remedies it may be entitled to, at law or in equity, in accordance with Texas law, without the necessity of further notice to or demand upon Developer, including, but not limited to, making demands under the Performance Bond. City shall not, however, have the right to exercise such remedies for so long as Developer proceeds in good faith and with due diligence to remedy and correct the default, provided that Developer has commenced to cure such default within thirty (30) days following notice, pursues such cure with reasonable diligence and completes such cure within one hundred eighty (180) days.
6. **No Waiver of Defenses.** Nothing in this Agreement shall be construed or intended to waive any defenses available to the City, including, but not limited to, governmental immunity.
7. **Venue and Governing Law.** This Agreement is performable in Grayson County, Texas and venue of any action arising out of this Agreement shall be exclusively in Grayson County. This Agreement shall be governed and construed in accordance with the laws of the State of Texas.
8. **Notices.** Any notice required by this Agreement shall be deemed to be properly served to the designees below: (i) three (3) days following deposit if deposited in the U.S. mail by certified letter, return receipt requested; (ii) on the next business day if sent by nationally recognized overnight delivery service; or (iii) upon receipt if transmitted by facsimile or electronic transmission, addressed to the recipient at the recipient's address shown below, subject to the right of either party to designate a different address by notice given in the manner just described:

CITY:

Designee: _____

Address: _____

Phone: _____

Fax: _____

DEVELOPER:

Designee: _____

Address: _____

Phone: _____

Fax: _____

- 9. Legal Construction.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.
- 10. Counterparts.** This Agreement may be executed in any number of counterparts, which may be transmitted originally or electronically, each of which shall be deemed an original and constitute one and the same instrument.
- 11. Captions.** The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.
- 12. Successors and Assigns.** The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto, provided, however, this Agreement shall not be assigned by Developer without prior written approval by the City Manager of the City, which approval shall not be unreasonably withheld or delayed. City may assign or delegate any of its rights or obligations under this Agreement but the same shall not constitute a novation.
- 13. Entire Agreement.** This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Agreement, and except as otherwise provided herein cannot be modified without written agreement of both the parties to be attached to and made a part of this Agreement.

IN WITNESS WHEREOF, parties have caused this Agreement to be executed in duplicate this _____ day of _____, 2008, with an original to each party.

DEVELOPER: _____

BY: _____

NAME: _____

TITLE: _____

CITY: _____

BY: _____

NAME: _____

TITLE: _____

ATTEST: BY: _____

NAME: _____

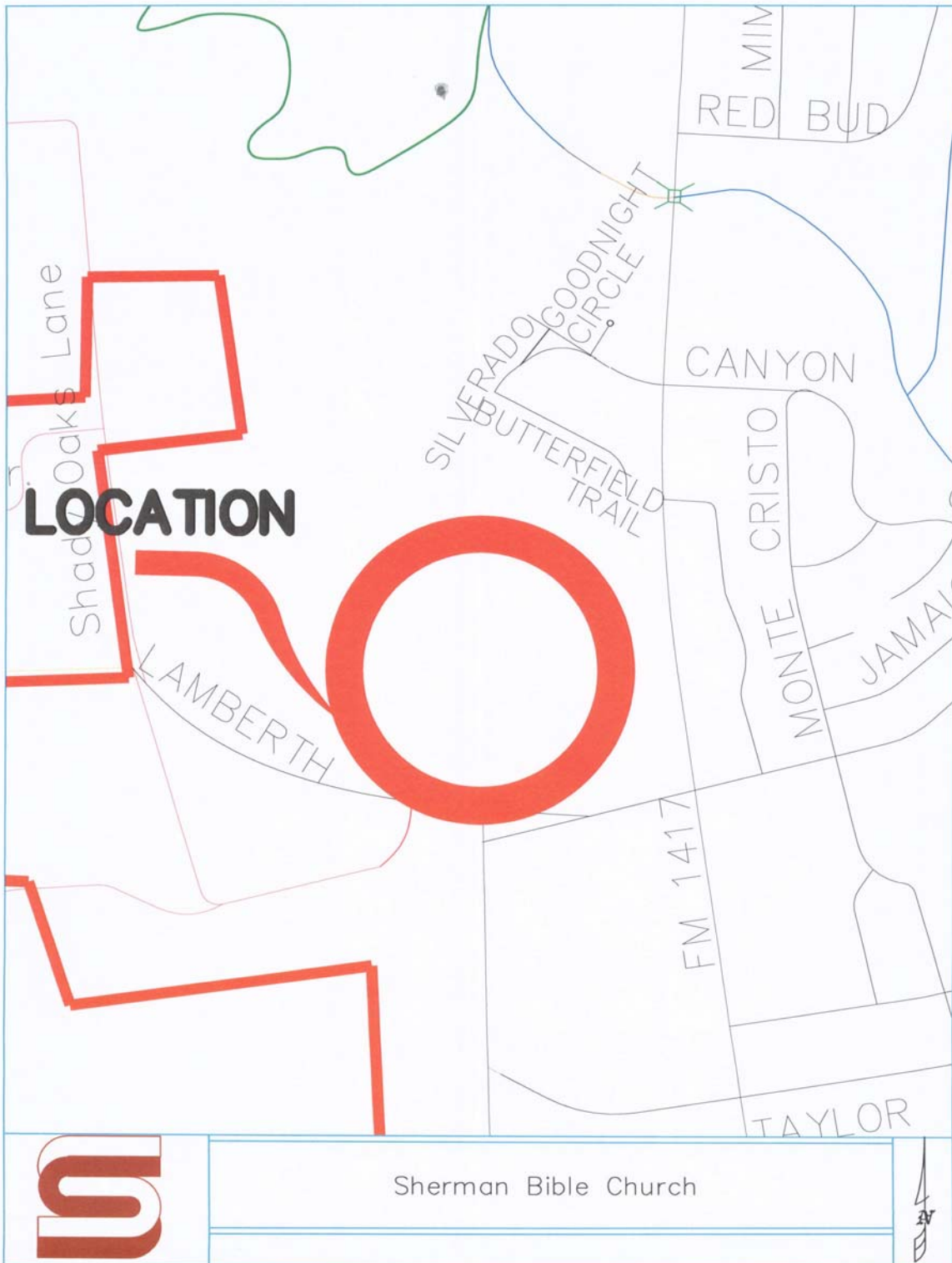
TITLE: _____

APPROVAL RECOMMENDED:

Mark Gibson, _____
Director of Engineering Utilities & Engineering

APPROVED AS TO FORM:

Interim, City Attorney: _____





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. C.3

*** RESOLUTION NO. 5286**

**Authorizing Execution of a Development Agreement with Tin Star Homes, LLC
for the Construction of Public Facilities in the Country Ridge Subdivision, Section 4
within the City of Sherman**

Issue

To consider approval of a Development Agreement with Tin Star Homes, LLC for the construction of Country Ridge Subdivision, Section 4

Background

The Developer wishes to construct the fourth phase of the Country Ridge Subdivision. A Development Agreement is required prior to the start of construction.

Origination

Department of Utilities and Engineering

Financial Consideration

The Developer has paid the City the required review and inspection fee of \$8,049.79.

Staff Recommendation

It is recommended that the Development Agreement be approved and that the City Manager be authorized to execute the Agreement.

Alternatives

As directed by the City Council

Attachments

Resolution No. 5286

Development Agreement

Location Map

Prepared by:
Mark Gibson, Director of Utilities & Engineering

Approved by:
George Olson, City Manager

RESOLUTION NO. 5286

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT WITH TIN STAR HOMES, LLC FOR THE CONSTRUCTION OF PUBLIC FACILITIES IN THE COUNTRY RIDGE SUBDIVISION, SECTION 4 WITHIN 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 by the Interim City Attorney, to execute a Development Agreement with Tin Star Homes, LLC for the construction of public facilities in the Country Ridge Subdivision, Section 4 to the City of Sherman, Grayson County, Texas, in the same or substantially same form as the contract documents to be attached hereto and incorporated herein for all purposes.

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

PASSED AND APPROVED on this the ____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
INTERIM CITY ATTORNEY

STATE OF TEXAS

§

COUNTY OF GRAYSON

§

§

**DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF SHERMAN AND TIN STAR HOMES, LLC.**

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into this 7th day of Oct, 2008 (the "Effective Date"), by and among City of Sherman ("City"), a municipal corporations organized under the laws of the State of Texas, and Tin Star Homes, LLC. ("Developer").

WITNESSETH

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

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

WHEREAS, Developer owns or controls lands located in Sherman, Texas, and described in the final plat of **Country Ridge Section 4** submitted to the City by the Developer and attached hereto and made a part hereof as if fully set out in this paragraph as Exhibit "A" and hereinafter referred to as the "Property", and Developer intends to develop the Property by constructing improvements thereon; and

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

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

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

ARTICLE I.

SPECIFIC CONTRACT PROVISIONS

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

-
4. **Delivery of Improvements:** The Developer will pay for and deliver to the City free and clear of all liens and costs, all of the improvements provided in the Development Documents.
 5. **Performance Bond:** No work shall be performed within the Subdivision until the Developer presents to the City Manager a satisfactory Performance Bond and Payment Bond, as provided by Chapter 2253 of the Texas Government Code, from the Contractor in favor of the Developer and the City. Such bond shall be made for 100% of the contract price for all streets and utilities and public works to be installed in the Subdivision, and shall be in a form containing all other provisions set forth in Chapter 2253 of the Texas Government Code, including, but not limited to, Section 2253.021 of that Chapter.
 6. **Failure to Complete Development:** If the Developer does not complete the Improvements contained in the Development Documents on or before July 1, 2010, City may, at its election, use the Performance Bond to complete such Improvements. The date in this Paragraph may be extended by the mutual agreement of the parties. Such extension shall be in writing, as provided in Paragraph 13 of Article II.
 7. **Availability of Public Facilities:** No public facilities will be made available to any lot within any segment of this Subdivision until the work on each segment is performed and approved as agreed upon in this Agreement.
 8. **Registered Civil Engineer:** All of the plans and specifications for the improvements herein mentioned in the Development Documents, shall be prepared by a Registered Professional Civil Engineer, and all of the improvements shall be built under the supervision of such engineer, and the engineer shall certify to the City that, as each segment is built, such segment as built is true and correct in accordance with the plans and specifications, and that the same was built under his supervision, and the certificate shall be signed and sealed by such engineer. All of the expense of such engineering shall be paid for by the Developer.
 9. **City Engineer:** Before work is begun on any improvement, the City Engineer shall designate a person, hereinafter identified as "City Engineer," who shall be notified and arrangements made for inspection by the City Engineer at such stages of construction as required by him, and

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

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

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

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

13. **Guarantee or Maintenance Bond:**

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

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

- a. **WAIVER OF RIGHTS:**

b. Section 212.904 of the Texas Local Government Code

- (i.) Developer understand that, pursuant to Section 212.904 of the Texas Local Government Code, the developer is entitled to an apportionment of the municipal infrastructure cost and that such apportionment must be done by a professional engineer. Developer hereby agrees that any land or property it donates to the City, as reflected on the Final Plat, is roughly proportionate to the need for such land. Developer further acknowledges and agrees that all prerequisites to such a determination of rough proportionality have been met, and that any costs incurred relative to said donation are related both in nature and extent to the impact of the development of the Property and its needs related thereto. BY MY DEVELOPER'S SIGNATURE ON THIS AGREEMENT, I CONTRACT ON ITS EXECUTION; DEVELOPER HEREBY FREELY, KNOWINGLY AND VOLUNTARILY WAIVES ITS RIGHTS UNDER SECTION 212.904 OF THE TEXAS LOCAL GOVERNMENT CODE, OR ANY OTHER RELATED CLAIMS. I AGREE, DEVELOPER AGREES THAT THE DEVELOPER'S AGREEMENT MAY PROCEED WITHOUT THE REQUIREMENTS IMPOSED ON THE CITY UNDER SECTION 212.904 OF THE TEXAS LOCAL GOVERNMENT CODE, EXCEPT DEVELOPER SPECIFICALLY RESERVES ITS RIGHT TO APPEAL THE APPORTIONMENT IN ACCORDANCE WITH SECTION 212.904 OF THE TEXAS LOCAL GOVERNMENT CODE. I CONSENT TO THIS WAIVER AFTER HAVING THE OPPORTUNITY TO REVIEW THIS AGREEMENT AND WAIVER PROVISION WITH MY ATTORNEY, OR IF I HAVE NOT REVIEWED THIS WITH AN ATTORNEY, THAT I HAVE HAD THE OPPORTUNITY TO DO SO AND HAVE VOLUNTARILY CHOSEN NOT TO SEEK THE ADVICE OF AN ATTORNEY.
- (ii.) BOTH DEVELOPER AND THE CITY FURTHER AGREE TO WAIVE AND RELEASE ALL CLAIMS ONE MY HAVE AGAINST THE OTHER RELATED TO ANY AND ALL ROUGH PROPORTIONALITY AND INDIVIDUAL DETERMINATION REQUIREMENTS MANDATED BY *DOLAN V. TOWN OF TIGARD*, 512 U.S. 374 (1994), AND ITS PROGENY, AND WELL AS ANY OTHER

REQUIREMENTS OF A NEXUS BETWEEN THE DEVELOPMENT CONDITIONS AND THE PROJECTED IMPACT OF THE FOREGOING, INCLUDING ALL DEDICATIONS OF LAND, PARKLAND, AND ANY INFRASTRUCTURE REFERENCED HEREIN. I CONSENT TO THIS WAIVER AFTER HAVING THE OPPORTUNITY TO REVIEW THIS AGREEMENT AND WAIVER PROVISION WITH MY ATTORNEY, OR IF I HAVE NOT REVIEWED THIS WITH AN ATTORNEY, THAT I HAVE HAD THE OPPORTUNITY TO DO SO AND HAVE VOLUNTARILY CHOSEN NOT TO SEEK THE ADVICE OF AN ATTORNEY.

15. Other Provisions:

- a. Upon Completion of the Subdivision one electronic copy and one set of reproducible "Record" drawings will be supplied to the City.
- b. The Developer shall pay to the City an engineering plan review, inspection, and testing fee equal for \$8,049.79.
- c. Developer agrees that the development, as set forth in the Contract Documents, will comply with all federal, state and local laws relating to the discharge of storm water upon completion of the development.

ARTICLE II.

GENERAL CONTRACT PROVISIONS

1. **Force Majeure.** If the performance of any of the parties hereto is delayed by reason of war, civil commotion, acts of God, inclement weather, unanticipated subsurface conditions, fire or other casualty, court injunction or any circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated or not, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement shall be extended for a period of time equal to the period such party was delayed. The terms above shall not apply to

extend the time permitted for any payment obligations set forth in this Agreement.

2. **INDEMNIFICATION AND HOLD HARMLESS.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, DEVELOPER OBLIGATES ITSELF TO THE CITY TO FULLY AND UNCONDITIONALLY PROTECT, INDEMNIFY AND DEFEND THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, AND HOLD IT HARMLESS FROM AND AGAINST ANY AND ALL COSTS, EXPENSES, REASONABLE ATTORNEY FEES, CLAIMS, SUITS, LOSSES OR LIABILITY FOR INJURIES TO PROPERTY, INJURIES TO PERSONS (INCLUDING DEVELOPERS EMPLOYEES), INCLUDING DEATH, AND FROM ANY OTHER COSTS, EXPENSES, REASONABLE ATTORNEY FEES, CLAIMS, SUITS, LOSSES OR LIABILITIES OF ANY AND EVERY NATURE WHATSOEVER ARISING IN ANY MANNER, DIRECTLY OR INDIRECTLY, OUT OF OR IN CONNECTION HERewith, REGARDLESS OF CAUSE OR OF THE SOLE, JOINT, COMPARATIVE OR CONCURRENT NEGLIGENCE OR GROSS NEGLIGENCE OF DEVELOPER, ITS OFFICERS, AGENTS OR EMPLOYEES. THIS INDEMNIFICATION AND SAVE HARMLESS SHALL APPLY TO ANY IMPUTED OR ACTUAL JOINT ENTERPRISE LIABILITY. This indemnity does not waive any governmental immunity available to the City under Texas law and does not waive any defenses of the parties under Texas law.
3. **Authority to Bind.** Each general partner or member executing this Agreement on behalf the Developer represents that, by executing this Agreement in such capacity, it acts within the scope of its authority and does not exceed the bounds of its authority to act to bind such party regarding the obligations and assurances contained in this Agreement. City represents that the execution of this Agreement as provided below has been duly authorized by the City Council as provided in the Approval Resolution.
4. **Events of Default.** A default shall exist if either party fails to perform or observe any material covenant contained in this Agreement. The non-defaulting party shall immediately notify the defaulting party in writing upon becoming aware of any change in the existence of any condition or event which would constitute a default under this Agreement. Such notice shall specify the nature and the period of existence thereof and

what action, if any, the notifying party requires or proposes to require with respect to curing the default.

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

CITY:

DESIGNEE: Mark Gibson

ADDRESS: 220 W. Mulberry St.

Sherman, TX 75090

PHONE: 903-892-7210

FAX: 903-870-7802

DEVELOPER:

DESIGNEE: Steve Palmer and Joe Oblas

ADDRESS: 4200 Quail Run Rd.
Sherman, TX 75092

PHONE: 903-815-1407; 903-818-8263

FAX: _____

9. **Legal Construction:** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.
10. **Counterparts.** This Agreement may be executed in any number of counterparts, which may be transmitted originally or electronically, each of which shall be deemed an original and constitute one and the same instrument.
11. **Captions.** The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.
12. **Successors and Assigns.** The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto, provided, however, this Agreement shall not be assigned by Developer without prior written approval by the City Manager of the City, which approval shall not be unreasonably withheld or delayed. City may assign or delegate any of its rights or obligations under this Agreement but the same shall not constitute a novation.
13. **Entire Agreement.** This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Agreement, and except as otherwise provided herein cannot be

modified without written agreement of the parties to be attached to and made a part of this Agreement.

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

IN WITNESS WHEREOF, parties have caused this Agreement to be executed in duplicate this 5th day of Oct 2008, with an original to each party.

DEVELOPER: TIN STAR HOMES, LLC.

BY: [Signature]

NAME: Steve Palmer

TITLE: Owner

ATTEST:

BY: [Signature]

NAME: DO NOT

TITLE: am

CITY: CITY OF SHERMAN

BY: _____

NAME: George Olson

TITLE: City Manager

ATTEST:

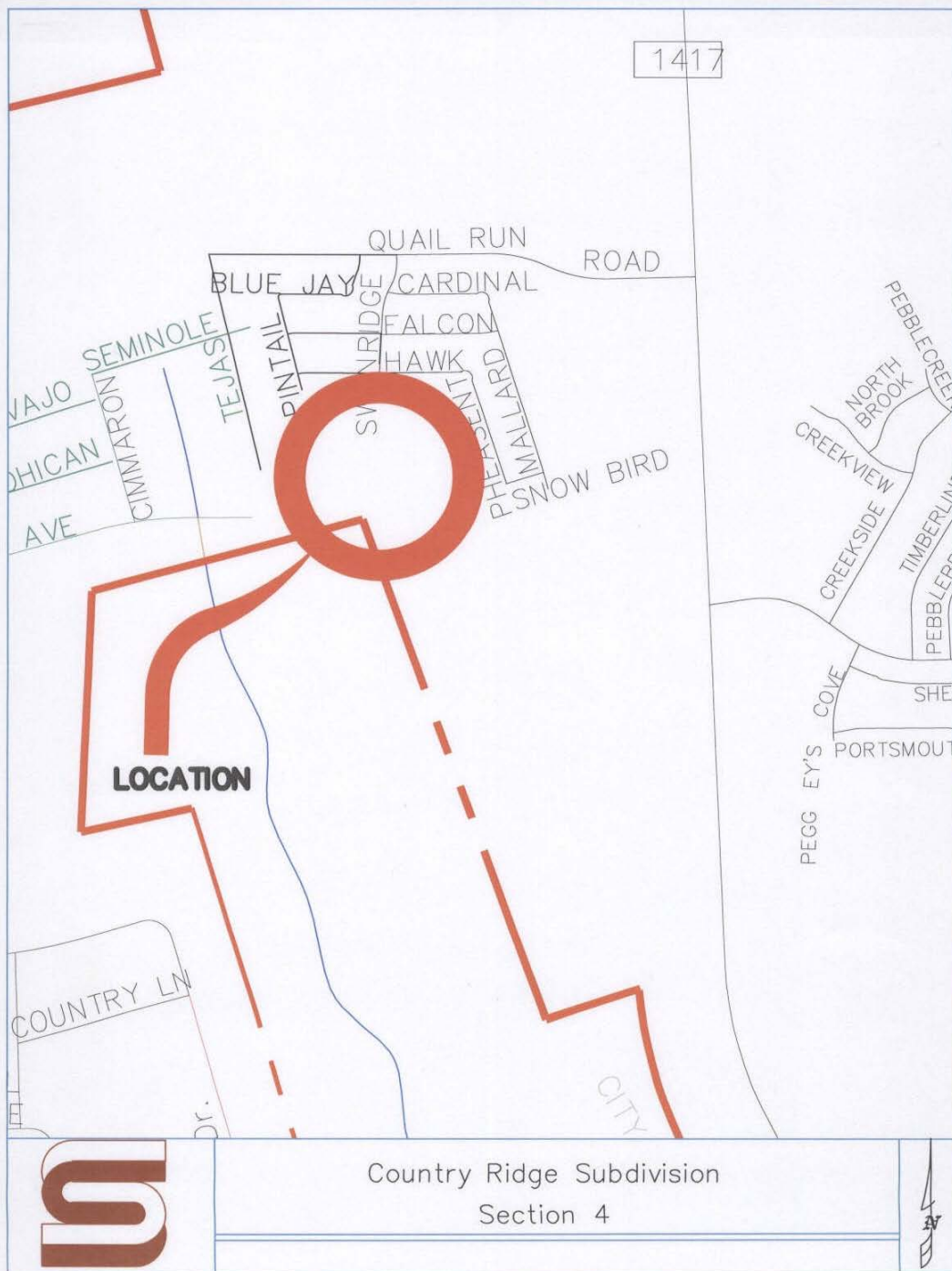
BY: _____

NAME: Linda Ashby

TITLE: City Clerk

APPROVED AST TO FORM:

CITY ATTORNEY: _____





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. C.4

*** RESOLUTION NO. 5287**

**Authorizing Execution of a Contract with Weisinger Water Wells, Inc.
for Emergency Repairs to Luella 3 Trinity Water Well**

Issue

Emergency repairs to the Luella 3 Trinity Water Well

Background

In mid-February, the pipeline from the Lake Texoma Pump Station to the City's water treatment plant is scheduled to be taken out of service for inspection and testing by the North Texas Municipal Water District. The inspection is necessary to accommodate larger pumps that will be installed at the pump station. During this period, the entire City will be served only by its well system. To insure adequate water supply for the community, it is deemed necessary to repair this well.

Origination

Utility Administration

Financial Consideration

Two contractors provided quotations for the well work. The cost to remove, repair, reinstall and test the pump is \$284,925.00. Any repairs to the casing or well screen will result in additional costs. Funds for this repair are budgeted in the cost center account.

Staff Recommendation

It is recommended that the contract for emergency repairs to the Luella 3 Trinity Water Well be executed with Weisinger Water Wells, Inc. in the amount of \$284,925.00 and that the City Manager be authorized to execute the required contract documents.

Alternatives

As may be directed by the City Council

Attachments

Resolution No. 5287

Contract

Bid Tabulation

Contractors' Quotes

Prepared by:

Mark Gibson, Director of Utilities and Engineering

Approved by:

George Olson, City Manager

RESOLUTION NO. 5287

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A CONTRACT WITH WEISINGER WATER WELLS, INC. FOR EMERGENCY REPAIRS TO LUELLA 3 TRINITY WATER WELL; 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 by the Interim City Attorney, to execute a contract with Weisinger Water Wells, Inc. for emergency repairs to the Luella 3 Trinity Water Well in the total amount of Two Hundred Eighty-Four Thousand, Nine Hundred Twenty-Five Dollars and No Cents (\$284,925.00), in accordance with the terms and provisions of all contract documents attached hereto and made a part hereof for all purposes.

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

PASSED AND APPROVED on this the ____ day of _____, 2008.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
BILL MAGERS, MAYOR

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
INTERIM CITY ATTORNEY

**CONTRACT
BETWEEN THE CITY OF SHERMAN AND THE CONTRACTOR**

THIS CONTRACT is entered into on _____, 2008 by and between the City of Sherman ("CITY" or "OWNER") and Weisinger Water Wells, Inc. ("CONTRACTOR").

The CITY and CONTRACTOR, for the consideration set forth in Article 4 of the Contract and the mutual covenants expressed in this Contract, agree as follows:

**ARTICLE 1.
PROJECT**

- 1.01 The CONTRACTOR shall perform the following services to CITY standards as specified. The project is generally described as follows:

EMERGENCY REPAIRS TO LUELLA 3 TRINITY WELL REPAIR

**ARTICLE 2.
INDEPENDENT CONTRACTOR**

- 2.01 CONTRACTOR is and throughout this Contract shall remain an INDEPENDENT CONTRACTOR and as such is the sole judge on how to perform the work required under this contract.

**ARTICLE 3.
CONTRACT TIMES**

- 3.01 *Commencement of Contract*
- A. CONTRACTOR agrees to commence work under this Contract on or before the date specified in the written "Notice to Proceed" of the CITY.
 - B. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- 3.02 *Dates for Substantial Completion and Final Payment*
- A. The Work will be substantially completed by CONTRACTOR prior to February 16, 2009.
 - B. CONTRACTOR agrees to commence work under this Contract on or before the date specified in the written "Notice to Proceed" of the CITY.

3.03 *Liquidated Damages*

- A. CONTRACTOR and CITY recognize that time is of the essence of this Contract and that CITY will suffer loss that is difficult to calculate if the Work is not completed within the times specified in paragraph 3.02 above, plus any extensions thereof approved by the Director of Utilities and Engineering. The parties also recognize the expense, and difficulties involved with a delay make it impossible to evaluate the actual loss suffered by CITY due to the nature of this project if the Work is not completed on time. Accordingly, CITY and CONTRACTOR agree that as liquidated damages for the delay (but not as a penalty), CONTRACTOR shall pay CITY \$600 for each day that expires after the time specified in paragraph 3.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by CITY, CONTRACTOR shall pay CITY \$150 for each day that expires after the time specified in paragraph 3.02 for completion and readiness for final payment until the Work is substantially completed. The parties agree that the amount of \$150 per calendar day represents a fair and reasonable estimate of the CITY'S damages.

ARTICLE 4. CONTRACT PRICE/CONSIDERATION

- 4.01 CITY shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to paragraphs 4.01.A and 4.01B below:

- A. For all Project work, a total Sum of:

Two Hundred Eighty-Four Thousand Nine Hundred Twenty-Five Dollars and No Cents (\$284,925.00)

- B. The above price reflects the consideration for the performance of this Contract.

ARTICLE 5. PAYMENT PROCEDURES

5.01 *Submittal and Processing of Payments*

- A. Applications for Payment will be submitted by the Contractor and reviewed for completion and processing by the ENGINEER.

ARTICLE 6.
CONTRACTOR'S REPRESENTATIONS

6.01 In order to induce CITY to enter into this Contract, CONTRACTOR makes the following representations:

- A. CONTRACTOR has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- B. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- C. CONTRACTOR has carefully studied and understands all the Work and Performance required and represents to the CITY that CONTRACTOR is fully capable of completing the work specified in the Request for Quotation.
- D. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and underground facilities) at our contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by CONTRACTOR, and safety precautions and programs incident thereto.
- E. CONTRACTOR does not consider that any further examinations, investigations explorations, tests, studies, or data are necessary for the performance of the Work of the Contract Price, within the Quoted Times, and in accordance with the other terms and conditions.

ARTICLE 7.
CONTRACT DOCUMENTS

7.01 *Contents*

- A. The Contract Documents consist of the following and are incorporated into this Contract for all purposes:
 - a. This Contract;
 - b. Performance Bond;
 - c. Payment Bond;
 - d. Request for Quotation
 - e. Notice to Proceed

ARTICLE 8. NOTICE

Any notice and/or statement required or permitted to be delivered shall be deemed delivered by depositing same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses, or at such other addresses provided by the parties in writing;

If intended for CITY, to:
Designee: Mark Gibson
Address:
P.O. Box 1106
Sherman, TX 75091

If intended for CONTRACTOR, to:
Designee: Scott Weisinger
Address:
P.O. Box 2608
Conroe, TX 77305

ARTICLE 9. MISCELLANEOUS

9.01 *Terms*

- A. Terms used in the Contract will have the meanings indicated.
- B. The Term “Engineer” in this Contract shall mean the City of Sherman Director of Utilities and Engineering.

9.02 *Assignment of Contract*

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys 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.

9.03 *Successors and Assigns*

- A. CITY and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants and agreements.

9.04 *Severability and Conflict*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon CITY and

CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

- B. If there are any conflicts between the Contract and the Contract Documents, the provisions in the Contract prevail over the provisions in the Contract Documents.

9.05 *Captions*

- A. Section or other headings contained in this Contract are for reference purposes only and shall not affect in any way the meaning or interpretation of this Contract.

9.06 *INDEMNITY AND DUTY TO DEFEND*

- A. CONTRACTOR agrees to defend, indemnify and hold City, its officers, agents, and employees, harmless against any and all claims, lawsuits, judgments, costs and expenses including attorneys fees, for personal injury (including death), property damage or other harm, for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by CONTRACTOR'S breach of any of the terms of provisions of this agreement, or by any negligent, grossly negligent, strictly liable act, or any omission of CONTRACTOR, its officers, agents, employees or subcontractors, in the performance of this agreement (hereinafter "claims"); except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence or fault of CITY, its officers, agents, employees or separate contractors. In addition, this indemnification and save harmless shall apply to any imputed or actual joint enterprise liability.
- B. CONTRACTOR is expressly required to defend the CITY against all claims for which the City becomes liable. In its sole discretion, CITY shall have the right to select or to approve defense counsel to be retained by CONTRACTOR in fulfilling its obligation hereunder to defend any indemnify CITY, unless such a right is expressly waived by CITY in writing by the City Manager, Approved by the City Attorney, and properly authorized by the City's Council. CITY reserves the right to provide a portion or all of its own defense; however, CITY is under no obligation to do so. Any such action by CITY is not to be construed as a waiver of CONTRACTOR'S obligation to indemnify the CITY pursuant to this contract. CONTRACTOR shall retain CITY approved defense counsel within seven (7) business days of CITY'S written notice that CITY is invoking its right to indemnification under the contract. 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 expenses incurred by CITY in defense of claims for which CONTRACTOR is liable under this paragraph.

- C. This indemnification and duty to defend is subject to and does not waive any governmental immunity available to the CITY under Texas law, and any defenses of the parties under Texas law. The provisions of this paragraph are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

9.07 *Choice of Law Venue*

This contract, the entire relationship of the parties, and any litigation between the parties (whether grounded in contract, tort, statute, law or equity) shall be governed by, construed in accordance with, and interpreted pursuant to the laws of the State of Texas, without giving effect to its choice of laws principles. This contract is wholly performable in Grayson County, Texas. Exclusive venue for any litigation between the parties shall be brought in Grayson County, Texas shall be brought in the State District Courts of Grayson County, Texas, or in the United States District Court for the Eastern District of Texas. The parties waive any challenge to personal jurisdiction or venue (including without limitation a challenge based on inconvenience) in Grayson County, Texas, and specifically consent to the jurisdiction of the State District Courts of Grayson County, Texas, or in the United States District Court for the Eastern District of Texas Sherman Division.

9.08 *Binding Authority*

By their signatures below, the individuals represent that they have reviewed Contracts with their attorney and that the individuals have the express authority to enter into this Contract.

9.09 *Entire Agreement*

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

9.10 *Contract Interpretation*

Although this CONTRACT is drafted by the City, should any part be in dispute, the parties agree that the Agreement shall not be construed more favorable for either party.

IN WITNESS WHEREOF, CITY and CONTRACTOR have signed this Contract in duplicate. One counterpart each has been delivered to CITY and CONTRACTOR.

This Contract will be effective on _____, _____, 2008.

CITY OF SHERMAN

WEISINGER WATER WELL, INC.

George Olson
City Manager

Scott Weisinger
President

DATE:

DATE:

APPROVED AS TO FORM:

BY: _____
Interim City Attorney

LUELLA 3 TRINITY			Line Shaft Turbine Pump								
Weisinger				Weisinger				ALSAY			
Item No.	Approx. Quantity	Unit Price	Unit	Description of Item	Total Amount Bid	Approx. Quantity	Unit Price	Total Amount	Bid		
1	50	\$350.00	HR	Mobilization, pull motor and pump	\$17,500.00	50	\$600.00	\$30,000.00			
2	1	\$10,500.00	LS	Transportation of pump, motor and cable to and from shop. All replaced parts need to be transported back to City of Sherman.	\$10,500.00	1	\$5,500.00	\$5,500.00			
3	10	\$350.00	HR	Bail oil and prep. Well for camera survey	\$3,500.00	3	\$300.00	\$900.00			
4	21	\$200.00	HR	Shop labor: (1) disassemble, clean, inspect pump, motor and cable (2) Provide written report on the condition of the equipment	\$4,200.00	60	\$275.00	\$16,500.00			
5	1	\$3,000.00	LS	Camera survey	\$3,000.00	1	\$3,500.00	\$3,500.00			
				Lump Sum	\$38,700.00		Lump Sum	\$56,400.00			
6	40	\$450.00	HR	Additional rig time FOR CLEANING FILL FROM BOTTOM OF WELL	\$18,000.00	40	\$475.00	\$19,000.00			
7	49	\$1,100.00	Each	8"x20' pipe	\$53,900.00	49	\$1,230.00	\$60,270.00			
8	2	\$634.00	Each	8"x10' pipe	\$1,268.00	2	\$800.00	\$1,600.00			
9	1	\$580.00	Each	6"x10' suction pipe	\$580.00	1	\$425.00	\$425.00			
10	200	\$158.00	Each	3"x5' oil tube	\$31,600.00	200	\$165.00	\$33,000.00			
11	200	\$124.00	Each	3"x1-15/16" bronze bearing	\$24,800.00	200	\$160.00	\$32,000.00			
12	1	\$1,000.00	Each	top special oil tube & shaft	\$1,000.00	1	\$1,250.00	\$1,250.00			
13	49	\$640.00	Each	1-15/16"x20' T&C lineshaft	\$31,360.00	49	\$640.00	\$31,360.00			
14	2	\$384.00	Each	1-15/16"x10' T&C lineshaft	\$768.00	2	\$383.00	\$766.00			
15	1	\$10,500.00	LS	Fabricated discharge head	\$10,500.00	1	\$14,500.00	\$14,500.00			
16	50	\$35.00	Each	8"x3" rubber spiders	\$1,750.00	50	\$18.00	\$900.00			
17	1	\$804.00	LS	oil tube tension nut	\$804.00	1	\$825.00	\$825.00			
18	1	\$30,375.00	LS	600 GPM @ 980 TDH pump	\$30,375.00	1	\$44,495.00	\$44,495.00			
19	50	\$100.00	Each	weld lifting lugs on pipe	\$5,000.00	50	\$275.00	\$13,750.00			
20		40%	Each	cost for special tools, rental, outside services @ cost plus basis			90%				
21	2000	\$3.00	LF	1/4" stainless steel airline	\$6,000.00	2,000	\$4.00	\$8,000.00			
22			LS	alternate 460 volt Centrilift pump complete							
23	50	\$460.00	HR	reset pump and motor	\$23,000.00	50	\$390.00	\$19,500.00			
24	12	\$460.00	HR	Test pump (12hrs) and perform bacteriological test	\$5,520.00	12	\$165.00	\$1,980.00			
				TOTAL	\$284,925.00			\$340,021.00			

Request for Quotation
CITY OF SHERMAN, TEXAS

PROJECT: LUELLA 3 Trinity Well Repair

DESCRIPTION OF WORK

The Owner is requesting bids for pump and well repairs. The successful bidder shall provide written reports with recommendations concerning the repair. Based on the written reports, the Owner shall decide which method of repair is most advantageous to the City.

BASE QUOTE

The Bidder must estimate the number of hours expected on items (1), (3) and (4) with the understanding that this is a lump sum quote. The only exception is the welding of lifting lugs, assume no welding on item number (1). Bid prices must be filled in with ink, or typewritten in figures.

Item	Est. Qty	Unit	Description	Unit Price	Amount
1	50	HR	Mobilization, pull motor and pump, weld lifting lugs (if necessary), make wireline measurements. Pump is set at 1000'. (8"x 3"x 1-15/16")	\$ 350.00	\$ 17,500.00
2	1	LS	Transportation of pump and materials to and from shop. All materials that are replaced must be returned back to City of Sherman, including pump bowl.	\$ 10,500.00	\$ 10,500.00
3	10	HR	Bail oil, (Contractor is responsible for disposing of oil)	\$ 350.00	\$ 3,500.00
4	21	HR	Shop labor: (1) disassemble, clean, inspect pump and straighten shaft. (2) Provide written report on the condition of the equipment. (3) Assemble tubing/shafts and install in column pipe.	\$ 200.00	\$ 4,200.00
5	1	LS	Camera survey, provide written report with recommendations concerning the condition of the well. Provide videotape and camera-survey datasheet of the well. Must have a clear camera-survey of entire Well depth.	\$ 3,000.00	\$ 3,000.00
LUMP SUM BID:				\$	38,700.00

ADJUSTMENTS AND ADDITIONAL WORK ITEMS

Item	Qty	Unit	Description	Unit Price
6	1	HR	Additional rig time for cleaning screens, jetting out the fill material & sediment from the bottom of the Well.	\$ 450.00
7	1	EA	8" X 20' Column Pipe, 8 round thread, Complete	\$ 1,100.00
8	1	EA	8" X 10' Column Pipe, 8 round thread, Complete	\$ 634.00
9	1	EA	6" X 10' suction pipe	\$ 580.00
10	1	EA	3" X 5' Oil Tube	\$ 158.00
11	1	EA	3" X 1-15/16" Bronze Bearing	\$ 124.00
12	1	EA	Top special oil tube and shaft	\$ 1,000.00

Item	Qty	Unit	Description	Unit Price
13	1	EA	1-15/16" X 20' T&C Lineshaft, steel	\$ 640.00
14	1	EA	1-15/16" X 10' T&C Lineshaft, steel	\$ 384.00
15	1	EA	Fabricated discharge head	\$ 10,500.00
16	1	EA	8" X 3" Rubber Spider	\$ 35.00
17	1	EA	oil tube tension nut	\$ 804.00
*18	1	EA	600 GPM @ 980' TDH Pump, see installation plan, pump bowl must have a minimum of 1- 1/16" lateral ductile iron bowls	\$ 30,375.00
19	1	EA	Weld (3) 3/4" X 3/4" or 1" X 1" steel lifting lugs, if necessary, to each joint of column pipe. Price is per joint of column pipe, not per lug.	\$ 100.00
20	****	***	Cost for special tools, rentals, outside services at cost plus basis.	40.0 %
21	1	LF	1/2" Stainless-steel airline	\$ 3.00
22	1	LS	Alternate 460 volt Centrilift submersible pump with <u>sand abrasion resistant</u> Centrilift motor, column pipe, check valves, discharge head and Centrilift wire. Service technician with Centrilift must be present to install pump to motor, meg wire and for start up. Wire splice to motor leads must be made at Centrilift.	\$ 232,368.00

*(Check with Pump Manufactory) minimum of 1-1/16" lateral on pump bowl is possible

RESETTING THE PUMP

Item	Est. Qty	Unit	Description	Unit Price	Amount
23	50	HR	Reset pump and motor, disinfect well, return well to service Provide written completion report which includes: material settings, installation plan, test pump results, bacteriological sample test results and written 1 year warranty <u>Airlines must operate properly or pump must be pulled back out and airlines replaced.</u>	\$ 460.00	\$ 23,000.00
24	12	HR	Test pump (12 HRS) and perform bacteriological test.	460.00	5,520.00

The undersigned Bidder hereby proposes to do the work and to furnish all necessary superintendence, labor, machinery, equipment, tools and materials and to complete all work upon which he bids. The undersigned Bidder hereby declares that he has visited the well site and has carefully examined the proposed work and conditions of the contract. The successful Bidder agrees to commence work within ten (10) days after the date of the work order and that the number of consecutive calendar days after the date of the work order required to substantially complete the work on which he has bid is _____ days

*90 days for the line shaft pump

*120 days for the submersible pump

By: Scott Weisinger

Title: President

Company: Weisinger Water Well, Inc.

Address: PO Box 2608

City/State/Zip: Conroe, Texas 77305

Date: October 21, 2008

Request for Quotation
CITY OF SHERMAN, TEXAS

PROJECT: LUELLA 3 Trinity Well Repair

DESCRIPTION OF WORK

The Owner is requesting bids for pump and well repairs. The successful bidder shall provide written reports with recommendations concerning the repair. Based on the written reports, the Owner shall decide which method of repair is most advantageous to the City.

BASE QUOTE

The Bidder must estimate the number of hours expected on items (1), (3) and (4) with the understanding that this is a lump sum quote. The only exception is the welding of lifting lugs, assume no welding on item number (1). Bid prices must be filled in with ink, or typewritten in figures.

Item	Est. Qty	Unit	Description	Unit Price	Amount
1	50	HR	Mobilization, pull motor and pump, weld lifting lugs (if necessary), make wireline measurements. Pump is set at 1000'. (8"x 3"x 1-15/16")	\$ 600.00	\$ 30,000.00
2	1	LS	Transportation of pump and materials to and from shop. All materials that are replaced must be returned back to City of Sherman, including pump bowl.	\$ 5,500.00	\$ 5,500.00
3	3	HR	Ball oil, (Contractor is responsible for disposing of oil)	\$ 300.00	\$ 900.00
4	60	HR	Shop Labor; (1) disassemble, clean, inspect pump and straighten shaft. (2) Provide written report on the condition of the equipment. (3) Assemble tubing/shafts and install in column pipe.	\$ 275.00	\$ 16,500.00
5	1	LS	Camera survey, provide written report with recommendations concerning the condition of the well. <u>Provide videotape and camera-survey datasheet of the well. Must have a clear camera-survey of entire Well depth.</u>	\$ 3,500.00	\$ 3,500.00

LUMP SUM BID: \$ 58,400.00

ADJUSTMENTS AND ADDITIONAL WORK ITEMS

Item	Qty	Unit	Description	Unit Price
6	1	HR	Additional rig time for cleaning screens, jetting out the fill material & sediment from the bottom of the Well.	\$ 475.00
7	1	EA	8" X 20' Column Pipe, 8 round thread, Complete	\$ 1,230.00
8	1	EA	8" X 10' Column Pipe, 8 round thread, Complete	\$ 800.00
9	1	EA	6" X 10' suction pipe	\$ 425.00
10	1	EA	3" X 5' Oil Tube	\$ 185.00
11	1	EA	3" X 1-15/16" Bronze Bearing	\$ 180.00
12	1	EA	Top special oil tube and shaft	\$ 1,250.00

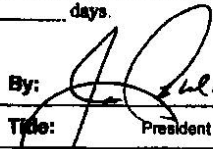
Item	Qty	Unit	Description	Unit Price
13	1	EA	1-15/16" X 20' T&C Lineshaft, steel	\$ 640.00
14	1	EA	1-15/16" X 10' T&C Lineshaft, steel	\$ 383.00
15	1	EA	Fabricated discharge head	\$ 14,600.00
16	1	EA	8" X 3" Rubber Spider	\$ 18.00
17	1	EA	oil tube tension nut	\$ 625.00
*18	1	EA	600 GPM @ 980' TDH Pump, see installation plan, pump bowl must have a minimum of 1- 1/16" lateral. ductile iron bowls	\$ 44,495.00
19	1	EA	Weld (3) 3/4" X 3/4" or 1" X 1" steel lifting lugs, if necessary, to each joint of column pipe. Price is per joint of column pipe, not per lug.	\$ 275.00
20	****	***	Cost for special tools, rentals, outside services at cost plus basis.	90 %
21	1	LF	1/4" Stainless-steel airline	\$ 4.00
22	1	LS	Alternate 460 volt Centrifugal submersible pump with sand abrasion resistant, Centrifugal motor, column pipe, check valves, discharge head and Centrifugal wire. Service technician with Centrifugal must be present to install pump to motor, meg wire and for start up. Wire splice to motor leads must be made at Centrifugal.	\$ 231,292.00

* (Check with Pump Manufacturer) minimum of 1-1/16" lateral on pump bowl is possible

RESETTING THE PUMP

Item	Est. Qty	Unit	Description	Unit Price	Amount
23	50	HR	Reset pump and motor, disinfect well, return well to service. Provide written completion report which includes: material settings, installation plan, test pump results, bacteriological sample test results and written 1 year warranty. Airlines must operate properly or pump must be pulled back out and airlines replaced.	\$ 390.00	\$ 19,500.00
24	12	HR	Test pump (12 HRS) and perform bacteriological test.	165.00	1,980.00

The undersigned Bidder hereby proposes to do the work and to furnish all necessary superintendence, labor, machinery, equipment, tools and materials and to complete all work upon which he bids. The undersigned Bidder hereby declares that he has visited the well site and has carefully examined the proposed work and conditions of the contract. The successful Bidder agrees to commence work within ten (10) days after the date of the work order and that the number of consecutive calendar days after the date of the work order required to substantially complete the work on which he has bid is 180 days.

By:  Jim Caldwell

Title: President

Company: Alsay Incorporated

Address: 6615 Gant

City/State/Zip: Houston, Texas 77066

Date: October 21, 2008



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. D.1

REQUEST TO ADVERTISE

Annual Supply of Avgas (Aviation Gas) for the Sherman Municipal Airport

Issue

Requesting permission to advertise for bids to supply the municipal airport with an annual supply of Avgas (aviation gas)

Background

The Sherman Municipal Airport sells between 100,000 and 130,000 gallons of Avgas each year; and revenue from its sale is one of the major contributors to the Airport Fund. The Sherman Municipal Airport prices its Avgas so as to be competitive with other local airports, including Gainesville, Bonham and Durant. The City is required to acquire this product through a competitive bid process.

Origination

Department of Public Works

Financial Consideration

Currently the margin on Avgas sales at the Sherman Municipal Airport is \$.30. The expected cost of advertisement is about \$200.00.

Staff Recommendation

Grant approval to seek bids for Avgas supplies at the Sherman Municipal Airport

Alternatives

Those as may be recommended by the City Council

Attachments

None

Prepared by:
Jeffrey R. Miller, Public Works Director

Approved by:
George Olson, City Manager



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. D.2

*** REQUEST TO ADVERTISE**

Purchase of Replacement Loader Backhoe for Water Utilities

Issue

To request City Council approval to advertise for bids to purchase a replacement Loader Backhoe for use within the Water Utility Department

Background

This year's operating budget includes funding for replacement of a 1995 Loader Backhoe in Cost Center 720, Utility Distribution and Collection Services.

Origination

Department of Utility Distribution and Collection Services

Financial Consideration

Funds were budgeted in the FY2009 budget for this purchase. Cost of advertisement is about \$200.

Staff Recommendation

It is recommended that the Council approve advertising for bids to purchase a replacement Loader Backhoe.

Alternatives

As may be directed by the City Council

Attachments

None

Prepared by:
Mark Gibson, Director of Utilities and Engineering

Approved by:
George Olson, City Manager



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. D.3

OTHER BUSINESS

Consider Request of the Red River Valley Chapter of the MVPA and the Texoma Area Veteran's Council to Temporarily Close Certain Streets for the Veteran's Day Parade on Saturday, November 8, 2008

Issue

The Red River Valley Chapter of the MVPA (Military Vehicle Preservation Association) and the Texoma Area Veteran's Council have submitted a request to close certain streets in the Downtown area for a Veteran's Day Parade at 10:00 a.m. on Saturday, November 8, 2008.

Background

The Red River Valley Chapter of the MVPA and the Texoma Area Veteran's Council are sponsoring a Veteran's Day Parade at 10:00 a.m. on Saturday, November 8, 2008. A static display of military vehicles and equipment will be set up in the parking area on Travis Street, between Houston and Lamar Streets until approximately 3:00 p.m. The parade will follow the route outlined on the attached map. The event will require traffic control assistance and barricades from the City of Sherman.

Origination

Red River Valley Chapter of the MVPA
Texoma Area Veteran's Council

Financial Consideration

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

Staff Recommendation

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

Alternatives

None recommended

Attachments

Request from Red River Valley Chapter of the MVPA; Event Flyer; Entry Form; Map of Proposed Route

Prepared by:
Jeffrey Miller, Director of Public Works

Approved by:
George Olson, City Manager



RED RIVER VALLEY CHAPTER

is an affiliate of the

M.V.P.A.

Military Vehicle Preservation Association

P.O. Box 2405

Pottsboro, TX 75076

TO: City of Sherman, City council

Re: Veterans Day Parade

Date: Saturday November 8th, 2008

The Red River Valley Chapter of the MVPA, will be the parade and display sponsor for the 3rd. Annual Veterans Day Parade and Veterans Ceremony in Sherman on Saturday November 8th, 2008.

We request that North Travis Street from the intersection of Mulberry and Travis to Lamar St. and Lamar St. to Crockett St. and Crockett St. to Houston St. to be barricaded to traffic from 0900hrs. until 1030hrs.. Also, the North side of the Courthouse be reserved for vehicles and table displays until noon 1200hrs. The North steps of the Courthouse also are made available for guest speakers and announcements. A 120-vac receptacle will also be required for portable sound system adjacent to the speaker area.

Direct questions and/or comments to this writer: gpark@cablone.net 903.815-7980 or Pres. Howell Brown
editmvpa@cablone.net 903.465-3297

Remember the Vets

Gary Park,

Director/officer



VETERAN'S DAY PARADE SATURDAY NOVEMBER 8TH 2008

**Sponsored by the RED RIVER VALLEY CHAPTER OF THE MVPA and the
TEXOMA AREA VETERAN'S COUNCIL**

The vehicles will move to the line-up area at Mulberry and Walnut Streets in Sherman. The downtown parade will begin at 10:00 AM, proceed south on Travis Street to the Courthouse and around the square to end at the EAST SIDE of the COURTHOUSE. A static display of equipment will be set up in the parking area on Travis Street between Houston and Lamar. The display will last until approximately 3:00 PM.

**All veterans of the area are invited to participate in the parade.
It is requested that any vehicles for the parade be in place by 9:30 AM**

**Anyone interested in participating please contact:
Charlie Brown, 903 463-4084 or Gary Park, 903 892-1510
ENTRIES MUST BE RECEIVED NO LATER THAN 1 NOVEMBER 2008**



VETERAN'S DAY PARADE ENTRY FORM

ORGANIZATION

TYPE OF ENTRY(Vehicle, Float, Marching Unit)

CONTACT PERSON

ADDRESS:

CITY

STATE

PHONE:

Will You Also have a static Display after the parade ? Yes ☐ No ☐

Entries must be received by 1 NOVEMBER 2008

I/We hereby release and hold harmless the Red River Valley Chapter of the MVPA,
all Sponsors and other persons associated with the 2008 Veterans Day Parade in
Sherman Texas for any and all damages whether it be caused by negligence of the
Sponsors or any entities associated with this event.

Signature _____

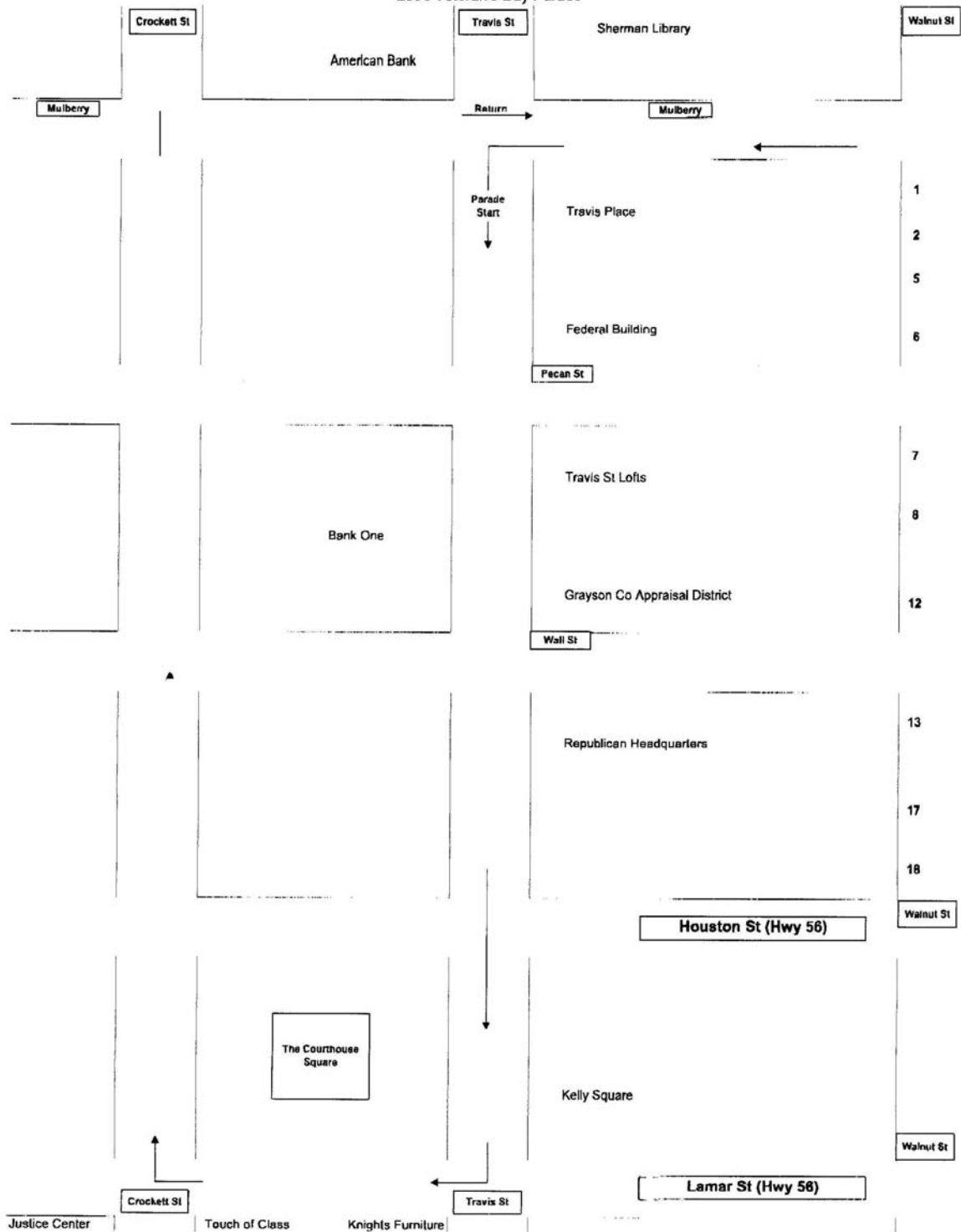
**Mail to: Sherman Department of Tourism
P.O. Box 2312
Sherman TX 75091**

**Questions? Contact:
Charlie Brown – (903) 463-4084
Gary Park – (903) 892-1510**

Oct.30. 2006 11:06AM

Sherman Dept of Tourism
2006 Tourism Day Parade

No.1511 P. 5





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. D.4

OTHER BUSINESS

Consider Calling a Special Meeting of the City Council for 12:00 noon on Thursday, November 20, 2008, to Hold the Second Reading and Public Hearing and to Consider the Adoption of Ordinance No. 5568 (Enterprise Texas Pipeline, LLC Franchise)

Issue

To consider calling a special meeting of the City Council for 12:00 noon on Thursday, November 20, 2008, to hold the second reading and public hearing and to consider the adoption of Ordinance No. 5568, which would approve a franchise with Enterprise Texas Pipeline, LLC

Background

Enterprise Texas Pipeline, LLC wishes to secure a franchise to construct a 36-inch natural gas pipeline that would cross the City's rights-of-way at Farmington Road and South First Street, and extend from Erath, Texas to Ambrose, Texas. The City Charter provides that any ordinance granting a franchise must have two readings, thirty (30) days apart; and no ordinance shall pass any reading except by a majority vote of the City Council members. At the October 20th meeting, the City Council held the first reading and public hearing and first vote to approve moving forward with a franchise for Enterprise Texas Pipeline, LLC. The franchise ordinance would return to the City Council at the December 1, 2008 regular meeting, but Jim Andrews, Agent for Enterprise Texas Pipeline, LLC, has asked the City Council to consider a special called meeting once the thirty (30) days expire.

Origination

Jim Andrews, Agent for Enterprise Texas Pipeline, LLC

Financial Consideration

The fees paid to Council members will total \$375.00 for the special meeting.

Staff Recommendation

It is recommended that the City Council, *by motion and order*, call a special City Council meeting for 12:00 noon on Thursday, November 20, 2008.

Alternatives

Should the proposed date for the special called meeting not be feasible, other suggested dates would be Friday, November 21st and Monday, November 24th.

Attachments

None

Prepared and Approved by:
George Olson, City Manager



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. D.5

*** OTHER BUSINESS**

Approve Quarterly Investment Report for Period ending September 30, 2008

Issue

To approve the Investment Report for the quarterly period ending September 30, 2008

Background

This report is being presented in accordance with state law that requires at least quarterly presentation to the Council. The report was given to the Investment Committee prior to submittal to the Council.

As of September 30, 2008, the Operating Portfolio had a book value of nearly \$25.6 million, down about \$1.8 million from three months ago, which is normal for this period. Further, the City was in compliance with all applicable state laws and the provisions of the City's internal Investment Policy. The Operating Portfolio remains adequately liquid, with a weighted-average maturity of about 70 days; and its yield of 2.42% for the quarter is higher than the benchmark yield of 1.54%. The portfolio value on the City's books is essentially equal to the market value of the overall portfolio.

With respect to the Debt Proceeds Portfolio, the City was in compliance with all applicable state laws and the provisions of the City's internal Investment Policy. The portfolio remains adequately liquid, with all of the funds available within one day. Its yield of 2.23% for the quarter is higher than the benchmark yield of 1.54%. The portfolio value on the City's books is essentially equal to the market value of the overall portfolio.

Origination

Finance

Financial Consideration

None

Staff Recommendation

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

Alternatives

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

Attachments

Memo to Investment Committee

Investment report and related schedules

Prepared by:
Robby Hefton, Assistant City Manager/CFO

Approved by:
George Olson, City Manager

memorandum

DATE: Monday, October 27, 2008
TO: The Investment Committee
Council Members Willie Steele and Robert G. Softly
City Manager George Olson
FROM: Robby Hefton, Assistant City Manager/CFO 
SUBJECT: Investment Report for Quarter ended September 30, 2008

Enclosed is a copy of the quarterly investment report for the quarter ended September 30, 2008. This report reflects that, as of that date, the City was in compliance with all applicable laws, including the City's Investment Policy. The total portfolio balance of about \$25.6 million had a weighted-average maturity of about 70 days, up from last quarter due to the investment purchases made during the current quarter. The portfolio yield of 2.42% was higher than our benchmark 180-day T-Bill yield, which was 1.54%.

As of June 30, 2008, all of the CO Debt Proceeds were invested in TexStar, a pooled investment yielding 2.23%, higher than the benchmark 180-day T-Bill rate of 1.54%.

This investment report will be on the November 3, 2008 City Council agenda for review. Please call me if you have any questions about this item.

RH:pc

attachment (as stated above)



CITY OF SHERMAN, TX
Investment Report Summary
September 30, 2008

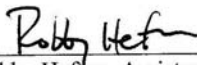
This report complies with the requirements of the public funds investment law and covers all the funds of the City of Sherman that are subject to that law. At September 30, 2008, investment book value was about \$25.6 million and had decreased by approximately \$1.8 million from three months prior. Decreases in investment balances are customary during this quarter each year due to slowing property tax collections. The City's investment portfolio includes interest-bearing demand deposits, bank time deposits, investment pools that strive to maintain a 100% net asset value, U.S. Treasury securities, and U.S. Agency securities.

The City was in compliance with all provisions of the investment policy and the Public Funds Investment Act as of September 30, 2008. The weighted-average maturity of the portfolio was about 70 days at September 30, 2008 compared to about 80 days at June 30, 2008. The decrease in weighted-average maturity occurred because of investment maturities during the period.

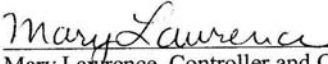
The market value of the portfolio was 99.97% of book value as of September 30, 2008. The portfolio yield of 2.42% at September 30, 2008 was higher than the benchmark yield on the 180-day T-Bill, which was 1.54%.

Three securities matured during the quarter with a par value totaling \$3,000,000. Two new securities were purchased during the quarter with a par value totaling \$2,000,000. Accrued interest of about \$28,000 was added to time deposit principal. All other transactions were routine.

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



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



Mary Lawrence, Controller and City of
Sherman Investment Officer

CITY OF SHERMAN, TX
Detailed Investment Report
As of September 30, 2008

Investment	Par	VALUES - June 30, 2008		Book Increase/(Decrease)		Market Increase/(Decrease)		VALUES - September 30, 2008	
		Book	Market	Purchases/ (Withdrawals)	Accruals/ Amortizations	Purchases & (Withdrawals)	Change In Market Price	Book	Market
DEMAND DEPOSITS									
Depository Bank-Chase		\$ 1,500,001	\$ 1,500,001	\$ 719,628	\$ -	\$ 719,628	\$ -	\$ 2,219,629	\$ 2,219,629
Depository Bank-Landmark		1,042,599	1,042,599	(1,024,657)	-	(1,024,657)	-	17,942	17,942
Depository Bank-Repos		593,593	593,593	(593,593)	-	(593,593)	-	-	-
		3,136,193	3,136,193	(898,622)	-	(898,622)	-	2,237,571	2,237,571
BANK TIME DEPOSITS									
Certificate of Deposit 2.97% 4/29/09-Landmark		2,500,000	2,500,000	18,461	-	18,461	-	2,518,461	2,518,461
Certificate of Deposit 2.47% 1/29/09-Landmark		1,500,000	1,500,000	9,212	-	9,212	-	1,509,212	1,509,212
		4,000,000	4,000,000	27,673	-	27,673	-	4,027,673	4,027,673
INVESTMENT POOLS									
Tex-Pool		5,967,000	5,966,224	-	34,849	-	32,864	6,001,849	5,999,088
TexStar		6,288,639	6,286,388	-	35,445	-	33,029	6,324,084	6,319,417
		12,255,639	12,252,612	-	70,294	-	65,893	12,325,933	12,318,505
SECURITY INVESTMENTS									
Treasury Note 5% 7/31/08	1,000,000	1,000,791	1,002,500	(1,000,000)	(791)	(1,000,000)	(2,500)	-	-
FNMA 3.25% 8/15/08	1,000,000	998,018	1,000,940	(1,000,000)	1,982	(1,000,000)	(940)	-	-
FHLB 4.25% 9/12/08	1,000,000	999,550	1,003,130	(1,000,000)	450	(1,000,000)	(3,130)	-	-
Treasury Note 4.875% 10/31/08	1,000,000	1,003,019	1,009,450	-	(2,258)	-	(6,170)	1,000,761	1,003,280
FNMA 3.875% 11/17/08	1,000,000	998,003	1,004,690	-	1,201	-	(4,060)	999,204	1,000,630
FHLMC 3.875% 1/12/09	1,000,000	997,483	1,005,940	-	1,077	-	(4,380)	998,560	1,001,560
FHLB 2.35% 1/28/09	1,000,000	1,000,559	997,500	-	(244)	-	-	1,000,315	997,500
FHLB 2.3% 4/15/2009	1,000,000	999,653	995,630	-	111	-	(630)	999,764	995,000
Treasury Note 4.875% 6/30/09	1,000,000	-	-	1,024,141	(3,610)	1,024,141	(1,561)	1,020,531	1,022,580
FNMA 5.125% 7/13/09	1,000,000	-	-	1,019,180	(2,405)	1,019,180	(4,800)	1,016,775	1,014,380
		7,997,076	8,019,780	(956,679)	(4,487)	(956,679)	(28,171)	7,035,910	7,034,930
		\$27,388,908	\$27,408,585	(\$1,827,628)	\$65,807	(\$1,827,628)	\$37,722	\$25,627,087	\$25,618,679

CITY OF SHERMAN, TX
Comparison of Portfolio to Policy Limits
As of September 30, 2008

<u>LIMITS ON TYPES OF SECURITIES</u>	<u>Target Investment Level</u>	<u>Portfolio Cap</u>	<u>Actual Percentage of Portfolio</u>	<u>% Variance Policy Limits</u>
Demand Deposits	100%	100%	8.73%	91.27%
Bank Time Deposits	25%	30%	15.72%	14.28%
U. S. Treasury Securities	80%	85%	7.89%	77.11%
U. S. Agency Securities	45%	50%	19.57%	30.43%
Investment Pools	45%	50%	48.10%	1.90%

<u>LIMITS ON MATURITIES</u>	<u>Minimum Allowable Percentage of Portfolio</u>	<u>Actual Percentage of Portfolio</u>	<u>% Variance Policy Limits</u>
Available within 1 month	25%	60.73%	35.73%
Available within 3 months	33%	64.63%	31.63%
Available within 6 months	45%	78.32%	33.32%
Available within 1 year	60%	100.00%	40.00%
Available within 2 years	70%	100.00%	30.00%
Available within 3 years	80%	100.00%	20.00%
Available within 4 years	90%	100.00%	10.00%
Available within 5 years	100%	100.00%	0.00%

	<u>Maximum Allowable</u>	<u>Actual Average Maturity</u>	<u>Policy Limit Days Available</u>
Weighted Average Days to Maturity	500	70.07	429.93

CITY OF SHERMAN, TX**Calculation of Weighted Average Maturity and Yield****As of September 30, 2008**

	<u>Market Value</u>	<u>Book Value</u>	<u># of Days To Maturity</u>	<u>Original Yield to Maturity</u>	<u>Percent of Portfolio</u>
Demand Deposits					
Depository Bank - Chase	\$2,219,629	\$2,219,629	0	0.00%	8.66%
Depository Bank - Landmark	<u>17,942</u>	<u>17,942</u>	0	1.69%	<u>0.07%</u>
	2,237,571	2,237,571			8.73%
Bank Time Deposits					
Certificate of Deposit 2.97% 4/29/09	2,518,461	2,518,461	211	3.00%	9.83%
Certificate of Deposit 2.47% 1/29/09	<u>1,509,212</u>	<u>1,509,212</u>	121	2.49%	<u>5.89%</u>
	4,027,673	4,027,673			15.72%
Investment Pools					
Tex-Pool	5,999,088	6,001,849	1	2.31%	23.42%
TexStar	<u>6,319,417</u>	<u>6,324,084</u>	1	2.23%	<u>24.68%</u>
	12,318,505	12,325,933			48.10%
Federal Securities and Notes					
Treasury Note 4.875% 10/31/08	1,003,280	1,000,761	31	3.95%	3.91%
FNMA 3.875% 11/17/08	1,000,630	999,204	48	4.37%	3.90%
FHLMC 3.875% 1/12/09	1,001,560	998,560	104	4.32%	3.90%
FHLB 2.35% 1/28/09	997,500	1,000,315	120	2.25%	3.90%
FHLB 2.3% 4/15/2009	995,000	999,764	197	2.34%	3.90%
Treasury Note 4.875% 6/30/09	1,022,580	1,020,531	273	2.09%	3.98%
FNMA 5.125% 7/13/09	<u>1,014,380</u>	<u>1,016,775</u>	286	2.94%	<u>3.97%</u>
	7,034,930	7,035,910			27.45%
TOTAL	<u>\$25,618,679</u>	<u>\$25,627,087</u>			<u>100.00%</u>

Weighted Average Maturity	
Weighted Average Days to Maturity	70.07
Weighted Average Days to Maturity-Operating (ex.depository bank-checking)	76.77
Weighted Average Yield	
Weighted Average Yield	2.41%
Weighted Average Yield - Operating (excluding depository bank-checking)	2.64%
Yield to Maturity of 180 day T-Bill at September 30, 2008	1.54%

CITY OF SHERMAN, TX
Market Value Analysis
As of September 30, 2008

CHANGES IN MARKET VALUE:

BEGINNING VALUE - June 30, 2008		\$27,408,585
<u>INVESTMENT ACTIVITY:</u>		
Purchases	2,070,994	
Maturities	(3,000,000)	
Net Changes in Market Price	<u>(28,171)</u>	
		(957,177)
Bank and Pooled Investment Deposits/(Withdrawals) - Net		<u>(832,729)</u>
ENDING VALUE - September 30, 2008		<u><u>\$25,618,679</u></u>

COMPARISON OF BOOK VALUE TO MARKET VALUE:
--

<u>BEGINNING VALUE - June 30, 2008</u>		
Market Value	\$27,408,585	
Book Value	\$27,388,908	
Ratio of Market Value to Book Value		100.07%
 <u>ENDING VALUE - September 30, 2008</u>		
Market Value	\$25,618,679	
Book Value	\$25,627,087	
Ratio of Market Value to Book Value		99.97%

CITY OF SHERMAN, TX
Quarter to Date Investment Transaction Report
As of September 30, 2008

PURCHASES

<u>Date</u>	<u>Type</u>	<u>Principal Purchase Price</u>	<u>Par Value</u>	<u>Yield/Int. Discount Rate</u>	<u>Maturity Date</u>
07/29/2008	CD Interest	\$9,212	\$9,212	2.49%	01/29/2009
07/29/2008	CD Interest	18,461	18,461	3.00%	04/29/2009
08/13/2008	Treasury Note 4.875%	1,024,141	1,000,000	2.09%	06/30/2009
08/20/2008	FNMA 5.125%	<u>1,019,180</u>	<u>1,000,000</u>	2.94%	07/13/2009
Total Purchases		\$2,070,994	\$2,027,673		

MATURITIES

<u>Date</u>	<u>Type</u>	<u>Par Value</u>	<u>Yield/Int. Discount Rate</u>
07/31/2008	Treasury Note 5%	\$1,000,000	4.04%
08/15/2008	FNMA 3.25%	1,000,000	4.45%
09/12/2008	FHLB 4.25%	<u>1,000,000</u>	4.38%
Total Maturities		\$3,000,000	

CITY OF SHERMAN, TX
CO Debt Proceeds
Investment Report Summary
September 30, 2008

This report complies with the requirements of the public funds investment law and covers Certificate of Obligation Debt Proceeds of the City of Sherman that is subject to that law. At September 30, 2008, investment book value was about \$5.0 million and had increased by approximately \$26,000 from the previous quarter, consisting entirely of interest income. The City's investment portfolio includes an investment pool that strives to maintain a 100% net asset value.

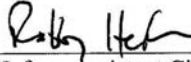
The City was in compliance with all provisions of the investment policy and the Public Funds Investment Act as of September 30, 2008. The weighted-average maturity of the portfolio was 1 day at September 30, 2008.

The market value of the portfolio was 99.93% of book value as of September 30, 2008.

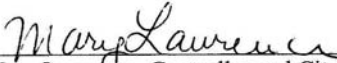
The portfolio yield of 2.23% at September 30, 2008 was higher than the benchmark yield on the 180-day T-Bill, which was 1.54%.

All other transactions were routine.

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



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



Mary Lawrence, Controller and City of
Sherman Investment Officer

CITY OF SHERMAN, TX
CO Debt Proceeds
Detailed Investment Report - Debt Proceeds
As of September 30, 2008

Investment	VALUES - June 30, 2008		Book Increase/(Decrease)		Market Increase/(Decrease)		VALUES - September 30, 2008	
	Book	Market	Purchases/ (Withdrawals)	Accruals/ Amortizations	Purchases & (Withdrawals)	Change In Market Price	Book	Market
TEX-STAR	\$ 4,980,759	\$ 4,978,976	\$ -	\$ 28,073	\$ -	\$ 26,160	\$ 5,008,832	\$ 5,005,135

CITY OF SHERMAN, TX
CO Debt Proceeds
Comparison of Portfolio to Policy Limits
As of September 30, 2008

LIMITS ON MATURITIES	Minimum Allowable Percentage of Portfolio	Actual Percentage of Portfolio	% Variance Policy Limits
Cash Demands within 1 month	10%	100.00%	90.00%
Cash Demands within 3 months	14%	100.00%	85.96%
Cash Demands within 6 months	40%	100.00%	59.70%
Cash Demands within 1 year	77%	100.00%	23.34%
Cash Demands within 2 years	100%	100.00%	0.00%

	Maximum Allowable	Actual Average Maturity	Policy Limit Days Available
Weighted Average Days to Maturity	500	1.00	499.00

CITY OF SHERMAN, TX
CO Debt Proceeds
Calculation of Weighted Average Maturity and Yield
As of September 30, 2008

Investment Pool

	<u>Market Value</u>	<u>Book Value</u>	<u># of Days To Maturity</u>	<u>Original Yield to Maturity</u>	<u>Percent of Portfolio</u>
Tex-Star	\$ 5,005,135	\$ 5,008,832	1	2.23%	100.00%

Weighted Average Maturity

Weighted Average Days to Maturity	1
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Weighted Average Yield

Weighted Average Yield	2.23%
Yield to Maturity of 180 day T-Bill at September 30, 2008	1.54%

CITY OF SHERMAN, TX
CO Debt Proceeds
Market Value Analysis
As of September 30, 2008

CHANGES IN MARKET VALUE:

BEGINNING VALUE - June 30, 2008	\$4,978,976
<u>INVESTMENT ACTIVITY:</u>	
Purchases	-
Maturities	-
Net Changes in Market Price	-
Pooled Investment Deposits/(Withdrawals) - Net	<u>26,160</u>
ENDING VALUE - September 30, 2008	<u><u>\$5,005,135</u></u>

COMPARISON OF BOOK VALUE TO MARKET VALUE:
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<u>BEGINNING VALUE - June 30, 2008</u>		
Market Value	\$4,978,976	
Book Value	\$4,980,759	
Ratio of Market Value to Book Value		99.96%
 <u>ENDING VALUE - September 30, 2008</u>		
Market Value	\$5,005,135	
Book Value	\$5,008,832	
Ratio of Market Value to Book Value		99.93%

CITY OF SHERMAN, TX
CO Debt Proceeds
Quarter To Date Investment Transaction Report
As of September 30, 2008

PURCHASES

There were no purchases during the period.

MATURITIES

There were no maturities during the period.



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. D.6

CITIZEN REQUESTS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. D.7

MEDIA QUESTIONS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. D.8

COUNCIL COMMENTS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. E.1

EXECUTIVE SESSION

**In Accordance with Chapter 551, Government Code, V.T.C.S. (Open Meetings Law),
“The City Council Will Now Hold a Closed Executive Meeting Pursuant to the Provisions
of the Open Meetings Law, Chapter 551, Government Code, Vernon’s Texas Codes
Annotated, in Accordance with the Authority Contained in the Following Sections”**

Section 551.074

Personnel Matters:

- (a) Consider the Qualifications, Appointment and
Removal of Members to Boards and
Commissions:**
 - (i) Planning and Zoning Commission (1)**

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. F.1

OPEN MEETING

**Reconvene into Open Meeting and consider action, if any,
on items discussed in Executive Session**

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. F.2

ADJOURNMENT

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 11-3-2008

Subject: Agenda Item No. N/A

COUNCIL CALENDAR

2008 CITY COUNCIL MEETINGS

JANUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

FEBRUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	

MARCH

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

APRIL

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

MAY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

JUNE

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

JULY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

AUGUST

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

SEPTEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

OCTOBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

NOVEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

DECEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

01/21/08 - M.L.K., Jr. Birthday - Called Council Meeting on 01/22/08
02/29/08 - 12:00 Noon Called Meeting with Chamber Board
05/10/08 - City Council Election
05/13/08 - 12:00 Noon Called Meeting to Canvass Election Results
05/22/08 - 6:00 PM Called Meeting for Comprehensive Plan Community Forum
05/29/08 - 6:00 PM Called Meeting for Comprehensive Plan Community Forum
06/10/08 - 12:00 Noon Budget Planning Meeting in Council Chambers
07/17-18/08 - Budget Workshop in Council Chambers (adjourned on 07/17/08)

09/01/08 - Labor Day - Called Council Meeting on 09/02/08
09/18/08 - 12:00 Noon Joint Meeting with SEDCO Board
11/20/08 - Proposed 12:00 Noon Called Meeting for 2nd Reading, PH
and Adoption of Enterprise Texas Pipeline Franchise Ordinance