

**CITY OF SHERMAN
CITY COUNCIL REGULAR MEETING AGENDA
COMMUNITY ROOM OF THE POLICE DEPARTMENT HEADQUARTERS
2600 W. TRAVIS
SHERMAN, TEXAS
MONDAY, MAY 5, 2025
5:00 PM**

- A.1. CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN**
- A.2. PLEDGE OF ALLEGIANCE AND INVOCATION LED BY COUNCIL MEMBER HENRY MARROQUIN**
- A.3. APPROVE MINUTES OF THE REGULAR CITY COUNCIL MEETING OF APRIL 21, 2025.**

Citizen Comments

B.1. CITIZEN COMMENTS

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

Consent Agenda

C.1. CONSENT AGENDA

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

Proclamations

D.1. PROCLAMATION

"Mental Health Awareness Month" - May 2025

D.2. PROCLAMATION

"Municipal Clerks Week" - May 4 - 10, 2025

Resolutions

E.1. RESOLUTION NO. 7521

Authorizing the City Manager or His Designee to Finalize and Execute a Purchase and Sale Agreement, Leaseback Agreement, and Special Warranty Deed for the Purchase of 1.00 Acre in the Elizabeth Jones Survey, Abstract No. 625, City of Sherman, Grayson County, Texas, known as 200 S. FM 1417, Sherman, Texas

E.2. RESOLUTION NO. 7522

Authorizing Execution of a Professional Services Agreement with Kimley-Horn and Associates, Inc for Professional Consulting Services for the Pavement Management Program

E.3. RESOLUTION NO. 7523

Awarding a Bid to and Authorizing Execution of a Contract Between Blackrock Construction and the Greater Texoma Utility Authority Based on an Invitation to Bid for the Progress Park Industrial Sewer Outfall

E.4. * RESOLUTION NO. 7524

Authorizing the City of Sherman to Obtain General Issue License Plates for City Vehicle(s) for the Equipment Services Department

E.5. * RESOLUTION NO. 7525

Authorizing Execution of the First Amendment to the Professional Services Agreement with Plummer Associates, Inc. for Engineering Services for the Post Oak WWTP 12.5-KV Distribution System and Generator Design

E.6. * RESOLUTION NO. 7526

Authorizing and Approving a Performance Agreement with the Sherman Economic Development Corporation (SEDCO), A Texas Non-Profit Corporation, for Financial Assistance to the City of Sherman through Fiscal Year 2029-2030 for Certain Industrial Infrastructure in Multiple Progress Parks; and Providing for Immediate Effective Date

E.7. * RESOLUTION NO. 7527

Award a Bid to and Authorizing Execution of a Contract with Dun-Al Cleaning, LLC for Park Restroom Cleaning Services

Request to Advertise

F.1. * REQUEST TO ADVERTISE

Annual Water and Sewer Maintenance Supplies and Parts

Other Business

G.1. OTHER BUSINESS

Receive Presentation on Program Updates from Pape-Dawson

G.2. *OTHER BUSINESS

Approve the Investment Report for the Quarter Ended March 31, 2025

G.3. * OTHER BUSINESS

Emergency Repair of the Dorchester #10 Woodbine Well under Emergency Designation

COUNCIL COMMENTS

EXECUTIVE SESSION

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

I.1. TEX. GOV'T CODE § 551.071

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

I.2. TEX. GOV.'T CODE § 551.072

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

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

I.3. TEX. GOV'T CODE § 551.073

Deliberating a negotiated contract for a prospective gift or donation to the City if deliberation in an Open Meeting would have a detrimental effect on the position of the City in negotiations with a third person.

I.4. TEX. GOV'T CODE § 551.074

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

I.5. TEX. GOV'T CODE § 551.076

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

I.6. TEX. GOV'T CODE § 551.087

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

I.7. TEX. GOV'T CODE § 551.089

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

The Council reconvenes into General Session

Adjournment

COUNCIL CALENDAR

L.1. COUNCIL CALENDAR

2025 Council Calendar

CERTIFICATION

I, the undersigned authority, do hereby certify that the above Notice of Regular Meeting of the City Council of the City of Sherman is a true and correct copy of said Notice and that I posted a true and correct copy of said Notice on the bulletin board at City Hall (317 S. Travis) of said City of Sherman, Texas, a place convenient to the public, and said notice was posted on Thursday, May 1, 2025 at 4:59 p.m., and said time of posting was 72 hours before said meeting was convened or called to order.

Dated this 1st day of May 2025. City of Sherman, Texas

City Clerk

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

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

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

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

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

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

Mayor

Shawn C.
Teamann

Deputy Mayor

Juston Dobbs

Council Members

Henry Marroquin, Council-At-Large, PL #1
Juston Dobbs, Council-At-Large, PL #2
Clay Barnett, Council – District #1

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

STATE OF TEXAS §
 April 21, 2025
COUNTY OF GRAYSON §

BE IT REMEMBERED THAT A Regular Meeting of the City Council of the City of Sherman, Grayson County, Texas was begun and held in the Community Room of the Sherman Police Headquarters, 2600 W. Travis Street, on April 21, 2025.

MEMBERS PRESENT: MAYOR SHAWN TEAMANN; DEPUTY MAYOR JUSTON DOBBS.
 COUNCIL MEMBERS BARNETT, HOLLAND, HOWETH,
 MARROQUIN, STEVENSON.

MEMBERS ABSENT: NONE.

CALL TO ORDER

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

CALL TO ORDER

APPROVE MINUTES

The Council reviewed the Minutes of the Regular City Council Meeting of April 7, 2025. Council Member Holland moved to approve the Minutes, as presented; Second by Council Member Howeth; All present voted AYE.
MOTION CARRIED.

APPROVE MINUTES

CITIZEN'S COMMENTS

There were no citizen's comments.

CITIZEN'S COMMENTS

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.

CONSENT AGENDA

Mayor Teamann removed Item H-1, entitled "Change Order No. 1 - Approving the Greater Texoma Utility Authority's Intention to Approve Change Order No. 1 to the 36" West Sherman Water Main," from the Consent Agenda, for discussion in its regular order of business.

The Council reviewed the Consent Agenda. Council Member Barnett moved to approve the Consent Agenda, with the exception of Item H-1, which will be discussed in its regular order of business. Second by Council Member Stevenson. All present voted AYE.

PROCLAMATION

"LIBRARY OF EXCELLENCE AWARD" -- 2024

Council Member Howeth presented a proclamation to Melissa Eason, Library Services Administrator, commending them on achieving the "Library of Excellence Award" for 2024.

**LIBRARY OF
EXCELLENCE
AWARD
(2024)**

Mayor Teamann introduced Ordinance No. 6829 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SHERMAN'S ZONING ORDINANCE/CODE OF ORDINANCES CHAPTER 14, AND GRANTING A SPECIFIC USE PERMIT TO ALLOW AN AUTOMOBILE LAUNDRY, CARWASH IN A C-2 (GENERAL COMMERCIAL) DISTRICT, LOCATED IN THE 1600 BLOCK BAKER ROAD, CONSISTING OF 2.465 ACRES BEING LOT 6R-A2 OF THE REPLAT ALCOHOLIC SERVICES ADDITION, CITY OF SHERMAN, GRAYSON COUNTY, TEXAS UTTER PROPERTIES, LTD (OWNER), DAVID PRYOR (REPRESENTATIVE) AND PRESTON TRAIL LAND SURVEYING (SURVEYOR) PRESCRIBING CONDITIONS TO THE SPECIFIC USE PERMIT; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00; PROVIDING A REPEALING/SAVINGS CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

ORD 6829
SUP FOR CAR WASH
(1600 BLOCK OF
BAKER RD)

Rob Rae, Director of Development Services, said this Specific Use Permit is for Utter Ford. They would like to install a car wash at the back of their property. It would only service their vehicles and would not be for public use.

The Planning and Zoning Commission recommended approval of the Specific Use Permit.

No citizens appeared before the City Council to discuss Ordinance No. 6829.

Mayor Teamann introduced Ordinance No. 6830 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS; AUTHORIZING THE ISSUANCE OF "CITY OF SHERMAN, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2025"; SPECIFYING THE TERMS AND FEATURES OF SAID CERTIFICATES; PROVIDING FOR THE PAYMENT OF SAID CERTIFICATES OF OBLIGATION BY THE LEVY OF AN AD VALOREM TAX UPON ALL TAXABLE PROPERTY WITHIN THE CITY AND A LIMITED PLEDGE OF THE NET REVENUES FROM THE OPERATION OF THE CITY'S WATERWORKS AND SEWER SYSTEM; RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE AND DELIVERY OF SAID CERTIFICATES, INCLUDING THE APPROVAL AND EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT AND THE APPROVAL AND DISTRIBUTION OF AN OFFICIAL STATEMENT; AND PROVIDING AN EFFECTIVE DATE.

ORD 6830
TAX & REVENUE
CERTIFICATES OF
OBLIGATION

Mary Lawrence, Chief Financial Officer, said the City sold \$25 million in Certificates of Obligation this morning, for various City projects.

Garry Kimball, President, Specialized Public Finance, Inc.

Mr. Kimball serves as the City's Financial Advisor, and presented a Bid Tab of bids that were received for the Certificates of Obligation. Raymond James & Associates, Inc. was the winning

bidder, with a bid of 4.76%, which was slightly higher than budgeted, due to “extreme volatility” in the market. The budgeted rate was 4.5%. They were successful in getting the AA Bond Rating reaffirmed.

Mr. Kimball said there are usually more than five bidders on an issue, and there were only three this time, again due to the current market. He recommended the sale of the Certificates of Obligation to Raymond James & Associates, as presented.

No other citizens appeared before the City Council to discuss Ordinance No. 6830.

The Public Hearing was closed.

Ordinance 6829

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SHERMAN'S ZONING ORDINANCE/CODE OF ORDINANCES CHAPTER 14, AND GRANTING A SPECIFIC USE PERMIT TO ALLOW AN AUTOMOBILE LAUNDRY, CARWASH IN A C-2 (GENERAL COMMERCIAL) DISTRICT, LOCATED IN THE 1600 BLOCK BAKER ROAD, CONSISTING OF 2.465 ACRES BEING LOT 6R-A2 OF THE REPLAT ALCOHOLIC SERVICES ADDITION, CITY OF SHERMAN, GRAYSON COUNTY, TEXAS UTTER PROPERTIES, LTD (OWNER), DAVID PRYOR (REPRESENTATIVE) AND PRESTON TRAIL LAND SURVEYING (SURVEYOR) PRESCRIBING CONDITIONS TO THE SPECIFIC USE PERMIT; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00; PROVIDING A REPEALING/SAVINGS CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

**ORD 6829
SUP FOR CAR WASH
(1600 BLOCK OF
BAKER RD)**

Ordinance 6830

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS; AUTHORIZING THE ISSUANCE OF "CITY OF SHERMAN, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2025"; SPECIFYING THE TERMS AND FEATURES OF SAID CERTIFICATES; PROVIDING FOR THE PAYMENT OF SAID CERTIFICATES OF OBLIGATION BY THE LEVY OF AN AD VALOREM TAX UPON ALL TAXABLE PROPERTY WITHIN THE CITY AND A LIMITED PLEDGE OF THE NET REVENUES FROM THE OPERATION OF THE CITY'S WATERWORKS AND SEWER SYSTEM; RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE AND DELIVERY OF SAID CERTIFICATES, INCLUDING THE APPROVAL AND EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT AND THE APPROVAL AND DISTRIBUTION OF AN OFFICIAL STATEMENT; AND PROVIDING AN EFFECTIVE DATE.

**ORD 6830
TAX & REVENUE
CERTIFICATES OF
OBLIGATION**

ACTION TAKEN.

Motion by Council Member Barnett to approve Ordinance Nos. 6829 and 6830, as presented. Second by Deputy Mayor Dobbs. VOTING AYE: Teamann, Barnett, Dobbs, Holland, Howeth, Marroquin, Stevenson. VOTING NAY: None.

MOTION CARRIED.

RESOLUTION NO. 7515 -- AUTHORIZING EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH DESIGN WORKSHOP, INC. TO PROVIDE PROFESSIONAL SERVICES FOR THE SHERMAN DOWNTOWN SHERMAN CORRIDOR DEVELOPMENT PROJECT PHASE 2

**RES 7515
DOWNTOWN
CORRIDOR
DEVELOPMENT
PROJECT, PHASE 2**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, AWARDED A BID TO AND AUTHORIZING EXECUTING A PROFESSIONAL SERVICES AGREEMENT WITH DESIGN WORKSHOP, INC. TO PROVIDE PROFESSIONAL SERVICES FOR THE SHERMAN DOWNTOWN SHERMAN CORRIDOR DEVELOPMENT PROJECT PHASE 2.

Mr. Rae said this is a result of the Downtown Subcommittee, including members of the City Council. Phase 1 was begun as part of the Downtown Master Plan last year. Design Workshop was hired to envision what the downtown corridor could look like, with improvements.

The next phase will focus on community involvement, public outreach, and creating a list of strategic plan items, and things that need to be addressed immediately.

ACTION TAKEN.

Motion by Council Member Barnett to approve Resolution No. 7515, as presented. Second by Council Member Stevenson.

VOTING AYE: Teamann, Barnett, Dobbs, Holland, Howeth, Marroquin, Stevenson.

VOTING NAY: None.

MOTION CARRIED.

RESOLUTION NO. 7516 -- AUTHORIZING EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH TEAGUE NALL AND PERKINS, INC. FOR DESIGN OF THE HERITAGE RANCH DOWNSTREAM WASTEWATER IMPROVEMENTS

**RES 7516
HERITAGE RANCH
DOWNSTREAM
WASTEWATER
IMPROVEMENTS**

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

Wayne Lee, Director of Engineering, said this agreement is for construction drawings for a parallel, 12-to-18-inch wastewater main. The main will eventually serve the Heritage Ranch Development. The current main will be inadequate and needs to be replaced with the larger main.

The agreement is only for design of the plan, and should take six to seven months to design. Construction plans will not be issued until Heritage Ranch continues to develop and there is a demand for the line.

ACTION TAKEN.

Motion by Deputy Mayor Dobbs to approve Resolution No. 7516, as presented. Second by Council Member Howeth.

VOTING AYE: Teamann, Barnett, Dobbs, Holland, Howeth, Marroquin, Stevenson.

VOTING NAY: None.

MOTION CARRIED.

RESOLUTION NO. 7517 -- AUTHORIZING EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH McMANUS & PAYNE CONSULTING ENGINEERS, LLC FOR DEVELOPMENT REVIEW AND CONSTRUCTION ADMINISTRATION ON-CALL SERVICES PROJECT

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH McMANUS & PAYNE CONSULTING ENGINEERS, LLC FOR DEVELOPMENT REVIEW AND CONSTRUCTION ADMINISTRATION ON-CALL SERVICES PROJECT.

**RES 7517
DEVELOPMENT
REVIEW &
CONSTRUCTION
ON-CALL SERVICES
PROJECT**

Mr. Lee said this agreement was to help augment the staff with the review of plans and development designs. Previously Huitt-Zollars was hired for, and continues to be used for that service.

There have been some situations where a private developer has also hired Huitt-Zollars, which means the City staff has to review the plans. This contract will alleviate that situation, and also relieve some of the pressure off of Huitt-Zollars.

Both review firms are paid an hourly charge for services rendered, some of which is reimbursed to the City by the charges that developers pay for plan reviews and inspections.

ACTION TAKEN.

Motion by Council Member Barnett to approve Resolution No. 7517, as presented. Second by Council Member Stevenson.

VOTING AYE: Teamann, Barnett, Dobbs, Holland, Howeth, Marroquin, Stevenson.

VOTING NAY: None.

MOTION CARRIED.

RESOLUTION NO. 7518 -- AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE A TEMPORARY CONSTRUCTION EASEMENT WITH ONCOR FOR BORING UNDER W. TRAVIS STREET FOR A NEW ELECTRICAL LINE

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE A TEMPORARY CONSTRUCTION EASEMENT ON PROPERTY ID 404996 AT WEST TRAVIS STREET, SHERMAN, TEXAS.

CONSENT AGENDA.

**RES 7518
ONCOR ELECTRICAL
LINES BORING
(WEST TRAVIS ST)**

RESOLUTION NO. 7519 -- AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE AN ELECTRICAL EASEMENT WITH ONCOR FOR THE PURPOSE OF PROVIDING ELECTRIC SERVICE TO PECAN GROVE PARK

RES 7519
PECAN GROVE
PARK ELECTRIC
SERVICE

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE AN ELECTRICAL EASEMENT ON PROPERTY ID 118816 AT PECAN GROVE PARK, SHERMAN, TEXAS.
CONSENT AGENDA.

RESOLUTION NO. 7520 -- AUTHORIZING PURCHASE OF SIX CARDIAC MONITORS FROM ZOLL MEDICAL CORPORATION FOR THE SHERMAN FIRE DEPARTMENT THROUGH SOURCEWELL

RES 7520
FIRE DEPT
CARDIAC MONITORS

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE PURCHASE OF SIX CARDIAC MONITORS FROM ZOLL MEDICAL CORPORATION FOR THE SHERMAN FIRE DEPARTMENT THROUGH SOURCEWELL.
CONSENT AGENDA.

**CHANGE ORDER NO. 1
APPROVING THE GREATER TEXOMA UTILITY AUTHORITY'S INTENTION TO APPROVE CHANGE ORDER NO. 1 TO THE 36" WEST SHERMAN WATER MAIN**

CHANGE ORDER
36" WEST SHERMAN
WATER MAIN

Mayor Teamann removed Change Order No. 1 from the Consent Agenda, for discussion in its regular order of business.

Mr. Lee explained this was a \$5.25 million change order on the 36" West Sherman Water Main project, from Garney Construction. There were many "unknowns" during the design phase of the project, and a level of contingency was built into the funding of the project.

The items contained in the change order have been identified as unnecessary and the proposal is to release a portion of the contingency.

ACTION TAKEN.

Motion by Council Member Barnett to approve Change Order No. 1, in the amount of a \$5,250,000 decrease, for the Greater Texoma Utility Authority's contract for the 36" West Sherman Water Main, as presented. Second by Council Member Stevenson.

VOTING AYE: Teamann, Barnett, Dobbs, Holland, Howeth, Marroquin, Stevenson.

VOTING NAY: None.

MOTION CARRIED.

**PAYMENT AUTHORIZATION
AUTHORIZING PAYMENT TO CDWG FOR RENEWAL OF BACKUP SOFTWARE SUPPORT AND SERVICES UNDER NATIONAL IPA TECHNOLOGY SOLUTIONS CONTRACT (2018011)**

BACKUP SOFTWARE
SUPPORT & SERVICES

The City Council approved payment to CDWG for renewal of backup software support and services under National IPA Technology Solutions contract. Renewal cost is \$106,004.04, and is included in the FY 2025 Budget.

CONSENT AGENDA.

SPECIAL PRESENTATION

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

SEDCO QUARTERLY PROGRESS REPORT

Terrence Steele, Assistant City Manager, said there would be a change in the way this quarterly report is presented. The Council has the report in their agenda packet, and Kent Sharp, President, Sherman Economic Development Corporation, was available to answer any questions.

In the future, Mr. Steele said he would brief the Council in Executive Session, on some of the projects, especially those that are of a confidential nature.

COUNCIL COMMENTS

COUNCIL COMMENTS

- Congratulations to the Library on achieving the Library of Excellence Award. (Henry Marroquin)
- The Cinco de Mayo Festival will be held on May 2, 2025, from 6:00 p.m. until 10:00 p.m., at the corner of Crockett and Houston Streets, in downtown Sherman. (Henry Marroquin)
- Congratulations to the Parks Department on the opening of the all-inclusive Pecan Grove East Park, where children with all abilities can participate. (Pam Howeth, Clay Barnett)
- Agreed, saying all City departments are award winning departments. (Shawn Teamann)

ANNOUNCEMENTS

ANNOUNCEMENTS

Mayor Teamann announced the following:

- Parks and Recreation is hosting Touch-a-Truck on April 26, 2025, from 10:00 a.m. until 2:00 p.m., at Pecan Grove West Park.
- The 2025 Wall Street Spring Market will be held April 25, 2025, from 4:00 p.m. until 8:00 p.m. on Wall Street. The street will be closed to browse the wares of downtown vendors and small businesses.
- The Friends of the Library book sale will be held April 26, 2025, at 8:00 a.m., across the street from MLK Park.
- Cinco de Mayo will be held on May 2, 2025, beginning at 6:00 p.m., in downtown Sherman. The event will feature a performance by La Gran Sonora Dinamita (Din-a Mee-ta).
- The first annual Sherman Showdown food truck competition is scheduled for May 3, 2025, from 11:00 a.m. to 6:00 p.m. in downtown Sherman.

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

EXECUTIVE SESSION

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

TEX. GOV'T CODE § 551.071 --

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

- A) Receive legal advice regarding agreement for EMS services with Grayson County
- B) Receive legal advice from City Attorney on First Amendment Issues

TEX. GOV'T CODE § 551.072 --

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

TEX. GOV'T CODE § 551.073 --

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

TEX. GOV'T CODE § 551.074 --

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

TEX. GOV'T CODE § 551.076 --

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

TEX. GOV'T CODE § 551.087 --

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

- A) Crossroads Development Agreement

TEXAS GOV'T CODE § 551.089 --
DELIBERATING SECURITY ASSESSMENTS OR DEPLOYMENTS
RELATING TO INFORMATION RESOURCES TECHNOLOGY,
NETWORK SECURITY INFORMATION, OR THE DEPLOYMENT OR
SPECIFIC OCCASIONS FOR IMPLEMENTATION OF SECURITY
PERSONNEL, CRITICAL INFRASTRUCTURE OR SECURITY
DEVICES

On Motion duly made and carried, the Open Meeting recessed and
reconvened in Executive Session at 5:23 p.m.

On Motion duly made and carried, the Executive Session recessed
at 7:00 p.m. and reconvened in Open Meeting.

OPEN MEETING

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

OPEN MEETING

ADJOURNMENT

On Motion duly made and carried, the meeting adjourned at
7:01 p.m.

ADJOURNMENT

MAYOR

CITY CLERK

\$24,750,000 Combination Tax & Revenue Certificates of Obligation, Series 2025

Rank	Firm	Location	Bid Received	True Interest Cost (TIC)
1	Raymond James & Associates, Inc.	St. Petersburg, FL	9:58:08 AM	4.763593%
2	Robert W. Baird & Co., Inc.	Milwaukee, WI	9:55:26 AM	4.774650%
3	Mesirow Financial, Inc.	Chicago, IL	9:59:34 AM	4.810691%

- Bids were due on April 21, 2025 at 10:00 AM, CDST. All bids were submitted via Parity's online bidding system.
- The spread between the low bid and the high bid is approximately 0.047% (or 4.7 basis points).
- The final TIC equated to % based on the resized par amount.



City Council Regular Meeting

Agenda Item No. D.1.

Meeting Date: 5/5/2025

Prepared By: Linda Ashby, City Clerk

Approved By: Zachary Flores, Acting City Manager

Caption:

PROCLAMATION

"Mental Health Awareness Month" - May 2025

Issue:

To present a proclamation recognizing May as "Mental Health Awareness Month."

Background:

Each year May is designated a "Mental Health Awareness Month" and the Texoma Behavioral Health Leadership Team would like to recognize the the importance of good mental health and strategies that can be used to support mental health.

Capital Improvement Program:

N/A

Origination:

The request came from the Texoma Behavioral Health Leadership Team.

Financial Consideration:

There is no financial consideration to the City.

Staff Recommendation:

The staff recommends that the council present a proclamation recognizing "Mental Health Awareness Month."

Alternatives:

The Council could choose not to present the proclamation.

Attachments:

1. Mental Health Awareness Month Proclamation

Proclamation

WHEREAS, mental health is an essential part of overall well-being, impacting individuals, families, and communities across Texas, and

WHEREAS, one in five American adults experience a mental health condition each year and everyone faces challenges in life that can impact their mental health, and

WHEREAS, despite its prevalence, mental health remains shrouded in stigma, preventing many from seeking help, and

WHEREAS, early intervention and access to quality care are crucial for managing mental health conditions and improving quality of life, and

WHEREAS, May is recognized nationally as Mental Health Awareness Month, providing an opportunity to raise awareness, combat stigma, and promote mental health resources.

NOW THEREFORE, I, Shawn Teamann, Mayor of the City of Sherman, Texas, by the authority vested in me, do hereby proclaim May 2025

MENTAL HEALTH AWARENESS MONTH

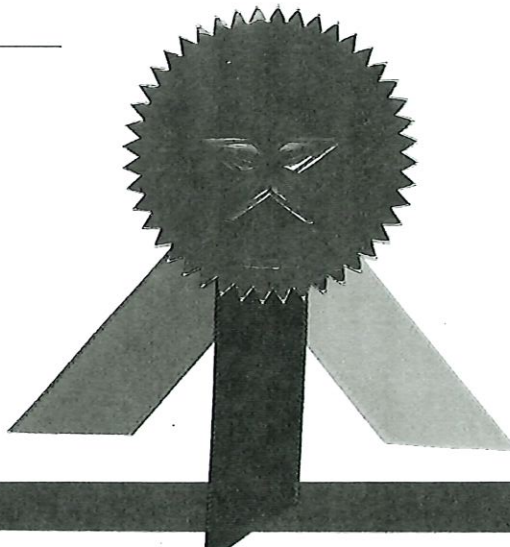
in the City of Sherman, and encourage all citizens to educate themselves and others about mental health conditions, treatment options, and available resources; challenge stigma; seek help if they are struggling with mental health and encourage others to do the same; support organizations that provide mental health services; and create safe and supportive environments about mental health issues.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Sherman to be affixed this the 5th day of May, 2025.

Mayor

ATTEST:

Linda Ashby
City Clerk





City Council Regular Meeting

Agenda Item No. D.2.

Meeting Date: 5/5/2025

Prepared By: Leah Roberts, Human Resources Director

Approved By: Zachary Flores, Acting City Manager

Caption:

Proclamation

"Municipal Clerks Week" - May 4 - 10, 2025

Issue:

To recognize Municipal Clerks

Background:

In 1984, President Ronald Reagan signed a proclamation that officially declared Municipal Clerks Week the first full week of May.

Capital Improvement Program:

N/A

Origination:

City Manager's Office

Financial Consideration:

No financial consideration

Staff Recommendation:

Staff recommends presenting this proclamation

Alternatives:

As directed by Council

Attachments:

1. Municipal Clerk's Week Proclamation

Proclamation

WHEREAS, the profession of municipal clerks is essential to the effective functioning of local government in Texas, ensuring transparency, accountability, and the smooth operation of municipal services, and

WHEREAS, the office of municipal clerk is the oldest among public servants, and

WHEREAS, Texas Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality while serving as the professional link between the citizens, the local governing bodies, and agencies of government at other levels, and

WHEREAS, Texas Municipal Clerks serve as the official record-keepers, managing vital documents, conducting municipal elections, providing legislative support, and ensuring compliance with laws and regulations in cities across Texas, and

WHEREAS, municipal clerks demonstrate exceptional dedication, professionalism, and integrity in their work, often going above and beyond to serve their communities and facilitate the effective governance of local governments, and

WHEREAS, the Texas Municipal Clerks Association (TMCA) represents more than 1,100 municipal clerks who contribute significantly to the success and efficiency of local government throughout the State of Texas, and

WHEREAS, Municipal Clerks Week provides an opportunity to recognize and celebrate the invaluable work of municipal clerks, acknowledge their vital contributions to public service, and highlight the important role they play in the day-to-day operations of our cities, and

WHEREAS, it is fitting that the City of Sherman take this opportunity to honor and thank the City of Sherman's Texas Registered Municipal Clerks for their ongoing dedication, knowledge, and tireless service.

NOW THEREFORE, I, Shawn Tramm, Mayor of the City of Sherman, Texas, by the authority vested in me, do hereby proclaim the week of May 4, 2025 as

MUNICIPAL CLERK'S WEEK

In the City of Sherman, and encourage all residents to recognize the important work of the Sherman City Clerk's Office and join in celebrating their contributions to our community.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Sherman to be affixed, this the 5th day of May, 2025.

Mayor

ATTEST:

Sinda Ashby
City Clerk





SHERMAN CITY COUNCIL Agenda Communication Form

City Council Regular Meeting

Agenda Item No. E.1.

Meeting Date: 5/5/2025

Prepared By: Loren Siems, Right of Way Specialist

Approved By: Zachary Flores, Acting City Manager

Caption:

Resolution No. 7521

Authorizing the City Manager or His Designee to Finalize and Execute a Purchase and Sale Agreement, Leaseback Agreement, and Special Warranty Deed for the Purchase of 1.00 Acre in the Elizabeth Jones Survey, Abstract No. 625, City of Sherman, Grayson County, Texas, known as 200 S. FM 1417, Sherman, Texas

Issue:

Authorizing the purchase, leaseback and conveyance of Real Property to the City of Sherman by the Grayson County Farm Bureau Federation, consisting of 1.00 Acres located in the Elizabeth Jones Survey, Abstract No. 625, City of Sherman, Grayson County, Texas, known as 200 S. FM 1417, for the expansion of Phase 2 of FM 1417.

Background:

The City of Sherman is acquiring right of way for the expansion of FM 1417, Phase 2. Due to the location of the existing building and proximity to an on-ramp of the subject property's driveways within the proposed right of way, City staff recommends purchasing the property.

Capital Improvement Program:

Origination:

City of Sherman

Financial Consideration:

The agreed conveyance amount is \$1,100,000.00

Staff Recommendation:

Staff recommends that the City Council approve the resolution to authorize the conveyance and up to a 60-day leaseback of the subject property.

Alternatives:

As may be directed by City Council.

Attachments:

1. Resolution No. 7521
2. Location map
3. purchase and lease agreement

RESOLUTION NO. 7521

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE A PURCHASE AND SALE AGREEMENT, LEASEBACK AGREEMENT, AND SPECIAL WARRANTY DEED CONCERNING THE PURCHASE OF 1.00 ACRE IN THE ELIZABETH JONES SURVEY, ABSTRACT NO. 625 CITY OF SHERMAN, GRAYSON COUNTY, TEXAS KNOWN AS 200 S. FM 1417, SHERMAN, TEXAS; 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 City Attorney, to execute a Special Warranty Deed, Leaseback Agreement, and Purchase and Sale Agreement concerning the acquisition of real property from Grayson County Farm Bureau Federation located at 200 S. FM 1417, Grayson County, Texas. being more particularly described in Exhibit "A-1" attached hereto and made a part hereof for all purposes.

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

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS on this the 5th day of May 2025.

CITY OF SHERMAN, TEXAS

**BY: _____
SHAWN TEAMANN, MAYOR**

ATTEST:

**BY: _____
LINDA ASHBY, CITY CLERK**

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

**BY: _____
RYAN D. PITTMAN, CITY ATTORNEY**

Exhibit “A-1”

Being part of the Elizabeth Jones Survey, Abstract No. 625, and also being part of a 1.79 acre tract of land conveyed by Joseph Jouette Bonner et al, Trustees, to Emily C. Turner by deed recorded in Vol. 1045, Page 198, Deed records, Grayson County, Texas, and also being part of a 53 acre tract of land conveyed by John Dewey Fuqua et ux to A. J. Hayes; and described by metes and bounds as follows, to-wit:

Beginning at a ½ inch steel rod in the West right-of-way of F.M. Highway 1417, South 05 deg. 35 min. East a distance of 534.90 ft, South 69 deg.,21 min, East a distance of 142.80 ft. and South 0 deg., 24 min. East a distance of 110.0 ft. from the Northeast corner of said 53 acre tract of land;

THENCE South 0 deg., 24 min. East a distance of 147.58 ft. along the West line of said F.M. Highway 1417 and East line of said 1.79 acre tract of land to a ½ inch steel rod;

THENCE South 89 deg., 36 min. West a distance of 295.16 ft.;

THENCE North 0 deg., 24 min. West a distance of 147.58 ft. to a ½ inch steel rod;

THENCE North 89 deg., 36 min. East to the place of beginning and containing 1.00 acres of land, more or less.



Grayson County
Farm Bureau

PURCHASE AND SALE AGREEMENT

1.00 acre in the Elizabeth Jones Survey, Abstract No. 625, City of Sherman, Grayson County, Texas

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is made and entered into among **THE CITY OF SHERMAN, TEXAS**, a home-rule municipality (the "Purchaser") and **GRAYSON COUNTY FARM BUREAU FEDERATION**, a Texas nonprofit corporation (collectively, "Seller").

WHEREAS, defined terms are indicated by initial capital letters. Defined terms shall have the meaning set forth herein, whether or not such terms are used before or after the definitions are set forth.

WHEREAS, Purchaser desires to purchase the Property and Seller desires to sell the Property, all upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual terms, provisions, covenants and agreements set forth herein, as well as the sums to be paid by Purchaser to Seller, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Purchaser and Seller agree as follows:

ARTICLE 1 **BASIC INFORMATION**

Section 1.1 Certain Defined Terms

The following defined terms shall have the meanings set forth below:

- A. Purchaser.** The City of Sherman, Texas.
- B. Closing.** The completion of the transaction described in this Agreement.
- C. Closing Date.** The date that is on or before thirty (30) days after the expiration of the Inspection Period.
- D. Cure Period.** The period beginning on the date Seller receives Purchaser's Objections and ending on the date that is ten (10) days thereafter.
- E. Due Diligence Delivery Date.** The date that is ten (10) days after the Effective Date.
- F. Earnest Money.** FIVE HUNDRED AND 00/100 DOLLARS (\$500.00).
- G. Earnest Money Delivery Date.** The date that is five (5) business days after the fully executed Agreement is delivered to the Title Company.
- H. Effective Date.** The date on which the fully executed Agreement along with the Earnest Money is receipted by the Title Company, as shown on the Title Company Acceptance Page.

I. Inspection Period. The period beginning on the Effective Date and ending on the date that is twenty (20) days after the Effective Date.

J. Purchase Price. The sum of ONE MILLION ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$1,100,000.00).

K. Purchaser's Broker. N/A.

L. Review Period. The period ending five (5) days after Purchaser's receipt of the later of the (i) initial Title Commitment, (ii) Title Documents, and (iii) the Survey.

M. Seller's Broker. N/A

N. Survey Delivery Date. The date that is ten (10) days after the Effective Date.

O. Title Commitment Delivery Date. The date that is twenty (20) days after the Effective Date.

P. Title Company. Chapin Title Company.

Q. Title Termination Period. The period beginning on the expiration of the Cure Period and ending on the date that is five (5) days after the Cure Period.

Section 1.2 Closing Costs Closing costs shall be allocated and paid as follows:

COST	RESPONSIBLE PARTY
Title Commitment	Seller
Premium for standard form Title Policy	Seller
Premium for endorsements or additional coverage for the Title Policy	Purchaser
Recording Fees	Purchaser
Financing expenses for Purchaser's loan, if any	Purchaser
Escrow Fee charged by Title Company	Evenly split between Purchaser and Seller
Commission to Seller's Broker	Seller
All other Closing costs, expenses, charges and fees customarily paid by purchasers in Grayson County	Purchaser

All other Closing costs, expenses, charges and fees customarily paid by sellers in Grayson County, including Schedule C Curative Items	Seller
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Section 1.3 Notice Addresses

Purchaser: City of Sherman
 Attn: Zachary Flores, City Manager
 220 Mulberry Street
 Sherman, Texas 75454
 Telephone: 903-819-7452
 Email: zacharyf@cityofsherman.com

with copy to: Abernathy, Roeder, Boyd & Hullett, P.C.
 Attn: Ryan D. Pittman
 1700 Redbud Boulevard, Suite 300
 McKinney, Texas 75069
 Telephone: 214-544-4046
 Email: rpittman@abernathy-law.com

Seller: Grayson County Farm Bureau
 200 S. FM 1417
 Sherman, TX 75092
 Telephone: 903-893-4393
 Email: bartlawrenceenterprise@gmail.com
 druebynum@icloud.com

Title Company: Chapin Title Company
 Attn: Tamara Noyes
 620 N. Travis St,
 Sherman, TX 75090
 Telephone: 903-868-1415
 Email: Tamara.noyes@chapintitle.com

ARTICLE 2 **PROPERTY**

Section 2.1 Property Description

Upon the terms and conditions hereinafter stated, Seller hereby agrees to sell and convey to Purchaser the following (collectively, the "Property");

A. Land. Good and indefeasible title to 1.00 acres in the Elizabeth Jones Survey, Abstract No. 625, City of Sherman, Grayson County, Texas, known as 200 S. FM 1417 (the

"Land"), together with all benefits, privileges, easements, tenements, hereditaments, rights and appurtenances thereon or pertaining to such Land.

B. Improvements. All buildings, structures, fixtures, and improvements situated on, in, or under the Land, if any ("Improvements"); all benefits, privileges, tenements, hereditaments, rights and appurtenances thereon or pertaining to the Improvements and all easements owned by Seller, if any, which are used or needed in connection with the operation or development of the Land (the Land and the Improvements are herein referenced as the "Real Property"). **Personal Property.** All of Seller's right, title, and interest in any personal property owned by Seller, if any, as of the Closing Date that is attached to or located on and used exclusively in connection with the operation, repair, or maintenance of the Real Property, including but not limited to all fixtures, fittings, appliances, apparatuses, equipment, tools, machinery, heating, ventilating, air-conditioning, lighting, plumbing, and electrical fixtures, hot-water heaters, furnaces, heating controls, Agreement rights, claims, systems, and other items of tangible and intangible personal property and replacements, affixed or attached to, situated on, or used exclusively in connection with the Real Property (collectively, "Personal Property").

D. Licenses and Permits. To the extent assignable by Seller to Purchaser, and to the extent any of the following exist and run with the Land, all of Seller's right, title, and interest in and to (i) licenses, permits, certificates of occupancy, or similar documents relating to the Land; (ii) all permits, approvals, licenses, water and sewer capacity commitments, all engineering and architectural plans; and (iii) all plans, drawings, specifications, surveys, engineering reports, and other technical descriptions of the Land (collectively, "Licenses and Permits").

Section 2.2 Legal Description

The legal description of the Land set forth in the final Survey certified to the Purchaser and Title Company shall be substituted for **Exhibit A** at a later date as the description of the Property to be conveyed hereunder and shall become part of this Agreement.

ARTICLE 3 PURCHASE PRICE

Purchaser agrees to purchase the Property at the Purchase Price and upon the terms set forth herein. At Closing, Purchaser shall deliver to Seller the Purchase Price in cash or other immediate funds. The parties acknowledge and agree that the Purchase Price includes payment in full to Seller for all relocation benefits and/or assistance under the Texas Property Code and the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C.A. 4601, *et seq.*, including but limited to any payments available for expenses actually incurred in relocating and reestablishing a residence at a replacement site, actual moving and related expenses, and costs involved in investigating potential replacement sites and the time of the residence owner, based on salary or earnings, required to apply for licenses or permits, zoning changes, and attendance at zoning hearings, necessary attorney fees required to obtain such licenses or permits, and time spent in negotiating the purchase of a replacement residence site.

ARTICLE 4

EARNEST MONEY

On or before the Earnest Money Delivery Date, Purchaser shall deposit the Earnest Money in the form of a check or wire transfer with the Title Company in its capacity as escrow agent, to be held in escrow pursuant to the terms of this Agreement. If Purchaser fails to timely deposit the Earnest Money, Seller may terminate this Agreement at any time before Purchaser deposits the Earnest Money with the Title Company, and upon such election, this Agreement shall terminate. Purchaser agrees that One Hundred and No/100 Dollars (\$100.00) of the Earnest Money is given as consideration for this Agreement (the "Independent Consideration"), which Independent Consideration shall be applied to the Purchase Price at Closing, but shall not be returned to Purchaser in the event the Earnest Money is otherwise returned to the Purchaser pursuant to the terms of this Agreement. The Earnest Money shall be credited to the Purchase Price at Closing.

ARTICLE 5

DUE DILIGENCE AND CONTINGENCIES

Section 5.1 Survey and Title Review

A. Survey. If there is an existing survey of the Property, Seller, at its sole cost and expense, shall deliver to Purchaser a copy of such survey (the "Survey") on or before the Survey Delivery Date. If a new or updated survey of the Property is required, then such new or updated survey shall be obtained by Purchaser at Purchaser's expense and shall be prepared by a registered land surveyor in conformity with the "Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys" jointly established and adopted by ALTA and NSPS in 2011 (or such local equivalent as may exist with respect to the Property), in conformity with such standards as are required by the Title Company as a condition to the removal of the survey exception from the Title Commitment, and certified to Purchaser, the Title Company and such other parties as Purchaser shall designate by written notice to Seller. Purchaser must review and approve any Survey prepared by or for Purchaser as a condition of Purchaser's obligations at Closing.

B. Title Commitment. On or before the Title Commitment Delivery Date, Seller shall deliver or cause to be delivered to Purchaser (i) a title commitment (the "Title Commitment") covering the Property binding the Title Company to issue a Texas Owner Policy of Title Insurance (the "Title Policy") on the standard form prescribed by the Texas State Board of Insurance at the Closing, in the full amount of the Purchase Price, insuring Purchaser's fee simple title to the Property to be good and indefeasible, subject only to the Permitted Exceptions as defined below, and (ii) the following documents (collectively, the "Title Documents"): (1) true and legible copies of all recorded instruments affecting the Property and recited as exceptions in the Title Commitment, and (2) a current tax certificate.

C. Special Assessment Districts. If the Property is situated within a utility district or flood control district subject to the provisions of Section 50.301, Texas Water Code, then Seller shall give to Purchaser as part of the Title Documents the required written notice and Purchaser agrees to acknowledge receipt of the notice in writing. The notice must set forth the current tax rate, the current bonded indebtedness and the authorized indebtedness of the district, and must comply with all other applicable requirements of the Texas Water Code. If the Property is subject

to mandatory membership in a property owner's association, Seller shall notify Purchaser of the current annual budget of the property owners' association, and the current authorized fees, dues and/or assessments relating to the Property.

D. Review and Cure Period. During the Review Period, Purchaser shall have the opportunity to review the Survey, the Title Commitment, and the Title Documents. If Purchaser has any objections to the Survey, Title Commitment or Title Documents, Purchaser may deliver such objections to Seller in writing within the Review Period (collectively, "Objections"). Purchaser's failure to provide Objections to Seller prior to the expiration of the Review Period shall be a waiver of Purchaser's right to object, and any item to which Purchaser does not include in its Objections on or before to the expiration of the Review Period shall also be deemed a "Permitted Exception." Items that the Title Company identifies as to be released at Closing will be deemed Objections by Purchaser and shall not be Permitted Exceptions. If Purchaser provides Seller with any Objections, Seller may, but is not obligated to attempt to satisfy the Objections within the Cure Period.

E. Failure or Refusal to Cure. If Seller cannot satisfy or chooses not to satisfy Purchaser's Objections within the Cure Period, then Purchaser may terminate this Agreement by delivering a written notice to Seller within the Title Termination Period. If Purchaser terminates this Agreement, the Earnest Money shall be immediately returned to Purchaser and thereafter neither party shall have any rights or obligations under this Agreement (except for those which may expressly survive the termination of this Agreement). If Purchaser does not terminate this Agreement, then Purchaser shall be deemed to have waived any uncured Objections, except for those Objections Seller has agreed to cure, and must accept such title as Seller is able to convey as of Closing, subject to the other terms and provisions of this Agreement. Notwithstanding the foregoing, at or prior to Closing, Seller shall discharge or cause to be discharged all: (i) matters set forth on Schedule C of the Title Commitment; (ii) exceptions to title created after the Effective Date without the written consent of Purchaser; and (iii) judgments, liens and mortgages affecting the Property, and same shall not constitute Permitted Exceptions.

Section 5.2 Due Diligence

On or prior to the Due Diligence Delivery Date, Seller shall deliver to Purchaser copies of all engineering investigations, soils reports, feasibility reports, tests, environmental studies, license agreements, management agreements, and other information related to the Property in Seller's possession or control. Notwithstanding Seller's delivery of the above described studies, tests and other due diligence material, if any, Purchaser acknowledges that any information of any type which Purchaser has received or may receive from Seller, or its agents, is furnished to Purchaser as a courtesy only and on the express condition that Purchaser shall make an independent verification of the accuracy of such information, and that all such information is being furnished without any representation or warranty by Seller as to the truth, accuracy, or completeness of such information; provided, however, that Seller confirms that Seller has no current actual knowledge of any material inaccuracies or errors in any such due diligence materials. Further, as a condition to Seller's delivery of any due diligence materials to Purchaser, Purchaser expressly acknowledges the foregoing in its acceptance of such due diligence items from Seller, and agrees to waive any and all claims against Seller for any cause of action arising from Purchaser's reliance on such Seller furnished due diligence materials.

Section 5.3 Inspection Period

A. Purchaser's Right to Inspect the Property. Prior to the expiration of the Inspection Period, Purchaser shall have the right to inspect the Property and determine if the same is suitable for Purchaser's intended use. If Purchaser notifies Seller in writing on or before 11:59 p.m. on the last day of the Inspection Period that Purchaser disapproves or is dissatisfied in any way with the Property, such determination to be made in Purchaser's sole and absolute discretion, then this Agreement shall terminate and the Earnest Money heretofore delivered by Purchaser to Title Company shall be returned to Purchaser; provided, however, the Independent Consideration shall not be returned to Purchaser. If Purchaser fails to so notify Seller in writing prior to the expiration of the Inspection Period of Purchaser's election to terminate this Agreement, this Agreement shall continue in full force and effect. Seller hereby grants to Purchaser during the Inspection Period the right to enter upon the Property and conduct such tests as Purchaser deems necessary.

B. Indemnification for Inspection. To the extent permitted by law, Purchaser shall indemnify, defend, and hold harmless Seller from all claims, actions or causes of action which might occur by virtue of the entry upon or testing of the Property and provided further that in the event Purchaser does not return the Property to its condition prior to Purchaser's activities, Purchaser shall be responsible for all damages occasioned to the Property arising out of the entry upon or testing of the Property, and this indemnity and covenant will survive the Closing or termination of this Agreement for a period of twelve (12) months. Notwithstanding the foregoing or anything contained herein to the contrary, Purchaser shall have no obligation to indemnify Seller for any claim, action or cause of action which is caused, in whole or in part, by Seller's grossly negligent act or omission or to the extent caused by the willful misconduct of Seller, nor shall Purchaser be required to indemnify Seller with respect to Purchaser's discovery or disturbance of any preexisting matter on or with respect to the Property existing prior to entry on the Property by Purchaser or Purchaser's agents, independent contractors, servants, or employees, including, but not limited to, any hazardous material or dangerous condition.

ARTICLE 6

REPRESENTATIONS AND WARRANTIES

Section 6.1 Seller's Representation and Warranties

Seller represents and warrants to Purchaser as of the Effective Date and as of the Closing as follows:

A. Title. Seller has the right to convey and will convey to Purchaser good and indefeasible fee simple title to the Property free and clear of any and all liens, assessments, unrecorded easements, security interests and other encumbrances except only to the Permitted Exceptions.

B. Licenses. There are no parties in possession of any portion of the Property as licensees, tenants at sufferance or trespassers except for those disclosed, and delivered to Seller as part of the due diligence materials.

C. Negative Covenants. Seller shall not further encumber any of the Property or allow an encumbrance upon the title to any of the Property without the written consent of Purchaser.

D. Liens and Debts. There are no mechanic's liens, Uniform Commercial Code liens or unrecorded liens against the Property, and Seller shall not allow any such liens to attach to the Property prior to Closing, which will not be satisfied out of the Closing proceeds. All obligations of Seller arising from the ownership and operation of the Property and any business operated on the Property, if any, including, but not limited to, taxes, leasing commissions, salaries, and similar agreements, have been paid or will be paid prior to Closing. Except for obligations for which provisions are made in this Agreement for prorating at Closing, there will be no obligations of Seller with respect to the Property outstanding as of Closing.

E. Litigation. To Seller's knowledge, there is no pending or threatened litigation, condemnation, or assessment affecting any of the Property. Seller shall promptly advise Purchaser of any litigation, condemnation or assessment affecting any of Property which is threatened or instituted after the Effective Date.

F. Operation of the Property. After the Effective Date through the Closing Date, Seller shall maintain the Property in the same condition and in the same manner as existed on the Effective Date, except for ordinary wear and tear and any casualty loss.

G. Patriot Act. To the extent applicable to Seller, Seller has complied in all material respects with the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, which comprises Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the "Patriot Act") and the regulations promulgated thereunder, and the rules and regulations administered by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC"), to the extent such laws are applicable to Seller. To the best of Seller's knowledge, Seller is not included on the List of Specially Designated Nationals and Blocked Persons maintained by the OFAC, or is a resident in, or organized or chartered under the laws of, (i) a jurisdiction that has been designated by the U.S. Secretary of the Treasury under Section 311 or 312 of the Patriot Act as warranting special measures due to money laundering concerns or (ii) any foreign country that has been designated as non-cooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization, such as the Financial Action Task Force on Money Laundering, of which the United States is a member and with which designation the United States representative to the group or organization continues to concur.

H. Organization and Authority. The execution and delivery of this Agreement by those executing this Agreement on Seller's behalf and Seller's performance of this Agreement has been duly authorized by Seller, and this Agreement is binding on Seller and enforceable against Seller in accordance with its terms. The execution of this Agreement and the consummation of the transaction contemplated herein will not violate any restriction, court order or agreement to which Seller or the Property is subject.

I. No Prohibitions. Neither Seller, nor any employee executing this Agreement on behalf of Seller is prohibited from (i) executing or delivering this Agreement; (ii) complying with

the terms of this Agreement or (iii) consummating the transactions contemplated by this Agreement by any applicable governmental requirement, agreement, instrument, restriction, or by a judgment, order or decree of any governmental authority having jurisdiction over Seller or the Property.

J. Compliance with Laws. To the best of Seller's current actual knowledge, neither the Property, nor Seller are currently subject to (i) any existing, pending or threatened investigation or inquiry by any governmental authority or (ii) any remedial obligations, under any applicable law, statute, ordinance, rule, regulation, order or determination of any governmental authority or any board of fire underwriters (or other body exercising similar functions), or any restrictive covenant or deed restriction or zoning ordinance or classification affecting the Property, including, without limitation, all applicable building codes, fire codes, health codes, water codes, flood disaster laws and health and Environmental Laws and regulations (hereinafter sometimes collectively called the "Applicable Laws"). Seller has received no notice from any municipal, state, federal or other governmental authority of any violation of any Applicable Laws issued in respect of the Property which has not been heretofore corrected, and no such violation exists.

K. "AS IS". EXCEPT AS EXPRESSLY PROVIDED HEREIN, IT IS UNDERSTOOD AND AGREED THAT SELLER IS NOT MAKING ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OR REPRESENTATIONS AS TO MATTERS OF TITLE (OTHER THAN SELLER'S WARRANTY OF TITLE SET FORTH IN THE DEED TO BE DELIVERED AT CLOSING), ZONING, TAX CONSEQUENCES, PHYSICAL OR ENVIRONMENTAL CONDITION, ABSENCE OF LATENT DEFECTS, OPERATING HISTORY OR PROJECTIONS, VALUATION, GOVERNMENTAL APPROVALS, GOVERNMENTAL REGULATIONS OR ANY OTHER MATTER OR THING RELATING TO OR AFFECTING THE PROPERTY. EXCEPT AS EXPRESSLY PROVIDED HEREIN, PURCHASER AGREES THAT WITH RESPECT TO THE PROPERTY, PURCHASER HAS NOT RELIED UPON AND WILL NOT RELY UPON, EITHER DIRECTLY OR INDIRECTLY, ANY REPRESENTATION OR WARRANTY OF SELLER OR SELLER'S REPRESENTATIVES. PURCHASER WILL CONDUCT SUCH INSPECTIONS AND INVESTIGATIONS OF THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AND RELY UPON SAME, AND, UPON CLOSING, SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING, BUT NOT LIMITED TO, LATENT DEFECTS AND ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY PURCHASER'S INSPECTIONS AND INVESTIGATIONS. EXCEPT AS EXPRESSLY PROVIDED HEREIN, PURCHASER AGREES TO TAKE WHATEVER ACTION AND PERFORM WHATEVER INVESTIGATIONS AND STUDIES PURCHASER DEEMS NECESSARY TO SATISFY ITSELF AS TO THE CONDITION OF THE PROPERTY AND THE EXISTENCE OR NONEXISTENCE OF, OR CURATIVE ACTION TO BE TAKEN WITH RESPECT TO, ANY HAZARDOUS AND/OR TOXIC SUBSTANCES ON OR DISCHARGED FROM THE PROPERTY. PURCHASER ACKNOWLEDGES AND AGREES THAT UPON CLOSING SELLER SHALL SELL AND CONVEY TO PURCHASER AND PURCHASER SHALL ACCEPT THE PROPERTY "AS IS, WHERE IS", WITH ALL FAULTS AND THERE ARE NO ORAL

OR WRITTEN AGREEMENTS, WARRANTIES OR REPRESENTATIONS, COLLATERAL TO OR AFFECTING THE PROPERTY BY SELLER OR ANY THIRD PARTY. FURTHER, PURCHASER HEREBY ACKNOWLEDGES TO SELLER THAT PURCHASER AND SELLER ARE NOT IN A SIGNIFICANTLY DISPARATE BARGAINING POSITION. THE TERMS AND CONDITIONS OF THIS PARAGRAPH SHALL EXPRESSLY SURVIVE THE CLOSING AND SHALL NOT BE MERGED THEREIN.

Section 6.2 Purchaser's Representations and Warranties

Purchaser represents and warrants to Seller as of the Effective Date and as of the Closing as follows:

A. Organization and Authority. Purchaser is a home-rule municipality validly existing under the laws of the State of Texas. The execution and delivery of this Agreement by those executing this Agreement on Purchaser's behalf and Purchaser's performance of this Agreement has been duly authorized by Purchaser, and this Agreement is binding on Purchaser and enforceable against Purchaser in accordance with its terms. The execution of this Agreement and the consummation of the transaction contemplated herein will not violate any restriction, court order or agreement to which Purchaser is subject. If Purchaser assigns this Agreement to an allowed third party, such entity shall be duly organized, validly existing and in good standing under the laws of the State of Texas and have all the requisite power and authority to enter into, deliver and perform this Agreement.

B. Litigation. To Purchaser's knowledge, there is no pending or threatened litigation affecting Purchaser that would materially impact the transaction described in this Agreement. Purchaser shall promptly advise Seller of any litigation affecting Purchaser and its ability to consummate the transaction contemplated herein which is threatened or instituted after the Effective Date.

C. Patriot Act. To the extent applicable to Purchaser, Purchaser has complied in all material respects with the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, which comprises Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the "Patriot Act") and the regulations promulgated thereunder, and the rules and regulations administered by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC"), to the extent such laws are applicable to Purchaser. To the best of Purchaser's knowledge, Purchaser is not included on the List of Specially Designated Nationals and Blocked Persons maintained by the OFAC, or is a resident in, or organized or chartered under the laws of, (i) a jurisdiction that has been designated by the U.S. Secretary of the Treasury under Section 311 or 312 of the Patriot Act as warranting special measures due to money laundering concerns or (ii) any foreign country that has been designated as non-cooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization, such as the Financial Action Task Force on Money Laundering, of which the United States is a member and with which designation the United States representative to the group or organization continues to concur.

D. No Prohibitions. Neither Purchaser, nor any employee executing this Agreement on behalf of Purchaser is prohibited from (i) executing or delivering this Agreement; (ii) complying with the terms of this Agreement or (iii) consummating the transactions contemplated by this Agreement by any applicable governmental requirement, agreement, instrument, restriction, or by a judgment, order or decree of any governmental authority having jurisdiction over Purchaser.

Section 6.3 Knowledge

A. Seller's Knowledge. For purposes of this Agreement and any closing document, whenever the phrase "to Seller's actual knowledge," "to Seller's knowledge," "the knowledge of Seller," or "to the best of Seller's knowledge" or similar words of similar import are used, they shall be deemed to refer to facts within the actual knowledge of Bart Lawrence, at the times indicated only, without independent inquiry, without any actual or implied duty of inquiry whatsoever and without imputation to such person of the knowledge of any other person. The named individual is acting for and on behalf of Seller and in a capacity as an officer or representative of Seller and is in no manner expressly or impliedly making any representations or warranties in an individual capacity. Purchaser waives any right to sue or seek any personal judgment or claim against such individual.

B. Purchaser's Knowledge. For purposes of this Agreement and any closing document, whenever the phrase "to Purchaser's actual knowledge," "to Purchaser's knowledge," "the knowledge of Purchaser," or "to the best of Purchaser's knowledge" or similar words of similar import are used, they shall be deemed to refer to facts within the actual knowledge of Zachary Flores, at the times indicated only, without independent inquiry, without any actual or implied duty of inquiry whatsoever and without imputation to such person of the knowledge of any other person. The named individual is acting for and on behalf of Purchaser and in a capacity as an officer or representative of Purchaser and is in no manner expressly or impliedly making any representations or warranties in an individual capacity. Seller waives any right to sue or seek any personal judgment or claim against such individual.

Section 6.4 Remedies

If either party discovers prior to Closing that any of the other party's representations or warranties have been misrepresented or are inaccurate, such discovering party may notify the party with deficient representations and/or warranties in writing, and the deficient party may attempt to correct or remedy the misrepresentation or inaccuracy. If the misrepresentation or inaccuracy is not remedied prior to Closing, upon written notice to the deficient party, the discovering party may: (i) proceed to Closing without waiving any claim for breach of warranty or misrepresentation; (ii) delay Closing until ten (10) days after the misrepresentation or inaccuracy is remedied; or (iii) exercise any remedies available for default by the deficient party under this Agreement.

Section 6.5 Non-Conformance

Purchaser has or will independently investigate and verify to Purchaser's satisfaction the extent of any limitations or permitted uses of the Property. Purchaser acknowledges that the current use of the Property or any improvements located on the Property (or both) may not conform

to applicable Federal, State or municipal laws, ordinances, codes or regulations. Zoning, permitted uses, height limitations, setback requirements, minimum parking requirements, limitations on coverage of improvements to total area of land, requirements of the Americans with Disabilities Act, wetlands restrictions and other matters may have a significant economic impact upon Purchaser's intended use of the Property. Purchaser is not relying upon any warranties or representations of Seller concerning the permitted uses of the Property or with respect to any nonconformance of the Property.

ARTICLE 7 **CLOSING**

Section 7.1 Closing Date

The Closing shall occur on or before the Closing Date. Seller shall deliver possession of the Property at Closing.

Section 7.2 Seller's Closing Documents

At the Closing, Seller shall deliver the following to Purchaser:

- A. A duly executed Special Warranty Deed (the "Deed"), in the form attached hereto as **Exhibit B**, conveying the Property to Purchaser in fee simple, subject only to the Permitted Exceptions;
- B. The Title Policy issued by the underwriter for the Title Company pursuant to the Title Commitment, subject only to the Permitted Exceptions, in the full amount of the Purchase Price, dated as of the date of Closing, and with the survey exception deleted except as to "shortages in area;"
- C. A FIRPTA certificate, duly executed and acknowledged by Seller;
- D. A general assignment assigning to Purchaser all of Seller's interest in any Licenses and Permits;
- E. An assignment to Purchaser of Seller's interest in any Leases;
- F. Evidence of Seller's authority and capacity to close this transaction;
- G. The duly executed Lease described in Section 12.1 below; and
- H. All other documents reasonably required by the Title Company from Seller to close this transaction.

Section 7.3 Purchaser's Closing Documents

At the Closing, Purchaser shall deliver the following to Seller:

- A. The Purchase Price;

- B. Evidence of Purchaser's authority and capacity to close this transaction;
- C. The duly executed Lease described in Section 12.1 below; and
- D. All other documents reasonably required by the Title Company from Purchaser to close this transaction.

Section 7.4 Closing Costs

Each party shall pay its respective costs associated with the Closing in accordance with Section 1.2 above.

Section 7.5 Ad Valorem Taxes

All state, county, and municipal taxes for the then current year relating to the Property shall be prorated as of the Closing Date and, in accordance with the provisions of Section 26.11 of the Texas Tax Code, the Title Company shall collect from Seller its portion of such taxes and remit the same to the appropriate taxing jurisdictions. This provision shall survive the Closing.

NOTICE REGARDING POSSIBLE LIABILITY FOR ADDITIONAL TAXES. If for the current ad valorem tax year the taxable value of the Property that is the subject of this Agreement is determined by a special appraisal method that allows for appraisal of the Property at less than its market value, the person to whom the Property is transferred may not be allowed to qualify the Property for that special appraisal in a subsequent tax year and the Property may then be appraised at its full market value. In addition, the transfer of the Property or a subsequent change in the use of the Property may result in the imposition of an additional tax plus interest as a penalty for the transfer or the change in the use of the Property. The taxable value of the Property and the applicable method of appraisal is public information and may be obtained from the tax appraisal district established for the county in which the land is located.

ARTICLE 8 CASUALTY LOSS; CONDEMNATION.

All risk of loss to the Property shall remain upon Seller prior to the Closing. If, prior to the Closing, any portion of the Property is damaged or destroyed by fire or other casualty, or subject to a condemnation or taking or the threat of a condemnation or taking, Purchaser may either terminate this Agreement by delivering a written termination notice to Seller or elect to close. If the transaction is to proceed to Closing, there shall be no reduction in the Purchase Price, but Seller shall assign to Purchaser all of Seller's right and interest in any insurance proceeds and/or condemnation awards, as applicable, plus an amount equal to any insurance deductible.

ARTICLE 9 DEFAULT

Section 9.1 Purchaser's Remedies

If Seller fails to perform its obligations under this Agreement for any reason except Purchaser's default, which continues for more than ten (10) days following delivery of written

notice of such default from Purchaser to Seller, then Seller shall be in default and Purchaser may elect to (i) terminate this Agreement and receive the Earnest Money, or (ii) pursue the remedy of specific performance.

Section 9.2 Seller's Remedies

If Purchaser fails to perform its obligations under this Agreement for any reason except Seller's default, which continues for more than ten (10) days following delivery of written notice of such default from Seller to Purchaser, then Purchaser shall be in default, and Seller may terminate this Agreement and receive the Earnest Money, as Seller's sole and exclusive remedies.

ARTICLE 10 REAL ESTATE COMMISSIONS

If and only if, as and when this transaction is closed, Seller shall pay a commission to Seller's Broker in an amount set forth in a separate agreement between Seller and Seller's Broker (the "Commission"). The Commission shall be payable at Closing, if, as and when Closing occurs and the transaction is funded. It is expressly understood, acknowledged and agreed that Seller's Broker's right to such Commission shall vest only upon the actual Closing and funding of this Agreement and no Commission shall be earned, due or owing in the event the purchase and sale transaction contemplated herein shall fail to close for any reason whatsoever including, but not limited to, the default of either Seller or Purchaser. In no event whatsoever shall any Seller's Broker be entitled to receive any portion of the Earnest Money. Each party hereto represents to the other that, except as set forth above with respect to Seller's Broker, it has not authorized any other broker or finder to act on its behalf in connection with the sale and purchase transaction contemplated hereby and that it has not dealt with any broker or finder purporting to act for any other party. Each party hereto agrees, to the extent permitted by law, to indemnify and hold harmless the other party from and against any and all liabilities, costs, damages and expenses of any kind or character arising from any claims for brokerage or finder's fees, commissions or other similar fees in connection with the transactions covered by this Agreement insofar as such claims shall be based upon alleged arrangements or agreements made by such party or on its behalf, which indemnity shall expressly survive any termination or Closing of this Agreement.

ARTICLE 11 MISCELLANEOUS PROVISIONS

Section 11.1 Notices

All notices and other communications required or permitted under this Agreement must be in writing and shall be deemed delivered on the earlier of: (i) actual receipt, if delivered in person or by messenger with evidence of delivery; (ii) the date and time of transmission if delivered by email; or (iii) three (3) business days after deposit in the United States Mail as required below. Notices delivered by mail must be deposited with the U.S. Postal Service and sent by certified mail return receipt requested with postage prepaid, and properly addressed to the intended recipient at the address set forth below. Any party may change its address for notice purposes by delivering written notice of its new address to all other parties in the manner set forth above.

Section 11.2 Forms and Construction

This Agreement is the result of negotiations between the parties, neither of whom has acted under any duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions hereof shall be construed in accordance with their usual and customary meanings. Seller and Purchaser hereby waive the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that ambiguous or conflicting terms or provisions should be construed against the party who (or whose attorney) prepared the executed Agreement or any earlier draft of the same.

Section 11.3 Attorney's Fees

The prevailing party in any legal proceeding brought in relation to this Agreement or transaction shall be entitled to recover from the non-prevailing party's court costs, reasonable attorneys' fees and all other reasonable litigation expenses.

Section 11.4 Assignment

Purchaser may not assign this Agreement without the prior written consent of Seller. Notwithstanding the foregoing, Purchaser may assign its rights under this Agreement to any affiliated entity which directly or indirectly controls, is controlled by or is under common control with Purchaser without the consent of Seller, on the condition that the assignee expressly assumes all of the obligations of Purchaser hereunder in a written agreement, and such written agreement is delivered to Seller prior to the Closing Date. This Agreement shall be binding upon and inure to the benefit of the respective legal representatives, successors, assigns, heirs, and devisees of the parties.

Section 11.5 Integration

This Agreement contains the complete agreement between the parties with respect to the Property and cannot be varied except by written agreement of the parties hereto. The parties agree that there are no oral or signed agreements, understandings, representations or warranties made by the parties which are not expressly set forth herein.

Section 11.6 Survival

Any warranty, representation, covenant, condition or obligation contained in this Agreement not otherwise consummated at the Closing will survive the Closing of this transaction for a period of one (1) year.

Section 11.7 Binding Effect

This Agreement shall inure to the benefit of and be binding upon the parties to this Agreement and their respective heirs, legal representatives, successors and assigns.

Section 11.8 Time for Performance

Time is of the essence under each provision of this Agreement. If any date of performance hereunder falls upon a Saturday, Sunday or recognized holiday, such date will be deemed moved forward to the next day which is not a Saturday, Sunday or recognized holiday.

Section 11.9 Business Day

The term "business day" shall mean days elapsed exclusive of Saturday, Sunday or recognized holidays.

Section 11.10 Governing Law

This Agreement shall be construed under and governed by the laws of the State of Texas, and unless otherwise provided herein, all obligations of the parties created under this Agreement are to be performed in the county where the Property is located.

Section 11.11 Severability

If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the invalid, illegal or unenforceable provision shall not affect any other provisions, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision is severed and deleted from this Agreement.

Section 11.12 Counterparts

This Agreement may be executed in a number of identical counterparts. Each counterpart is deemed an original and all counterparts shall, collectively, constitute one agreement. Executed documents transmitted electronically shall be considered originals.

Section 11.13 Gender; Number

Unless the context requires otherwise, all pronouns used in this Agreement shall be construed to include the other genders, whether used in the masculine, feminine or neuter gender. Words in the singular number shall be construed to include the plural, and words in the plural shall be construed to include the singular.

Section 11.14 Immunity

It is expressly understood and agreed that, in the execution and performance of this Agreement, Purchaser has not waived, nor shall be deemed hereby to have waived, any defense or immunity, including governmental, sovereign and official immunity, that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein.

Section 11.15 Further Assurances

The parties each agree that at any time, or from time to time, after the execution of this Agreement each party will, upon the request of the other party hereto, execute and deliver such further documents and do such further acts and things as such other party may reasonably request in order to effect fully the purposes of this Agreement.

Section 11.16 Certifications Required by Texas Law

In accordance with Chapter 2270 of the Texas Government Code, Seller hereby certifies that Seller (a) does not boycott Israel; and (b) will not boycott Israel during the term of any contract with Purchaser, including during the term of this Agreement. In accordance with Chapter 809 of the Texas Government Code (to the extent applicable), Seller hereby certifies that Seller does not boycott energy companies and will not boycott energy companies during the term of any contract with Purchaser, including during the term of this Agreement. In accordance with Chapter 2274 of the Texas Government Code (to the extent applicable), Seller hereby certifies that Seller does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of any contract with Purchaser, including during the term of this Agreement. In accordance with Chapter 2252 of the Texas Government Code (to the extent applicable), Seller hereby certifies that it is not engaged in business with Iran, Sudan or a foreign terrorist organization identified on a list prepared and maintained under Sections 806.051, 807.051 or 2252.153 of the Texas Government Code. The foregoing terms have the meanings ascribed to them in the referenced statutes if defined therein.

ARTICLE 12

ADDITIONAL PROVISIONS

Section 12.1 Leaseback. Purchaser and Seller shall execute a lease agreement at Closing whereby Purchaser shall lease to Seller the Property described in **Exhibit A**, attached hereto, but to be confirmed and approved by the parties in a new survey, for a term of one (1) month commencing on the date of Closing (the "Lease") with an option to extend for one (1) additional month, under the terms and conditions set forth below and in the mutually agreed lease agreement:

- A. The form of the mutually agreed lease agreement is attached hereto as **Exhibit C**.
- B. During the term of the Lease, the monthly rental amount shall be ONE DOLLAR (\$1.00) per month.
- C. Seller shall be responsible for payment of all water, sewer, electric and other utility costs. Seller shall be responsible for personal property taxes and assessments imposed on the trade fixtures, appliances and other personal property placed by Seller on the Property subject to the Lease.
- D. Seller shall maintain all portions of the Property subject to the Lease and will keep the Property subject to the Lease reasonably clean and free from waste. Seller shall not be permitted to make alterations to the Property subject to the Lease without the prior written approval of Purchaser. Seller shall maintain fire and extended coverage and liability insurance in with limits of not less than TWO MILLION AND 00/100 DOLLARS (\$2,000,000.00) combined single limit, per occurrence and per annum, for injury or death to persons or damage to property, naming Purchaser as an additional insured and containing a waiver of subrogation in favor of Purchaser.
- E. With written notice to Purchaser at any time during the Lease and for any reason, Seller may terminate the Lease.

F. Upon the expiration or termination of the Lease, Seller shall remove all personal property from the Property at Seller's expense.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

EXECUTED on the dates stated below, but to be **EFFECTIVE** on the Effective Date defined herein.

Date: _____

PURCHASER:
CITY OF SHERMAN, TEXAS,
a home-rule municipality

By: _____
Zachary Flores, City Manager

SELLER:
GRAYSON COUNTY FARM BUREAU
FEDERATION,
a Texas nonprofit corporation

Date: 4/30/25

By: [Signature] V.P. Grayson Co. Farm Bureau
Printed Name: Bert LAWRENCE
Title: Vice President Grayson County Farm Bureau

TITLE COMPANY ACCEPTANCE

The Title Company acknowledges receipt of the executed Agreement and Earnest Money on _____, 2025, at _____(a.m./p.m.) and has accepted the Earnest Money subject to the terms and conditions set forth in this Agreement.

TITLE COMPANY:

CHAPIN TITLE COMPANY

By: _____
Name: _____
Title: _____

EXHIBIT "A"
LEGAL DESCRIPTION OF THE PROPERTY

Being part of the Elizabeth Jones Survey, Abstract No. 625, and also being part of a 1.79 acre tract of land conveyed by Joseph Jouette Bonner et al, Trustees, to Emily C. Turner by deed recorded in Vol. 1045, Page 198, Deed records, Grayson County, Texas, and also being part of a 53 acre tract of land conveyed by John Dewey Fuqua et ux to A. J. Hayes; and described by metes and bounds as follows, to-wit:

Beginning at a ½ inch steel rod in the West right-of-way of F.M. Highway 1417, South 05 deg. 35 min. East a distance of 534.90 ft, South 69 deg.,21 min, East a distance of 142.80 ft. and South 0 deg., 24 min. East a distance of 110.0 ft. from the Northeast corner of said 53 acre tract of land;

THENCE South 0 deg., 24 min. East a distance of 147.58 ft. along the West line of said F.M. Highway 1417 and East line of said 1.79 acre tract of land to a ½ inch steel rod;

THENCE South 89 deg., 36 min. West a distance of 295.16 ft.;

THENCE North 0 deg., 24 min. West a distance of 147.58 ft. to a ½ inch steel rod;

THENCE North 89 deg., 36 min. East to the place of beginning and containing 1.00 acres of land, more or less.

FORM OF SPECIAL WARRANTY DEED

After Recording Return to:
City of Sherman
Office of the City Attorney
P. O. Box 1106
Sherman, TX 75091-1106

STATE OF TEXAS §
COUNTY OF GRAYSON § KNOW ALL PERSONS BY THESE PRESENTS:
 §

Grantor's Mailing Address: _____

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Reservations from and Exceptions to Conveyance and Warranty:

Permitted Encumbrances, if any, listed on Exhibit 2, attached hereto and incorporated herein for all purposes.

Grantor, for the Consideration and subject to the Reservations from and Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's successors and assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, successors and assigns to warrant and forever defend all and singular the Property to Grantee and Grantee's successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through or under Grantor but not otherwise, except as to the Reservations from and Exceptions to Conveyance and Warranty.

Each individual executing this instrument on behalf of Grantor represents that all appropriate and necessary actions have been taken to authorize the individual who is executing this instrument to do so for and on behalf of Grantor, that there are no other parties or entities required to execute this instrument in order for the same to be an authorized and binding agreement on Grantor and that the individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

It is understood and agreed that the consideration received by Grantor hereunder includes adequate compensation for the grant of the rights hereunder and for all damages arising out of the construction, reconstruction, repair, operation and maintenance of roadway or other public facilities.

This instrument shall be binding on, and inure to the benefit of, Grantee and Grantor and their respective successors or assigns.

This instrument may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

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

[Signature pages follow.]

EXECUTED on the dates of the acknowledgments, but to be EFFECTIVE on the _____ day of _____, 2025.

GRANTOR:

**GRAYSON COUNTY FARM BUREAU
FEDERATION**

By: _____

Printed Name: _____

Its: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me that he is the _____ and duly authorized representative of **GRAYSON COUNTY FARM BUREAU FEDERATION**, and that he executed the same for the purposes and consideration therein stated and in the capacity therein stated as the act and deed of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this _____ day of _____, 2025.

Notary Public, State of Texas
My Commission Expires: _____

AGREED AND ACCEPTED:

CITY OF SHERMAN, TEXAS

By: _____
Zachary Flores, City Manager

STATE OF TEXAS §
 §
COUNTY OF GRAYSON §

BEFORE ME, the undersigned authority, on this day personally appeared **ZACHARY FLORES**, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me that he is the City Manager and duly authorized representative of the **CITY OF SHERMAN, TEXAS**, a home-rule municipality, and that he executed the same for the purposes and consideration therein stated and in the capacity therein stated as the act and deed of the City of Sherman, Texas.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this _____ day of _____, 2025.

Notary Public, State of Texas
My Commission Expires: _____

ATTEST:

BY: _____
Linda Ashby, City Clerk

APPROVED AS TO FORM AND
CONTENT:
Abernathy, Roeder, Boyd & Hullett, P.C.

By: _____
Ryan D. Pittman, City Attorney

EXHIBIT 1
Legal Description of the Property

Being part of the Elizabeth Jones Survey, Abstract No. 625, and also being part of a 1.79 acre tract of land conveyed by Joseph Jouette Bonner et al, Trustees, to Emily C. Turner by deed recorded in Vol. 1045, Page 198, Deed records, Grayson County, Texas, and also being part of a 53 acre tract of land conveyed by John Dewey Fuqua et ux to A. J. Hayes; and described by metes and bounds as follows, to-wit:

Beginning at a ½ inch steel rod in the West right-of-way of F.M. Highway 1417, South 05 deg. 35 min. East a distance of 534.90 ft, South 69 deg.,21 min, East a distance of 142.80 ft. and South 0 deg., 24 min. East a distance of 110.0 ft. from the Northeast corner of said 53 acre tract of land;

THENCE South 0 deg., 24 min. East a distance of 147.58 ft. along the West line of said F.M. Highway 1417 and East line of said 1.79 acre tract of land to a ½ inch steel rod;

THENCE South 89 deg., 36 min. West a distance of 295.16 ft.;

THENCE North 0 deg., 24 min. West a distance of 147.58 ft. to a ½ inch steel rod;

THENCE North 89 deg., 36 min. East to the place of beginning and containing 1.00 acres of land, more or less.

EXHIBIT 2
The Permitted Exceptions

EXHIBIT "C"
FORM OF LEASE AGREEMENT

[*PAGES ATTACHED HERETO*]

COMMERCIAL LEASE

THIS COMMERCIAL LEASE ("Lease") is made and entered into by and between the CITY OF SHERMAN, TEXAS, a home-rule municipality ("Lessor"), and GRAYSON COUNTY FARM BUREAU FEDERATION, a Texas nonprofit corporation ("Lessee") to be effective as of the ____ day of _____, 2025 (the "Effective Date").

1. PREMISES AND TERM. In consideration of the mutual obligations of Lessor and Lessee set forth herein, Lessor leases to Lessee, and Lessee hereby takes from Lessor that certain tract or parcel of land situated within Grayson County, Texas, more particularly described in Exhibit A, together with all rights, privileges, easements, appurtenances, and amenities belonging to or in any way pertaining to such land (the "Premises"), which are also described in that certain Purchase and Sale Agreement by and between Lessor and Lessee dated _____ (the "Purchase Contract"), to have and to hold, subject to the terms, covenants and conditions in this Lease. The term of this Lease shall commence on the Commencement Date set forth below and shall end one (1) month thereafter (the "Term"), unless sooner terminated in accordance with the terms of this Lease or unless Lessee provides written notice of extension to Lessor before the end of the Term, in which case the Term shall be automatically extended for one (1) additional month.

A. Commencement Date. The Commencement Date will be the date on which the closing of the sale to Lessor of the Premises pursuant to the Purchase Contract (the "Commencement Date").

B. AS-IS Condition Accepted by Lessee. LESSEE ACKNOWLEDGES THAT: (I) LESSOR HAS NOT OCCUPIED THE PREMISES; (II) LESSEE HAS SOLD THE PREMISES TO LESSOR PURSUANT TO THE PURCHASE CONTRACT; (III) AT THE TIME OF SUCH SALE AND FOR YEARS PRIOR TO SUCH SALE, LESSEE HAS OWNED AND OCCUPIED THE PREMISES AND THEREFORE IS VERY FAMILIAR WITH THE PREMISES AND HAS INSPECTED AND ACCEPTS THE PREMISES IN ITS CURRENT CONDITION AS-IS, WITH ALL FAULTS, WITHOUT REPRESENTATION, WARRANTY, AGREEMENT OR STATEMENT BY LESSOR OF ANY KIND OR NATURE; (IV) LESSEE HEREBY ASSUMES THE RISK THAT ENVIRONMENTAL CONDITIONS (AS DEFINED HEREIN) MAY EXIST ON THE PROPERTY AND HEREBY RELEASES AND SHALL DEFEND AND INDEMNIFY LESSOR FROM ANY AND ALL CLAIMS, ACTIONS, DEMANDS, RIGHTS, DAMAGES, COSTS OR EXPENSES (COLLECTIVELY, THE "CLAIMS") WHICH MIGHT ARISE OUT OF OR IN CONNECTION WITH THE ENVIRONMENTAL CONDITION OF THE PREMISES; (V) LESSEE HAS DETERMINED THAT THE PREMISES AND ANY BUILDINGS AND IMPROVEMENTS COMPRISING OR CONTAINING THE SAME ARE SUITABLE FOR THE PURPOSE FOR WHICH THE PREMISES ARE LEASED; AND (VI) NO REPRESENTATION AS TO THE REPAIR OF THE PREMISES, NOR PROMISES TO MAINTAIN, ALTER, REMODEL OR IMPROVE THE PREMISES HAVE BEEN MADE BY LESSOR. UPON REQUEST BY LESSOR, LESSEE SHALL EXECUTE AND DELIVER TO LESSOR A LETTER OF ACCEPTANCE OF DELIVERY OF THE PREMISES. LESSOR SHALL NOT HAVE (AND LESSEE WAIVES) ANY OBLIGATION TO DISCLOSE FACTS REGARDING THE PREMISES (INCLUDING, WITHOUT LIMITATION, ANY ENVIRONMENTAL CONDITION AFFECTING THE PREMISES), REGARDLESS OF WHETHER SUCH FACTS ARE DISCOVERABLE BY THE LESSEE.

C. AS USED HEREIN, THE TERM "ENVIRONMENTAL CONDITION" SHALL MEAN ANY CONDITION WITH RESPECT TO THE PREMISES WHICH COULD OR DOES RESULT IN ANY CLAIM AGAINST THE OWNER OF THE PREMISES BY ANY THIRD

PARTY (INCLUDING ANY GOVERNMENTAL ENTITY) UNDER (1) THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT, 42 U.S.C. § 9601 ET SEQ., (2) THE RESOURCE CONSERVATION AND RECOVERY ACT, 42 U.S.C. § 6901 ET SEQ., (3) THE FEDERAL WATER POLLUTION CONTROL ACT, 33 U.S.C. § 2601 ET SEQ., (4) THE OIL POLLUTION ACT, 33 U.S.C. § 2701 ET SEQ., (5) THE TOXIC SUBSTANCES CONTROL ACT, 15 U.S.C. § 2601 ET SEQ., (6) THE CLEAN WATER ACT, 33 U.S.C. § 1251 ET SEQ., (7) THE CLEAN AIR ACT, 42 U.S.C. § 7401 ET SEQ., (8) THE HAZARDOUS MATERIALS TRANSPORTATION ACT, 49 U.S.C. § 1801 ET SEQ., (9) THE OCCUPATIONAL SAFETY AND HEALTH ACT, 29 U.S.C. § 651 ET SEQ., (10) THE TEXAS SOLID WASTE DISPOSAL ACT, TEX. HEALTH & SAFETY CODE ANN. §361, ET SEQ., AND/OR (11) SIMILAR STATE AND LOCAL LAWS, NOW OR HEREAFTER EXISTING, ALL AS AMENDED FROM TIME TO TIME, AND ALL REGULATIONS, RULES AND GUIDANCE ISSUED PURSUANT THERETO, INCLUDING, WITHOUT LIMITATION, ANY CONDITION RESULTING FROM OPERATIONS CONDUCTED ON THE PROPERTY OR ON PROPERTY ADJACENT THERETO.

2. BASE RENT. Lessee agrees to pay to Lessor at Lessor's address set forth on the signature page hereof, or at such other address as Lessor may from time to time designate in writing, Base Rent for the Premises ("Base Rent") during the Term in the amount of \$1.00 for the Term, payable in full and in advance at the closing of the Purchase Contract as a credit toward the purchase price paid by Lessor under such Purchase Contract.

3. ADDITIONAL RENT, TAXES, UTILITIES, AND STRUCTURE REMOVAL.

A. Taxes. Lessee will not be responsible to pay real estate taxes for the Premises during the Term of the Lease. However, Lessee shall be responsible to pay personal property taxes and assessments imposed on the trade fixtures, appliances, equipment, and other personal property on the Premises during the Term of the Lease.

B. Utilities Paid By Lessee. Lessee shall pay all costs and charges for operation of the Premises, including, but not limited to, all water, sewer, electric and other utility services actually provided to the Premises.

C. Removal of Structures and Personal Property. On or before the expiration of the Term of the Lease, Lessee shall remove all personal property from the Premises at Lessee's expense.

D. Additional Rent. All sums and charges of whatsoever nature required to be paid by Lessee pursuant to the terms of this Lease other than Base Rent shall constitute additional rent ("Additional Rent") and failure by Lessee to timely pay such other sums or charges may be treated by Lessor as a failure by Lessee to pay Base Rent. Lessee shall promptly deliver to Lessor upon Lessor's request copies of actual paid receipts, bills or other documentation evidencing all other charges which constitute Additional Rent hereunder for which Lessee is responsible with respect to the Premises in accordance with the terms of this Lease.

4. NO REPAIRS OR MAINTENANCE TO BE PERFORMED BY LESSOR. Lessor shall not have any responsibility to maintain or repair the Premises or any part thereof.

5. ALL REPAIRS AND MAINTENANCE TO BE PERFORMED BY LESSEE. Lessee shall be responsible to maintain and repair all parts of the Premises, and keep the Premises in the condition

that exists on the Effective Date hereof. Lessee shall also provide for regular removal of Lessee's trash and debris, and proper disposal thereof.

6. ALTERATIONS. Lessee shall not make any alterations, additions, or improvements to the Premises without the prior written approval of Lessor. All approved alterations shall be performed by a reputable company which shall carry adequate insurance approved in advance by Lessor.

7. UTILITIES. Lessee shall maintain connected in Lessee's own name and pay for all water, gas, heat, light, power, telephone, sewer, sprinkler charges and other utilities and services used on or at the Premises. Lessor shall not be liable for any interruption or failure of any such utility service on or serving the Premises.

8. INSURANCE.

A. Property Insurance. Lessee shall maintain during the term of this Lease a policy or policies of worker's compensation and commercial general liability insurance, including bodily injury, property damage, standard personal injury coverage, and contractual liability coverage, with limits of not less than TWO MILLION AND 00/100 DOLLARS (\$2,000,000.00) combined single limit, per occurrence and per annum, for injury or death to persons or damage to property.

B. Restrictions on Use of Premises. Lessee will not permit the Premises to be used for any purpose or in any manner that would void the insurance thereon.

C. Lessee's Policy Requirements. Lessee's policies shall name Lessor and its successors and assigns as additional insureds and shall be evidenced by a certificate of insurance satisfactory to Lessor that obligates the insurer(s) to provide Lessor (and Lessor's lender, as designated by Lessor in writing) at least thirty (30) days prior to cancellation or non-renewal of such insurance. Lessee shall deliver a copy of the policies, including all endorsements and renewals, to Lessor and Lessor's lender prior to the Commencement Date. All policies of insurance required and maintained by Lessee hereunder shall be with issuers licensed to do business in Texas and who carry an AM Best rating of A VII or better. The policies must insure Lessee's performance of its indemnity obligations under this Agreement. If Lessee fails to maintain the policies, Lessor may, following three (3) days prior written notice to Lessee from Lessor, elect to maintain the insurance at Lessee's expense. Lessee's insurance, including any additional insurance Lessee deems necessary to protect Lessee, shall be primary coverage so that any insurance coverage obtained by Lessor shall be in excess thereof. With respect to any risk covered by Lessee's property insurance, Lessee waives any rights it may have against the Lessor on account of any loss or damage occasioned to Lessee or its property, the Premises or its contents, and Lessee on behalf of its insurance companies insuring against any such loss, waives any right of subrogation that they may have against the Lessor. This release applies only to the extent that it is permitted by law, the damage is covered by insurance proceeds and the proceeds are actually paid, and the release does not adversely affect any insurance coverage. Lessee will notify its insurance companies of the release and will have the insurance policies endorsed, if necessary, to prevent invalidation of the insurance coverage.

9. USE. The Premises shall continue to be used by Lessee solely for office purposes and for no other purpose (subject to the other restrictions herein) (the "Permitted Use"). Lessee shall not be permitted to expand such historical use of the Premises or change its use of the Premises to another use. Lessee shall obtain any and all licenses and permits necessary for such use. Lessee shall comply with all governmental orders and directives for the correction, prevention and abatement of nuisances in or upon, or connected with, the Premises. Lessee shall not permit any objectionable or unpleasant odors, smoke,

dust, gas, noise or vibrations to emanate from the Premises, nor take any other action that would constitute a nuisance or would disturb, unreasonably interfere with, or endanger Lessor or any owners or occupants of adjacent or nearby property.

10. INSPECTION. Lessor and Lessor's agents and representatives shall have the right for its own protection, but not the obligation, to enter the Premises upon three (3) days advance written notice at a reasonable time during business hours to inspect the Premises.

11. ASSIGNMENT AND SUBLETTING.

A. No Assignment or Subletting. Lessee shall not have the right to assign, sublet, or transfer this Lease, or any interest therein, without the prior consent of Lessor. Any assignee, sublessee or transferee of Lessee's interest in this Lease (all such assignees, sublessee and transferees being hereinafter referred to as "Transferees"), by assuming Lessee's obligations hereunder, shall assume liability to Lessor for all amounts due Lessor under the Lease. No assignment, transfer, or subletting shall ever relieve Lessee of its liability, which it agrees will be joint and several with the liability of any assignee and primary and continuing in the event of any sublease, for all obligations of "Lessee" hereunder. Nor shall an assignment, transfer or sublet relieve Lessee of its obligations to Lessor under this Lease. If an Event of Default occurs while the Premises or any part thereof are assigned or sublet, then Lessor, in addition to any other remedies herein provided, or provided by law, may collect directly from such Transferee all rents payable to Lessee and apply such rent against any sums due Lessor hereunder. No such collection shall be construed to constitute a novation or a release of Lessee from the further performance of Lessee's obligations hereunder. Lessee shall indemnify, defend and hold Lessor and all of its officers, agents, and servants harmless from all claims, demands, fines, penalties, charges, orders, judgments, and enforcement actions of any kind, and all costs and expenses incurred in connection therewith, including remediation costs, reasonable attorneys' fees, and defense costs, arising out of the breach of this Lease by any of such Transferees.

B. Assignment in Bankruptcy. If this Lease is assigned to any person or entity pursuant to the provision of the Bankruptcy Code, 11 U.S.C. §101 et seq., (the "Bankruptcy Code"), any and all monies or other consideration payable or otherwise to be delivered in connection with such assignment shall be paid or delivered to Lessor, shall be and remain the exclusive property of Lessor and shall not constitute property of Lessee or of the estate of Lessee within the meaning of the Bankruptcy Code. Any and all monies or other considerations constituting Lessor's property under the preceding sentence not paid or delivered to Lessor shall be held in trust for the benefit of Lessor and be promptly paid or delivered to Lessor.

C. Deemed Assumption by Transferee in Bankruptcy; Assurance of Future Performance. Any person or entity to which this Lease is assigned pursuant to the provisions of the Bankruptcy Code shall be deemed, without further act or deed, to have assumed all of the obligations arising under this Lease on and after the date of such assignment. Any such assignee shall upon demand execute and deliver to Lessor an instrument confirming such assumption.

12. CONDEMNATION. If there shall be taken by exercise of the power of eminent domain during the term of this Lease greater than thirty percent (30%) of the Premises, then Lessee may elect to terminate this Lease within thirty (30) days of the day possession shall be taken by the authority exercising such power. All sums awarded or agreed upon between Lessor and the condemning authority for the taking of the interest of Lessor in the Premises, whether as damages or as compensation, shall be the property of Lessor, and Lessee hereby assigns to Lessor any right of Lessee therein or claim of Lessee thereto, other

than for claims relating to Lessee's loss of Lessee's interest in the Premises and any of Lessee's property or improvements therein.

13. HOLDOVER. If Lessee should remain in possession of the Premises after the expiration or termination of this Lease, without the execution by Lessor and Lessee of a new lease, then Lessee shall be deemed to be occupying the Premises as a tenant-at-sufferance subject to all the covenants and obligations of this Lease, and shall pay Base Rent on a monthly basis in an amount equal to \$5,000 per month or portion thereof for the entire holdover period (and shall continue to pay all other payments required hereunder in addition to such Base Rent). Any holding over with the consent of Lessor in writing (unless a different term is specified therein) shall constitute an extension of this Lease. In the event of a Holdover, Lessee will vacate the premises and removal all structures and personal property (as required above) upon five (5) days written notice from Lessor or by another date as directed by Lessee in writing.

14. EXCLUSIVE COVENANT OF QUIET ENJOYMENT. Upon payment by Lessee of the rents provided for in this Lease, Lessee shall, subject to the terms and provisions of this Lease, peaceably and quietly hold and enjoy the Premises for the term hereby demised, against any and all interference therewith (i) by the affirmative acts of Lessor, its employees or agents, and (ii) against any person who may claim superior title to the Premises.

15. EVENTS OF DEFAULT. The following events (herein individually referred to as an "Event of Default") each shall be deemed to be events of nonperformance by Lessee under this Lease:

A. Payment Default. Lessee shall fail to pay any of the Base Rent or any Additional Rent when due, or any other payment or reimbursement to Lessor required herein when due, and such failure shall continue for a period of ten (10) days after its due date.

B. Insolvency; Voluntary Proceedings; Etc. Lessee or any guarantor of Lessee's obligations hereunder shall (i) become insolvent; (ii) admit in writing its inability to pay its debts; (iii) make a general assignment for the benefit of creditors; (iv) commence any case, proceeding or other action seeking to have an order for relief entered on its behalf as a debtor or to adjudicate it as bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or of any substantial part of its property; or (v) take any action to authorize or in contemplation of any of the actions set forth above in this subsection B.

C. Involuntary Proceedings. Any case, proceeding or other action against Lessee or any guarantor of Lessee's obligations hereunder shall be commenced seeking (i) to have an order for relief entered against it as a debtor or to adjudicate it as bankrupt or insolvent; (ii) reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors; (iii) appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property, and such case, proceeding or other action (a) results in the entry of an order for relief against it which it is not fully stayed within seven (7) business days after the entry thereof, or (b) shall remain undismissed for a period of forty-five (45) days.

D. Violation of Use Restrictions. Lessee shall violate any of the use restrictions herein and such violation shall continue for a period of fifteen (15) days after Lessee receives written notice thereof.

E. Legal Violations. Lessee violates any applicable legal requirement that is its responsibility to comply with herein to the extent that, as a result thereof, Lessor or its property management agent (if any) can be held liable for any fine, penalty, assessment, or enforcement action interfering with the operation of the Premises or Lessor's other properties by or of any governmental authority or agency, or to the extent that any mortgage lienholder is entitled to accelerate the indebtedness secured by the Premises, and such violation is not fully remedied and cured by Lessee within thirty (30) days after written notice thereof is given to Lessee by Lessor (if such consequences exist and notice is given by Lessor to Lessee under this Paragraph 15(E), rather than Paragraph 15(F) below, Lessor will specify in its notice to Lessee that notice is being given under this clause and shall specify the reason that the default by Lessee is of a nature covered by this Paragraph).

F. Failure to Comply With Other Covenants. Lessee shall fail to comply with any term, provision or covenant of this Lease (other than those listed elsewhere in this Paragraph 15), and shall not cure such failure within thirty (30) days after written notice thereof given by Lessor to Lessee.

16. REMEDIES.

A. Termination, Repossession, Discontinuance of Services. Upon each occurrence of an Event of Default, Lessor shall have the option to pursue any one or more of the following remedies without any notice or demand:

- (1) Terminate this Lease and hold Lessee liable for all past-due amounts called for hereunder; and/or
- (2) With judicial process, enter upon and take possession of the Premises with or without terminating this Lease.

In either such event, Lessee immediately shall remove all structures and personal property from the Premises as required above and deliver possession of the Premises to Lessor.

B. Late Charge. In the event Lessee fails to make any payment due hereunder when payment is due, to help defray the additional cost to Lessor for processing such late payments, Lessee shall pay to Lessor on demand a late charge in an amount equal to five percent (5%) of such installment; and the failure to pay such amount within ten (10) days after demand therefor shall be an additional Event of Default hereunder. The provision for such late charge shall be in addition to all of Lessor's other rights and remedies hereunder or at law and shall not be construed as liquidated damages or as limiting Lessor's remedies in any manner.

C. Cumulative Remedies: No Implied Waiver. Exercise by Lessor of any one or more remedies hereunder granted or otherwise available shall not be deemed to be an acceptance of surrender of the Premises by Lessor, whether by agreement or by operation of law, it being understood that such surrender can be effected only by the written agreement of Lessor and Lessee. Lessee and Lessor further, agree that forbearance by Lessor to enforce its rights pursuant to the Lease at law or in equity, shall not be a waiver of Lessor's right to enforce one or more of its rights in connection with any subsequent default.

D. All Sums Constitute Rent. Notwithstanding anything in this Lease to the contrary, all amounts payable by Lessee to or on behalf of Lessor under this Lease, whether or not expressly denominated as rent, shall constitute rent.

17. MECHANIC'S LIENS. Lessee has no authority, express or implied, to allow any unchallenged lien or encumbrance of any kind or nature whatsoever upon, or in any manner to bind the interest of Lessor or Lessee in the Premises or to charge the rentals payable hereunder for any claim in favor of any person dealing with Lessee, including those who may furnish materials or perform labor for any construction or repairs. Lessee covenants and agrees that it will pay or cause to be paid all sums legally due and payable by it on account of any labor performed or materials furnished in connection with any work performed on the Premises and that it will save and hold Lessor harmless from any and all loss, cost or expense based on or arising out of asserted claims or liens against the leasehold estate or against the right, title and interest of Lessor in the Premises or under the terms of this Lease. Lessee agrees to give Lessor immediate written notice of the placing of any lien or encumbrance against the Premises.

18. COMPLIANCE WITH LAWS AND RESTRICTIONS. Lessee shall comply throughout the lease term with all orders, ordinances, regulations and laws of Grayson County and the City of Sherman and other governmental authorities that are applicable to the Premises and/or Lessee's use of the Premises, and with all applicable deed and other restrictions.

19. MISCELLANEOUS.

A. Construction; Headings. Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The captions inserted in this Lease are for convenience only and in no way define, limit or otherwise describe the scope or intent of this Lease, or any provision hereof, or in any way affect the interpretation of this Lease.

B. Successors and Assigns. The terms, provisions and covenants and conditions contained in this Lease shall apply to, inure to the benefit of, and be binding upon, the parties hereto and upon their respective heirs, executors, personal representatives, legal representatives, successors and assigns, except as otherwise herein expressly provided. Lessor shall have the right to transfer and assign, in whole or in part, its rights and obligations in the building and property that are the subject of this Lease. Lessee agrees to furnish to Lessor, promptly upon demand, a corporate resolution, proof of due authorization by partners, or other appropriate documentation evidencing the due authorization of Lessee to enter into this Lease.

C. Merger; Amendment. This Lease constitutes the entire understanding and agreement of Lessor and Lessee with respect to the subject matter of this Lease, and contains all of the covenants and agreements of Lessor and Lessee with respect thereto. Lessor and Lessee each acknowledge that no representations, inducements, promises or agreements, oral or written, have been made by Lessor or Lessee, or anyone acting on behalf of Lessor or Lessee, which are not contained herein, and any prior agreements, promises, negotiations, or representations not expressly set forth in this Lease are of no force or effect. This Lease may not be altered, changed or amended except by an instrument in writing signed by both parties hereto.

D. Survival; Delivery of Possession at End of Term. All obligations of Lessee hereunder not fully performed as of the expiration or earlier termination of the term of this Lease shall survive the expiration or earlier termination of the term hereof, including, without limitation, all payment obligations with respect to taxes and insurance and all obligations concerning the condition and repair of the Premises.

E. Severability. If any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws effective during the term of this Lease, then and in that

event, it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby, and it is also the intention of the parties to this Lease that in lieu of each clause or provision of this Lease that is illegal, invalid or unenforceable, there be added, as a part of this Lease, a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

F. Brokers. Lessee represents and warrants that it has dealt with no broker, agent or other person in connection with this transaction, and Lessee agrees to defend, indemnify and hold harmless Lessor from and against any claims by any broker, agent or other person claiming a commission or other form of compensation by virtue of having dealt with Lessee with regard to this leasing transaction. Lessor represents and warrants that it has dealt with no broker, agent or other person in connection with this transaction, and Lessor agrees to the extent allowed by law to defend, indemnify and hold harmless Lessee from and against any claims by any broker, agent or other person claiming a commission or other form of compensation by virtue of having dealt with Lessor with regard to this leasing transaction.

G. Identity of Parties' Representatives. If and when included within the term "Lessor," as used in this instrument, there is more than one person, firm or corporation, all shall jointly arrange among themselves for their joint execution of a notice specifying some individual at some specific address for the receipt of notices and payments to Lessor. If and when included within the term "Lessee," as used in this instrument, there is more than one person, firm or corporation, all shall jointly arrange among themselves for their joint execution of a notice specifying some individual at some specific address within the continental United States for the receipt of notices and payments to Lessee. All parties included within the terms "Lessor" and "Lessee," respectively shall be bound by notices given in accordance with the provisions of Paragraph 20 hereof to the same effect as if each had received such notice.

H. Governing Law. This Lease shall be enforced, construed and interpreted under the laws of the State of Texas. Venue for any disputes shall be in the county of the location of the Premises.

I. Time of Essence. Time is of the essence in all matters of performance by each of the parties hereto; and all due dates, time schedules, and conditions precedent to exercising a right shall be strictly adhered to without delay except where otherwise expressly provided.

J. Certifications Required by Texas Law. In accordance with Chapter 2270 of the Texas Government Code, Lessee hereby certifies that Lessee (a) does not boycott Israel; and (b) will not boycott Israel during the term of any contract with Lessor, including during the term of this Agreement. In accordance with Chapter 809 of the Texas Government Code (to the extent applicable), Lessee hereby certifies that Lessee does not boycott energy companies and will not boycott energy companies during the term of any contract with Lessor, including during the term of this Agreement. In accordance with Chapter 2274 of the Texas Government Code (to the extent applicable), Lessee hereby certifies that Lessee does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of any contract with Lessor, including during the term of this Agreement. In accordance with Chapter 2252 of the Texas Government Code (to the extent applicable), Lessee hereby certifies that it is not engaged in business with Iran, Sudan or a foreign terrorist organization identified on a list prepared and maintained under Sections 806.051, 807.051 or 2252.153 of the Texas Government Code. The foregoing terms have the meanings ascribed to them in the referenced statutes if defined therein.

20. NOTICES. Each provision of this instrument or of any applicable governmental laws, ordinances, regulations and other requirements with reference to the sending, mailing or delivering of notice or the making of any payment by Lessor to Lessee or with reference to the sending, mailing or delivering of any notice or the making of any payment by Lessee to Lessor, shall be deemed to be complied with when and if the following steps are taken:

A. All rent and other payments required to be made by Lessee to Lessor hereunder shall be payable to Lessor at the address for Lessor set forth below or at such other address as Lessor may specify from time to time by written notice delivered in accordance herewith. Lessee's obligation to pay rent and any other amounts to Lessor under the terms of this Lease shall not be deemed satisfied until such rent and other amounts have been actually received by Lessor.

B. All payments required to be made by Lessor to Lessee hereunder shall be payable to Lessee at the address set forth below, or at such other address within the continental United States as Lessee may specify from time to time by written notice delivered in accordance herewith.

C. Any written notice or document required or permitted to be delivered hereunder shall be deemed to be delivered and received, whether actually received or not, on the third postal business day after deposited in the United States Mail, postage prepaid, Certified or Registered Mail, addressed to the parties hereto at the respective addresses set out below, or at such other address as they have theretofore specified by written notice delivered in accordance herewith, or when delivered at such effective notice address of such party by hand delivery, private receipted courier service or telecopy (whether or not accepted, receipted for or acknowledged).

21. LESSOR'S LIEN. Lessor shall have a statutory lien on all of Lessee's personal property.

22. HAZARDOUS MATERIALS.

A. Hazardous Materials Use Restricted; Permitted Materials. Lessee shall not use the Premises for the generation, storage (above or below ground) or disposal of any Hazardous Material (as hereinbelow defined), and shall remain in compliance with all requirements of Environmental Law (as defined herein), including, without limitation, requirements, orders and regulations of the Texas Council on Environmental Quality and the Environmental Protection Agency. As used in this Section, "Hazardous Materials" mean all substances regulated by any Environmental Law, and shall include, but is not limited to (i) asbestos, (ii) radioactive materials, wastes or substances or (iii) any substances defined as "hazardous substances" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9601, et seq., the Hazardous Materials Transportation Act (49 U.S.C. 1802), as amended, the Resource Conservation and Recovery Act (42 U.S.C. 6901), as amended, or any other Environmental Law. As used in this Section, "Environmental Laws" means the foregoing named statutes and every other federal, state or local law regulating the generation, disposal or release into the environment of materials or substances deemed hazardous to human health, wildlife and/or the environment.

B. Lessee Breaches; Indemnity. If Lessee breaches the obligations set forth in this Paragraph 22, or if the presence of Hazardous Material in the Premises occurs by reason of Lessee's use thereof or any act or omission of Lessee, its employees, agents, contractors, invitees, sublessees (as permitted herein) or affiliates, or if contamination of the Premises by Hazardous Material otherwise occurs from any source or for any reason other than (i) contamination of the Premises existing prior to the Commencement Date hereof not caused by Lessee, (ii) contamination of the Premises by Hazardous Material brought onto the Premises by Lessor (or its employees, agents, contractors or affiliates) after the date hereof, or (iii) contamination of the Premises by actions of a

third party for whom Lessee is not otherwise responsible, then Lessor may terminate this Lease immediately and Lessee shall indemnify, defend and hold Lessor and all of its officers, agents, and servants harmless from all claims, demands, fines, penalties, charges, orders, judgments, and enforcement actions of any kind, and all costs and expenses incurred in connection therewith, including remediation costs, reasonable attorneys' fees, and defense costs, arising out of such breach of this Lease.

23. NO LESSOR OBLIGATION TO PROVIDE SECURITY. Subject to Lessor's prior written approval, which shall not be unreasonably withheld, Lessee may take whatever precautions may be necessary in, about and around the Premises to protect its employees, officers, agents, representatives, customers, visitors, contractors, suppliers, invitees and licensees from criminal activity when on the Premises, or in the vicinity thereof, but nothing herein shall be deemed or construed as an undertaking or obligation enforceable against Lessee by any such third party.

24. IMMUNITY. It is expressly understood and agreed that, in the execution and performance of this Lease, Lessor has not waived, nor shall be deemed hereby to have waived, any defense or immunity, including governmental, sovereign and official immunity, that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Lease, the parties do not create any obligations, express or implied, other than those set forth herein.

25. LESSEE TERMINATION. Lessee shall have the right to terminate this Lease at any time during the Term upon written notice to Lessor of its election to terminate.

NOTICE: NO PERSON OTHER THAN THE INDIVIDUAL SIGNING BELOW AS THE AUTHORIZED REPRESENTATIVE OF LESSOR MAY BIND LESSOR TO ANY AGREEMENT WHATSOEVER, AND ANY ORAL OR VERBAL REPRESENTATIONS, STATEMENTS, PROMISES OR AGREEMENTS OF ANY OTHER PERSON (REGARDLESS OF WHETHER PURPORTING TO REPRESENT OR APPARENTLY REPRESENTING LESSOR) SHALL NOT BE BINDING ON LESSOR UNLESS EXPRESSLY CONTAINED IN THIS LEASE.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS LEASE ON THE DATES SET FORTH BELOW, TO BE EFFECTIVE AS OF THE EFFECTIVE DATE OF THIS LEASE.

EXECUTED BY LESSOR, this ____ day of _____, 2025.

LESSOR:

CITY OF SHERMAN, TEXAS

By: _____
Zachary Flores, City Manager

ADDRESS FOR NOTICES AND PAYMENTS:

City of Sherman
Attn: Zachary Flores, City Manager
220 W. Mulberry Street
Sherman, TX 75090
Telephone: 903-892-7203
Email: zflores@cityofsherman.com

With Copy to:
Abernathy, Roeder, Boyd & Hullett, P.C.
Attn: Ryan D. Pittman
1700 Redbud Boulevard, Suite 300
McKinney, Texas 75069
Telephone: 214-544-4000
Email: rpittman@abernathy-law.com

EXECUTED BY LESSEE, this 30 day of April, 2025.

LESSEE:

GRAYSON COUNTY FARM BUREAU
FEDERATION

By: 
Name: Bart Lawrence
Title: V.P. Grayson County Farm Bureau

ADDRESS FOR NOTICES AND PAYMENTS:

Grayson County Farm Bureau Federation
200 S FM 1417
Sherman, TX 75092-7763
Email: bartlawrenceenterprise@gmail.com
druebynum@icloud.com

EXHIBIT A
Legal Description

Being part of the Elizabeth Jones Survey, Abstract No. 625, and also being part of a 1.79 acre tract of land conveyed by Joseph Jouette Bonner et al, Trustees, to Emily C. Turner by deed recorded in Vol. 1045, Page 198, Deed records, Grayson County, Texas, and also being part of a 53 acre tract of land conveyed by John Dewey Fuqua et ux to A. J. Hayes; and described by metes and bounds as follows, to-wit:

Beginning at a ½ inch steel rod in the West right-of-way of F.M. Highway 1417, South 05 deg. 35 min. East a distance of 534.90 ft, South 69 deg.,21 min, East a distance of 142.80 ft. and South 0 deg., 24 min. East a distance of 110.0 ft. from the Northeast corner of said 53 acre tract of land;

THENCE South 0 deg., 24 min. East a distance of 147.58 ft. along the West line of said F.M. Highway 1417 and East line of said 1.79 acre tract of land to a ½ inch steel rod;

THENCE South 89 deg., 36 min. West a distance of 295.16 ft.;

THENCE North 0 deg., 24 min. West a distance of 147.58 ft. to a ½ inch steel rod;

THENCE North 89 deg., 36 min. East to the place of beginning and containing 1.00 acres of land, more or less.



City Council Regular Meeting

Agenda Item No. E.2.

Meeting Date: 5/5/2025

Prepared By: Kim Hobbs, Quality Services Administrative Assistant

Approved By: Zachary Flores, Acting City Manager

Caption:

RESOLUTION NO. 7522

Authorizing Execution of a Professional Services Agreement with Kimley-Horn and Associates, Inc for Professional Consulting Services for the Pavement Management Program

Issue:

To consider a contract for professional services with Kimley-Horn and Associates, Inc for professional consulting services for the pavement management program.

Background:

The City wishes to execute a pavement management program encompassing the City's roadway network. The project will involve the use of automated data collection equipment to collect pavement conditions and curb/gutter data. We anticipate collection on a maximum of 379 lane-miles of roadway. Data collected during the assessment will be used to populate a pavement management system (PMS) to help prioritize roadway maintenance and rehabilitation projects according to various funding scenarios.

Capital Improvement Program:

Origination:

Department of Public Works

Financial Consideration:

The total funding needed for this contract is \$98,500. Funding for this purchase is being committed out of the City of Sherman's fiscal year 2024-2025 budget.

Staff Recommendation:

It is recommended that staff be authorized to purchase the contract for professional services with Kimley-Horn and Associates, Inc for professional consulting services for the pavement management program.

Alternatives:

As may be recommended by the City Council

Attachments:

1. Resolution No. 7522
2. Agreement - Signed

RESOLUTION NO. 7522

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC FOR PROFESSIONAL CONSULTING SERVICES FOR THE PAVEMENT MANAGEMENT PROJECT; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the City Manager be and is hereby authorized and directed to purchase consulting services for the Pavement Management Project from Kimley-Horn for the Street Maintenance Department at a total price of Ninety-Eight Thousand, Five Hundred Dollars (\$98,500.00). Any agreements related to the purchase must be approved by the City Attorney. Funds for this purchase are being committed out of the City of Sherman's fiscal year 2024-2025 budget.

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

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS on this the 5th day of May 2025.

CITY OF SHERMAN, TEXAS

**BY: _____
SHAWN TEAMANN, MAYOR**

ATTEST:

**BY: _____
LINDA ASHBY, CITY CLERK**

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

**BY: _____
RYAN D. PITTMAN, CITY ATTORNEY**

AGREEMENT
BETWEEN
THE CITY OF SHERMAN, TEXAS AND
KIMLEY-HORN
FOR
PROFESSIONAL SERVICES

Made as of the _____ day of _____, 2025:

Between City: **The City of Sherman, Texas**
 220 W. Mulberry Street
 Sherman, Texas 75090
 Telephone: (903) 892-7208

and Consultant: **Kimley-Horn and Associates, Inc.**
 100 West Oak Street, Suite 203
 Denton, TX 76201
 Telephone: (940) 287-3620

for the following Project: **Pavement Management System Update**

THIS AGREEMENT ("Agreement") is made and entered into by and between the City of Sherman, Texas, a home-rule municipality ("City"), and Kimley-Horn and Associates, Inc., a North Carolina corporation ("Consultant"), to be effective from and after the date as provided above. City and Consultant are at times each referred to herein as a "party" or collectively as the "parties."

WHEREAS, City desires to engage Consultant to provide professional services for the Pavement Management System Update Project ("Project"); and

WHEREAS, Consultant desires to render such professional services ("Services") for City on the terms and conditions provided herein.

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:

That for and in consideration of the covenants contained herein, for the mutual benefits to be obtained hereby and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1
CONSULTANT'S SERVICES

- 1.1 **Employment of Consultant** – City hereby agrees to retain Consultant to perform the Services in connection with the Project. Consultant agrees to perform the Services in accordance with the terms and conditions of this Agreement. Consultant further agrees that if any employee of Consultant who is performing the day-to-day Services under this Agreement for the Project is separated, for any reason, from employment with Consultant, Consultant shall provide City with written notice thereof at least five (5) business days' prior to said separation unless circumstances reasonably warrant a shorter notice period, which shall not exceed two (2) business days following the separation.
- 1.2 **Scope of Services** – The parties agree that Consultant shall perform the Services as are set forth and described in **Exhibit A**, attached hereto and incorporated herein by reference for all purposes ("Scope of Services"). The parties understand and agree that deviations or modifications to the Scope of Services described in **Exhibit A**, in the form of a written amendment to this Agreement, may be authorized from time to time by City ("Amendment").
- 1.2.1 **Requirement of Written Amendment** – "Extra" work, "claims" invoiced as "extra" work or "claims" which have not been issued as a duly executed, written Amendment by the Sherman Director of Engineering or designee will not be authorized for payment and/or shall not become part of this Agreement. A duly executed, written Amendment requiring additional funding of \$50,000 or more of the original contract amount shall be preceded by the Sherman City Council's authorization for the Sherman City Manager to execute said Amendment.
- 1.2.2 **CONSULTANT SHALL NOT PERFORM ANY "EXTRA" WORK AND/OR ADDITIONAL SERVICES WITHOUT A DULY EXECUTED, WRITTEN AMENDMENT ISSUED BY THE CITY.**
- 1.3 **Schedule of Work** – Consultant agrees to commence work immediately on the execution of this Agreement, and to proceed diligently with said work to completion as described in the Project Engineering Budget Summary, attached hereto as **Exhibit B** and incorporated herein by reference for all purposes.
- 1.4 **Standard of Care** – Consultant shall perform the Services required hereunder in accordance with the prevailing engineering standard of care by exercising the skill and care ordinarily utilized by engineers performing the same or similar services under the same or similar circumstances in the State of Texas.

ARTICLE 2 CITY'S RESPONSIBILITIES

City shall do the following in a timely manner so as not to delay the Services of Consultant:

- 2.1 **Project Data** – City shall furnish required information that is reasonably requested by Consultant and that City has in its possession at the time of Consultant's request, as expeditiously as necessary for the orderly progress of the Project, and Consultant shall be entitled to rely upon the accuracy and completeness of the information furnished by City under this Article 2.1.
- 2.2 **City Project Manager** – When necessary in City's sole discretion, City shall designate a representative authorized to act on City's behalf with respect to the Project ("Project Manager"). City, the Project Manager and/or his or her authorized designee shall examine the documents submitted by Consultant and shall render any required decisions pertaining thereto as soon as practicable to avoid unreasonable delay in the progress of Consultant's Services.

ARTICLE 3 CONSULTANT'S COMPENSATION

- 3.1 **Compensation for Consultant's Services** – As described in "Article 1, Consultant's Services" of this Agreement, compensation for this Project shall be: (a) for Basic Services, on a Lump Sum basis in an amount not to exceed **Ninety Eight Thousand Five Hundred Dollars (\$98,500.00)**; and (b) for Special Services, on a hourly basis in an amount not to exceed **Zero Dollars (\$00.00)** (collectively, "Consultant's Fee"); and (c) paid in accordance with this Article 3 and the Project Engineering Budget Summary as set forth in **Exhibit B**.
- 3.1.1. **Completion of Record Documents** – City and Consultant agree that the completion of Record Documents and/or "As-Built" Documents, including hard copy formatting and electronic formatting, shall be completed, submitted to, and accepted by City prior to payment. Completion of the Record Documents and/or "As-Built" documents shall be included in the Consultant's Fee and considered to be within the Scope of Services defined under this Agreement." The electronic formatting shall be consistent with the standards established in **Exhibit C**, Guidelines for Computer Aided Design and Drafting, which is attached hereto and incorporated herein by reference for all purposes.
- 3.1.2. **Disputes between City and Construction Contractor** – If the Project involves Consultant performing Construction Administration Services relating to an agreement between a Construction Contractor ("Contractor") and City, and on receipt of a written request by City, Consultant shall research previous and existing conditions of the Project, and make a determination whether or not to certify that sufficient cause exists for City to declare Contractor in default of the terms and conditions of the Agreement. Consultant shall submit his findings in writing to City, or submit a written request for a specific extension of time (including the basis for such

extension), within fifteen (15) calendar days of receipt of the written request from City. City and Consultant agree that if requested by City, completion of this task shall be included in the Consultant's Fee and considered to be within the Scope of Services as defined under this Agreement.

3.1.3. **Consultation and Approval by Governmental Authorities and Franchised Utilities** – Consultant shall be solely responsible for identifying and analyzing the requirements of governmental agencies and all franchise utilities involved with the Project, and for consulting with such agencies and utilities to obtain all necessary approvals and/or permissions. Consultant shall be responsible for preparation and timely submittal of documents required for review, approval and/or recording by such agencies and/or utilities. Consultant shall be solely responsible for making such changes in the construction documents ("Construction Documents") as may be required by existing written standards promulgated by such agencies and/or utilities at no additional charge to City.

3.2 **Direct Expenses** – Direct Expenses ("Direct Expenses") are included in Consultant's Fee as described in Article 3.1 of this Agreement and include actual reasonable and necessary expenditures made by Consultant and Consultant's employees and subcontractors in the interest of the Project. All submitted Direct Expenses are to be within the amounts as stated in the Project Engineering Budget Summary set forth in **Exhibit B**, and consistent with **Exhibit D**, Guidelines for Direct Expenses; General and Administrative Markup; Travel and Subsistence Expenses, which is attached hereto and incorporated herein by reference for all purposes. Consultant shall be solely responsible for the auditing and accuracy of all Direct Expenses, including those of its subcontractors, prior to submitting to City for reimbursement. Any over-payment by City for errors in submittals for reimbursement may be deducted from Consultant's subsequent payment for Services; provided, however, that this shall not be City's sole and exclusive remedy for said over-payment.

3.3 **Additional Services** – Consultant shall provide the Services as described in the Scope of Services set forth in **Exhibit A** of this Agreement. If authorized in writing by City, Consultant shall provide additional services, to be compensated as provided in an Amendment to the Contract on a cost not to exceed sum or hourly basis in accordance with this paragraph ("Additional Services") and a mutually agreed estimate of man-hours and expenses. These services may include, but are not limited to:

3.3.1 Additional meetings, hearings, work-sessions or other similar presentations which are not provided for or contemplated in the Scope of Services described in **Exhibit A**.

3.3.2 Additional drafts and revisions to the Project which are not provided for or

contemplated in the Scope of Services as described in **Exhibit A**.

- 3.3.3 Additional copies of final reports and construction plans which are not provided for or contemplated in the Scope of Services as described in **Exhibit A**.
- 3.3.4 Photography, professional massing models which are not provided for or contemplated in the Scope of Services as described in **Exhibit A**.
- 3.3.5 Compensation for Additional Services authorized by City shall be in addition to Consultant's Fee and shall be based on direct billable labor rates and expenses.
- 3.3.6 Compensation for Additional Services authorized by City shall be in addition to Consultant's Fee and shall be based on an hourly basis according to the following personnel rates. The rates set forth in this chart are subject to reasonable change provided prior written notice of said change is given to and approved by City in writing.

Hourly Billable Rates by Position

Position	Hourly Rate
Analyst	\$165 - \$250
Professional	\$235 - \$300
Senior Professional I	\$260 - \$360
Senior Professional II	\$345 - \$380
Senior Technical Support	\$160 - \$285
Support Staff	\$110 - \$150
Technical Support	\$125 - \$155

- 3.4 **Invoices** – No payment to Consultant shall be made until Consultant tenders an invoice to City. Consultant shall submit monthly invoices for Services rendered, based upon the actual percentage of work complete at the time the invoice is prepared, or shall submit invoices to City immediately upon completion of each individual task listed in **Exhibit B**. On all submitted invoices for Services rendered, Consultant shall include appropriate background materials to support the submitted charges on said invoice. Upon request, such background material may include, but is not limited to, employee timesheets, invoices for work obtained from other parties, and receipts and/or log information relating to Direct Expenses. All invoices shall provide a summary methodology for administrative markup and/or overhead charges.

- 3.5 **Timing of Payment** – City shall make payment to Consultant for said invoices within thirty (30) days following receipt and acceptance thereof. The parties agree that payment by City to Consultant is considered to be complete upon mailing of payment by City. Furthermore, the parties agree that the payment is considered to be mailed on the date that the payment is postmarked.
- 3.6 **Disputed Payment Procedures** – In the event of a disputed or contested billing by City, only that portion so contested may be withheld from payment, and the undisputed portion will be paid. City shall notify Consultant of a disputed invoice, or portion of an invoice, in writing by the twenty-first (21st) calendar day after the date City receives the invoice. City shall provide Consultant an opportunity to cure the basis of the dispute. If a dispute is resolved in favor of Consultant, City shall proceed to process said invoice, or the disputed portion of the invoice, within the provisions of Article 3.5 of this Agreement. If a dispute is resolved in favor of City, Consultant shall submit to City a corrected invoice, reflecting any and all payment(s) of the undisputed amounts, documenting the credited amounts, and identifying outstanding amounts on said invoice to aid City in processing payment for the remaining balance. Such revised invoice shall have a new invoice number, clearly referencing the previous submitted invoice. City agrees to exercise reasonableness in contesting any billing or portion thereof that has background materials supporting the submitted charges.
- 3.7 **Failure to Pay** – Failure of City to pay an invoice, for a reason other than on written notification as stated in the provisions of Article 3.6 of this Agreement, to Consultant within sixty (60) days from the date of the invoice shall grant Consultant the right, in addition to any and all other rights provided, to, upon written notice to City, suspend performance under this Agreement, and such act or acts shall not be deemed a breach of this Agreement. However, Consultant shall not suspend performance under this Agreement prior to the tenth (10th) calendar day after written notice of suspension was provided to City, in accordance with Chapter 2251, Subchapter “D” of the TEX. GOV’T CODE. City shall not be required to pay any invoice submitted by Consultant if Consultant breached any provision(s) herein.
- 3.8 **Adjusted Compensation** – If the Scope of the Project (“Scope of the Project”) or if the Services are materially changed due to no error by Consultant in the performance of Services under this Agreement, the amounts of Consultant’s compensation shall be equitably adjusted as approved by City in its sole discretion. Any additional amounts paid to Consultant as a result of any material change to the Scope of the Project shall be authorized by written Change Order duly executed by both parties before the Services are performed.
- 3.9 **Project Suspension** – If the Project is suspended or abandoned in whole or in part for more than three (3) months, Consultant shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to suspension or abandonment. In the event of

such suspension or abandonment, Consultant shall deliver to City all finished or unfinished documents, data, studies, drawings, maps, models, reports, photographs and/or any other items prepared by Consultant in connection with this Agreement prior to Consultant receiving final payment. If the Project is resumed after being suspended for more than three (3) months, Consultant's compensation shall be equitably adjusted as approved by City. Any additional amounts paid to Consultant after the Project is resumed shall be agreed upon in writing by both parties before the services are performed.

ARTICLE 4 OWNERSHIP OF DOCUMENTS

- 4.1 **Documents Property of City** – The Project is the property of City, and Consultant may not use the documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs and/or any materials for any other purpose not relating to the Project without City's prior written consent. City shall be furnished with such reproductions of the Project, plans, data, documents, maps, and any other information as defined in **Exhibit A**. Upon completion of the work, or any earlier termination of this Agreement under **Article 3** and/or **Article 8** of this Agreement, Consultant will revise plans, data, documents, maps, and any other information as defined in **Exhibit A** to reflect changes while working on the Project through the date of completion of the work, as solely determined by City, or the effective date of any earlier termination of this Agreement under **Article 3** and/or **Article 8** of this Agreement, and promptly furnish the same to City in an acceptable electronic format. All such reproductions shall be the property of City who may use them without Consultant's permission for any purpose relating to the Project, including, but not limited to, completion of the Project, and/or additions, alterations, modifications, and/or revisions to the Project. Any reuse of the documents not relating to the Project shall be at City's own risk.
- 4.2 **Documents Subject to Laws Regarding Public Disclosure** – Consultant acknowledges that City is a governmental entity and that all documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs and/or any items prepared or furnished by Consultant (and Consultant's professional associates and/or sub-consultants) under this Agreement are instruments of service in respect of the Project and property of City. Upon completion of the Project, all of the documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs and/or any items prepared or furnished by Consultant (and Consultant's professional associates and/or sub-consultants) shall thereafter be subject to the Texas Public Information Act (Chapter 552, TEX. GOV'T CODE, as amended) and any other applicable laws requiring public disclosure of the information contained in said documents.

ARTICLE 5 CONSULTANT'S INSURANCE REQUIREMENTS

- 5.1 **Required General Liability Insurance** – Consistent with the terms and provisions of **Exhibit E**, Contractor Insurance Guidelines, which is attached hereto and incorporated herein by reference for all purposes, Consultant shall procure and maintain throughout the term of this Agreement, at no expense to City, a general liability insurance policy with a company that maintains a minimum rating of “A” by A.M. Best’s Key Rating Guide, or other equivalent rating service(s), and is authorized to transact business in the State of Texas, in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) for each occurrence, and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. Such policy shall name City, its officers, agents, representatives, and employees as additional insureds as to all applicable coverage. Such policy shall provide for a waiver of subrogation against City for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to City at least thirty (30) days prior to cancellation, non-renewal or material modification of any policies, evidenced by return receipt or United States Certified Mail. Consultant shall furnish City with certificates and required endorsement(s) evidencing such coverage prior to commencing work on the Project.
- 5.2 **Required Professional Liability Insurance** – Consistent with the terms and provisions of **Exhibit E**, Consultant shall procure and maintain throughout the term of this Agreement, at no expense to City, a professional liability (errors and omissions) insurance policy with a company that maintains a minimum rating of “A” by A.M. Best’s Key Rating Guide, or other equivalent rating service(s), and is authorized to transact business in the State of Texas, in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) for each claim, and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. Such policy shall require the provision of written notice to City at least thirty (30) days prior to cancellation, non-renewal or material modification of any policies, evidenced by return receipt or United States Certified Mail. Consultant shall furnish City with certificates and required endorsement(s) evidencing such coverage prior to commencing work on the Project.
- 5.3 **Required Workers Compensation Insurance** – Consistent with the terms and provisions of **Exhibit E**, Consultant shall procure and maintain throughout the term of this Agreement, at no expense to City, all Statutory Workers Compensation Insurance as required by the laws of the State of Texas. Such insurance policy shall be with a company that maintains a minimum rating of “A” by A.M. Best’s Key Rating Guide, or other equivalent service(s), and is authorized to transact business in the State of Texas. Such policy shall require the provision of written notice to City at least thirty (30) days prior to cancellation, non-renewal or material modification of any policies, evidenced by return receipt or United States Certified Mail. Consultant shall furnish City with certificates and required endorsement(s) evidencing such coverage prior to commencing work on the Project.

- 5.4 **Circumstances Requiring Umbrella Coverage or Excess Liability Coverage** – If the Project's size and scope warrant, and if identified on the checklist located in **Exhibit E**, Consultant shall procure and maintain throughout the term of this Agreement, at no expense to City, an umbrella coverage or excess liability coverage insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s), and is authorized to transact business in the State of Texas, in an amount of Two Million and 00/100 Dollars (\$2,000,000.00). Such policy shall require the provision of written notice to City at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, evidenced by return receipt or United States Certified Mail. Consultant shall furnish City with certificates and required endorsement(s) evidencing such coverage prior to commencing work on the Project.

ARTICLE 6 CONSULTANT'S ACCOUNTING RECORDS

Records of Direct Expenses and expenses pertaining to services performed in conjunction with the Project shall be kept on the basis of generally accepted accounting principles. Invoices will be sent to City as indicated in Article 3.4 of this Agreement. Copies of employee time sheets, receipts for direct expense items and other records of Project expenses will be made available if requested.

ARTICLE 7 AUDITS AND RECORDS/VENDOR DISCLOSURE

Consultant agrees that at any time during normal business hours and as often as City may deem necessary, Consultant shall make available to representatives of City for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of City to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, and for a period of four (4) years from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

Consultant agrees that it is further aware of the vendor disclosure requirements set forth in Chapter 176, TEX. LOC. GOV'T CODE, as amended, and will abide by the same. In this connection, a lawful representative of Consultant shall execute and deliver to City the Conflict of Interest Questionnaire, Form CIQ, attached hereto as **Exhibit F** and incorporated herein for all purposes, no later than the Effective Date of this Agreement.

ARTICLE 8 TERMINATION OF AGREEMENT/REMEDIES

City may, upon thirty (30) days written notice to Consultant, terminate this Agreement, for any reason or no reason at all, before the termination date hereof, without prejudice to any other remedy it may have. If City terminates this Agreement due to a default of and/or breach by Consultant and the expense of finishing the Project exceeds Consultant's Fee at the time of termination, Consultant waives its right to any portion of Consultant's Fee as set forth in Article 3 of this Agreement and agrees to pay any costs over and above the fee which City is required to pay in order to finish the Project. On any default and/or breach by Consultant, City may elect not to terminate the Agreement, and in such event it may make good the deficiency in which the default consists, and deduct the costs from Consultant's Fee due Consultant as set forth in Article 3 of this Agreement. If City terminates this Agreement and Consultant is not in default of the Agreement, Consultant shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to termination.

In the event of any termination, Consultant shall deliver to City all finished and/or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs and/or any items prepared by Consultant in connection with this Agreement prior to Consultant receiving final payment.

The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its rights to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

ARTICLE 9 DISPUTE RESOLUTION/MEDIATION

In addition to all remedies at law, the parties may agree to attempt to resolve any controversy, claim or dispute arising out of or relating to the interpretation or performance of this Agreement, or breach thereof, by voluntary mediation to be conducted by a mutually acceptable mediator. However, if both parties do not agree to voluntarily mediate any such controversy, claim or dispute, mediation shall not be required.

ARTICLE 10 INDEMNITY

CONSULTANT SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ITS CITY COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES (COLLECTIVELY REFERRED TO AS "CITY") FOR PURPOSES OF THIS ARTICLE 10) FROM AND AGAINST ALL DAMAGES, INJURIES (WHETHER IN CONTRACT OR IN TORT, INCLUDING PERSONAL INJURY AND DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS (REGARDLESS OF

WHETHER THE ALLEGATIONS ARE FALSE, FRAUDULENT OR GROUNDLESS), SUITS, ACTIONS, JUDGMENTS, LIENS, COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEY'S FEES AND EXPENSES INCURRED IN ENFORCING THIS ARTICLE 10), THAT IN WHOLE OR IN PART ARISE OUT OF OR ARE CONNECTED WITH, OR THAT ARE ALLEGED TO HAVE ARISEN OUT OF OR CONNECTED WITH, GOODS AND/OR SERVICES PROVIDED BY CONSULTANT, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FOR WHOM CONSULTANT IS LEGALLY RESPONSIBLE (COLLECTIVELY REFERRED TO AS "CONSULTANT" FOR PURPOSES OF THIS ARTICLE 10) PURSUANT TO THIS AGREEMENT AND/OR THE NEGLIGENT, GROSSLY NEGLIGENT AND/OR INTENTIONAL WRONGFUL ACT AND/OR OMISSION OF CONSULTANT IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OR STRICT LIABILITY OF THE CITY (COLLECTIVELY, "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT IS NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST CITY BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CONSULTANT AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH THE CONSULTANT, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE. CONSULTANT IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS; PROVIDED, HOWEVER, THAT IF A COURT OF COMPETENT JURISDICTION SIGNS A JUDGMENT THAT BECOMES FINAL AND NON-APPEALABLE, DETERMINING THAT THE CITY (WITHOUT WAIVING ANY

GOVERNMENTAL IMMUNITY) HAS JOINT, CONCURRENT OR SOLE NEGLIGENCE FOR THE CLAIMS IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS (“JUDGMENT”), THEN CONSULTANT IS NOT REQUIRED TO INDEMNIFY OR DEFEND CITY TO THE EXTENT OF THE NEGLIGENCE APPORTIONED TO CITY FOR EACH CAUSE(S) OF ACTION IDENTIFIED IN THE JUDGMENT. IN THE EVENT THE JUDGMENT PROVIDES THAT CITY IS JOINTLY, CONCURRENTLY OR SOLELY NEGLIGENT FOR THE CLAIMS REFERRED TO THEREIN, CITY AGREES TO REIMBURSE CONSULTANT FOR ALL REASONABLE AND NECESSARY COSTS INCURRED AND PAID BY CONSULTANT THAT ARE ATTRIBUTABLE TO CITY’S PERCENTAGE OF JOINT, CONCURRENT OR SOLE NEGLIGENCE, AS SET FORTH IN THE JUDGMENT, INCLUDING REASONABLE AND NECESSARY ATTORNEY’S FEES AND EXPENSES, WITHIN SIXTY (60) DAYS OF THE DATE THE JUDGMENT BECOMES FINAL AND NON-APPEALABLE. IF THIS AGREEMENT IS A CONTRACT FOR ENGINEERING OR ARCHITECTURAL SERVICES, THEN CONSULTANT’S INDEMNITY AND DEFENSE OBLIGATIONS UNDER THIS ARTICLE 10 ARE LIMITED BY, AND TO BE READ AS COMPLYING WITH, SECTION 271.904 OF THE TEXAS LOCAL GOVERNMENT CODE.

IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY CONSULTANT IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY CITY, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF CONSULTANT’S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF CONSULTANT’S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. CONSULTANT SHALL RETAIN CITY-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY’S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO DEFENSE OR INDEMNIFICATION UNDER THIS AGREEMENT. IF CONSULTANT FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND CONSULTANT SHALL BE LIABLE FOR ALL COSTS INCURRED BY CITY. THE RIGHTS AND OBLIGATIONS CREATED BY THIS ARTICLE SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

ARTICLE 11 NOTICES

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing the same in the United States Mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt requested; by facsimile; by electronic mail, with documentation evidencing the addressee's receipt thereof; or by delivering the same in person to such party a via hand-delivery service, or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notification, the addresses of the parties shall be as follows:

If to City, addressed to:

Eric Sandberg
City of Sherman
220 W Mulberry St.
Sherman, TX 75091
Telephone: (903) 892-7019
Email: erics@cityofsherman.com

With a copy to:

Abernathy, Roeder, Boyd & Hullett, P.C.
Attention: Ryan D. Pittman
1700 Redbud Blvd., Suite 300
McKinney, Texas 75069
Telephone: (214) 544-4000
Facsimile: (214) 544-4054
Email: rpittman@abernathy-law.com

If to Consultant, addressed to:

**Colton Hermes, P.E. and
Timothy Miller** Project Manager
Kimley-Horn and Associates, Inc.
200 N. Travis St., Suite 500
Sherman, TX 75090
Telephone: (903) 258-9416
Email: timothy.miller@kimley-horn.com
Email: colton.hermes@kimley-horn.com

ARTICLE 12 MISCELLANEOUS

- 12.1 **Complete Agreement** – This Agreement, including the exhibits hereto labeled “A” through “F,” all of which are incorporated herein for all purposes, constitute the entire Agreement by and between the parties regarding the subject matter hereof and supersedes all prior and/or contemporaneous written and/or oral

understandings. This Agreement may not be amended, supplemented, and/or modified except by written agreement duly executed by both parties. The following exhibits are attached below and made a part of this Agreement:

- 12.1.1 **Exhibit A**, Scope of Services.
- 12.1.2 **Exhibit B**, Project Engineering Budget Summary.
- 12.1.3 **Exhibit C**, Guidelines for Computer Aided Design and Drafting (CADD).
- 12.1.4 **Exhibit D**, Guidelines for Direct Expenses; General and Administrative Markup; Travel and Subsistence Expenses.
- 12.1.5 **Exhibit E**, Contractor Insurance Guidelines.
- 12.1.6 **Exhibit F**, Conflict of Interest Questionnaire, Form CIQ.

To the extent that **Exhibit A**, **Exhibit B**, **Exhibit C**, **Exhibit D**, **Exhibit E**, or **Exhibit F** are in conflict with provisions of this Agreement or each other, the provisions of this Agreement, then the provisions of **Exhibit B**, **Exhibit C**, **Exhibit D**, **Exhibit E**, **Exhibit F** or **Exhibit A** shall prevail in that order.

- 12.2 **Assignment and Subletting** – Consultant agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of City. Consultant further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve Consultant of its full obligations to City as provided by this Agreement. All such approved work performed by assignment or subletting shall be billed through Consultant, and there shall be no third party billing.
- 12.3 **Attorney's Fees** – If either party files any action or brings any proceeding against the other arising from this Agreement, then as between City and Consultant, the prevailing party shall be entitled to recover as an element of its costs of suit, and not as damages, reasonable and necessary attorneys' fees and litigation expenses both at trial and on appeal, subject to the limitations set forth in TEX. LOC. GOV'T CODE § 271.153, as it exists or may be amended, if applicable.
- 12.4 **Successors and Assigns** – City and Consultant, and their respective partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives and administrators are hereby bound to the terms and conditions of this Agreement.
- 12.5 **Savings/Severability** – In the event of a term, condition, or provision of this Agreement is determined to be invalid, illegal, void, unenforceable, or unlawful by

a court of competent jurisdiction, then that term, condition, or provision, shall be deleted and the remainder of the Agreement shall remain in full force and effect as if such invalid, illegal, void, unenforceable or unlawful provision had never been contained in this Agreement.

- 12.6 **Governing Law/Venue** – This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to conflict of law principles. The exclusive venue for any action arising out of this Agreement shall be a court of appropriate jurisdiction in Grayson County, Texas.
- 12.7 **Execution/Consideration** – This Agreement is executed by the parties hereto without coercion or duress for any substantial consideration, the sufficiency of which is forever confessed.
- 12.8 **Authority** – The individuals executing this Agreement on behalf of the respective parties below represent to each other that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the other party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.
- 12.9 **Waiver** – Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit, or waive such party's right thereafter to enforce and compel strict compliance.
- 12.10 **Headings** – The headings of the various sections of this Agreement are included solely for convenience of reference and are not to be full or accurate descriptions of the content thereof.
- 12.11 **Multiple Counterparts** – This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. An electronic mail and/or facsimile signature will also be deemed to constitute an original if properly executed and delivered to the other party.
- 12.12 **Immunity** – It is expressly understood and agreed that, in the execution and performance of this Agreement, City has not waived, nor shall be deemed to have waived, any immunity, governmental, sovereign and/or official, or defense that is available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth in this Agreement.

- 12.13 **Incorporation of Recitals** – The representations, covenants and recitations set forth in the foregoing recitals of this Agreement are true and correct and are incorporated into the body of this Agreement and adopted as findings of City and the authorized representative of Consultant.
- 12.14 **Additional Representations** – Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had the opportunity to confer with its counsel.
- 12.15 **Miscellaneous Drafting Provisions** – This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply.
- 12.16 **No Third-Party Beneficiaries** – Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third party beneficiaries by entering into this Agreement.
- 12.17 **Indemnity** – The parties agree that the Indemnity provision set forth in Article 10 of this Agreement is conspicuous and the parties have read and understood the same.
- 12.18 **Representations** – All representations and covenants made by one party to the other in this Agreement or in any certificate or other instrument delivered by one party to the other under this Agreement shall be considered to have been relied upon by the other party and will survive the satisfaction of any fees under this Agreement, regardless of any investigation made by either party.
- 12.19 **Independent Contractor** – In performing this Agreement, Consultant shall act as an independent contractor with respect to City. In no event shall this Agreement be construed as establishing a partnership, joint venture or similar relationship between the parties and nothing herein shall authorize either party to act as agent for the other. Consultant shall be liable for its own debts, obligations, acts and omissions, including the payment of all required withholding, social security and other taxes and benefits with respect to all of Consultant's officers, directors, partners, employees and representatives, who shall not be considered City employees and shall not be eligible for any employee benefit plan offered by City.
- 12.20 **Debarment/Suspension** – City is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. City, Consultant and Consultant's subcontractors shall comply with federal and state regulations regarding debarment and suspension. Consultant shall include a statement of

compliance with federal and state debarment and suspension regulations in all third-party agreements for work on the Project.

- 12.21 **Restrictions on Lobbying** – City and Consultant are prohibited from using funds awarded under the Agreement for lobbying purposes. Consultant shall include a statement of compliance with this provision in applicable procurement solicitations and third-Party agreements for work on the Project.
- 12.22 **Appropriation of Funds** – Funds are not presently budgeted for City's performance under this Agreement beyond the end of City's current fiscal year. City will give Consultant sixty (60) days' notice if funds for City's performance are not budgeted to continue beyond that time. City shall have no liability for payment of any money for services performed after the end of City's current fiscal year unless and until such funds are budgeted.
- 12.23 **Certifications Required by Texas Law** – In accordance with Chapter 2270 of the Texas Government Code (to the extent applicable), Consultant hereby certifies that Consultant does not boycott Israel and will not boycott Israel during the term of any contract with City, including during the term of this Agreement. In accordance with Chapter 809 of the Texas Government Code (to the extent applicable), Consultant hereby certifies that Consultant does not boycott energy companies and will not boycott energy companies during the term of any contract with City, including during the term of this Agreement. In accordance with Chapter 2274 of the Texas Government Code (to the extent applicable), Consultant hereby certifies that Consultant does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of any contract with City, including during the term of this Agreement. In accordance with Chapter 2252 of the Texas Government Code (to the extent applicable), Consultant hereby certifies that it is not engaged in business with Iran, Sudan or a foreign terrorist organization identified on a list prepared and maintained under Sections 806.051, 807.051 or 2252.153 of the Texas Government Code. The foregoing terms have the meanings ascribed to them in the referenced statutes if defined therein.
- 12.24 **Reference to Consultant** – When referring to "Consultant," this Agreement shall refer to and be binding upon Consultant, and its officers, directors, partners, employees, representatives, contractors, subcontractors, licensees, invitees, agents, successors, assignees (as authorized herein), vendors, grantees, trustees, legal representatives and/or any other third parties for whom Consultant is legally responsible.
- 12.25 **Reference to City** – When referring to "City," this Agreement shall refer to and be binding upon City, its Council members, officers, agents, representatives, employees and/or any other authorized third parties for whom City is legally

responsible.

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the date set forth in the introductory clause of this Agreement.

CITY:

City of Sherman, Texas,
a Texas home-rule municipality

CONSULTANT:

Kimley-Horn and Associates, Inc.,
a North Carolina corporation

By: _____
Zachary Flores, City Manager

By: Bradley J. Hill
Bradley J. Hill
Regional Contract Lead

APPROVED AS TO FORM:

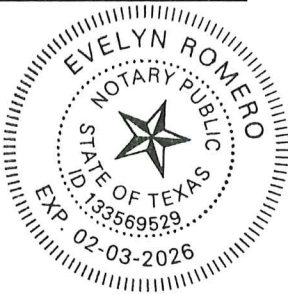
Abernathy, Roeder, Boyd & Hullett, P.C. Ryan
D. Pittman, City Attorneys

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED **BRADLEY J. HILL**, KNOWN TO ME TO BE ONE OF THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT; HE ACKNOWLEDGED TO ME THAT HE IS THE REGIONAL CONTRACT LEAD AND DULY AUTHORIZED REPRESENTATIVE FOR **KIMLEY-HORN AND ASSOCIATES, INC.**, AND THAT HE EXECUTED SAID INSTRUMENT FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 17 DAY OF April

2025.



Evelyn Romero
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS
My commission expires: 02-03-2026

EXHIBIT A SCOPE OF SERVICES

I. PROJECT DESCRIPTION

Based on the information provided, we understand that the City wishes Kimley-Horn to perform a pavement management system update encompassing the City's roadway network. The project will involve use of automated data collection equipment to collect pavement condition data. We anticipate collection on a maximum of 379 lane-miles of roadway. Data collected during the assessment will be used to populate a pavement management system (PMS) to help prioritize roadway maintenance and rehabilitation projects according to various funding scenarios.

Our Scope of Services, Fee, and Schedule are as follows:

Task 1 – Project Coordination Services

This task will consist of monthly project status updates, preparing and distributing reports and memos, scheduling of review meetings and activities, and monthly project status reporting. In addition, this task will consist of monthly work planning efforts and will comprise the initial schedule development and monthly maintenance of the scope of services and project milestones.

Task 1.1 – Project Meetings

Kimley-Horn will coordinate and facilitate a kick-off meeting with the City upon a Notice to Proceed. The purpose of this meeting will be to introduce the participants to the project, review the project scope, and discuss key issues so they can be resolved early in the project planning process.

Kimley-Horn will coordinate and facilitate up to two additional project meetings during project execution. Meetings may be conducted virtually at the discretion of the City. Each meeting will consist of project status updates, schedule review, and discussion of upcoming milestones for both the project team and City staff. Kimley-Horn will prepare agendas and minutes for each meeting as needed.

Task 1.2 – Pavement Management Workshop

Kimley-Horn will plan a stakeholder workshop as part of the kickoff meeting with City personnel and update the City's current pavement maintenance and rehabilitation practices, using data inputs established during the City's previous PMS update in 2022. The workshop will involve discussion on materials and treatment strategies used to maintain City roadways, the City's unit costs for selected treatments, anticipated annual funding levels, traffic counts or typical traffic volumes, and other studies to be updated in the PMS. The workshop will also consist of a discussion of the Data Dictionary used to categorized pavement distresses and other assets in Task 2.

Task 2 – Network Definition

This task involves the pre-field activities related to defining the roadway system inventory and specific data collection requirements. This will consist of setup and configuration of the pavement management system using City-specific parameters that will be used to analyze and interpret pavement condition data.

Task 2.1 – Roadway System Inventory and Network Definition

Kimley-Horn will update the existing roadway GIS inventory used in the City's previous PMS update to consist of new construction, roads recently acquired by the City, or roads otherwise identified by the City to be added to the data collection scope. In coordination with the City, Kimley-Horn will compile relevant inventory data related to roadway surface type, segmentation limits (to/from streets), lane widths, work history, and other maintenance and rehabilitation efforts for these new segments. We will also review this information for the roadways currently in the system to ensure this data remains accurate. This process will result in a GIS shapefile with block-to-block linear segmentation while also identifying which roadway segments will be collected in both directions. Based on preliminary estimates, data collection will be on a total of 379 lane-miles of City-maintained roadway.

EXHIBIT A SCOPE OF SERVICES

Task 2.2 – Data Collection Requirements

Data collection requirements will be memorialized in a Data Dictionary that defines the pavement distress types and severity levels that will be captured during data collection. The Data Dictionary will be based on the ASTM D6433-24 Pavement Condition Index (PCI) standard and can be modified to meet the specific objectives of the City. Other non-pavement asset types will be excluded from the initial extraction but can be included at a later time should the City wish to do so.

Task 2.3 – Pavement Management System Software Configuration

Kimley-Horn will customize its DRIVE software tool based on the customization parameters identified in Task 1. Treatment types and costs will be updated to reflect current City practices and available bid tabulation data. Up to five (5) budget options will be identified to illustrate the impacts of budget-driven or performance-driven targets. The software tool will be configured to accept pavement distress data delivered by a subconsultant Task 3 and in accordance with the Data Dictionary developed in Task 2.2.

Task 3 – Data Collection and Integration

Through our subconsultant, Kimley-Horn will complete a comprehensive pavement data collection effort using high-speed automated equipment. Task 3 involves the collection and integration of data and asset inventories into the PMS.

Task 3.1 – Pavement and Asset Data Collection

Pavement data collection will be coordinated with the City in advance of data collection according to the roadway network defined in Task 2.1. Data will be collected in accordance with ASTM D6433-24 standards and the Data Dictionary developed in Task 2 and approved by the City. Collection will generally occur in one direction unless otherwise identified by the City. The City-approved network definition shapefile developed in Task 2 will indicate collection direction for in-scope roadways.

Task 3.2 – Data Integration

Upon confirmation of the pavement distress data, Kimley-Horn will populate the DRIVE tool with condition and inventory information. The integration process will contain final confirmation of parameters related to treatment types, local cost data based on recent paving contracts, maintenance trigger values, and budget constraints that will be used when conducting various budget scenarios. Pavement performance models will be developed based on current conditions, surface type, functional classification, and past work history.

Task 4 – Reporting and Training

Kimley-Horn will analyze collected pavement condition data to develop a practical, data-driven roadway maintenance and repair plan using the PMS software tool. Up to five (5) budget-driven or performance-driven scenarios will be considered in the analysis. Results from the analysis will be presented to the City, and City staff will be trained on how to use the DRIVE software.

Task 4.1 – Reporting

Kimley-Horn will develop a comprehensive report that discusses the data collection methodology, data collection results, budget analysis scenarios, and recommended maintenance and repair priorities. The report will summarize the pavement inventory while providing recommendations on strategies for structuring a pavement management program over the next 5 years. Kimley-Horn will provide draft and final versions for one round of non-conflicting comments, and such comments may be reflected in the final version of the report.

Kimley-Horn will prepare and deliver a presentation to the City of Sherman's council. The presentation will incorporate significant findings from the evaluation and discuss condition trends and funding requirements.

In addition to the report documents and presentation files, Kimley-Horn will deliver final GIS shapefiles and map packages to the City containing relevant roadway and asset inventories. Files will be provided in .SHP

EXHIBIT A SCOPE OF SERVICES

and .MPKX file formats and will be suitable for integration into the City's existing GIS platform.

Task 4.2 – Training

Kimley-Horn will provide City staff with the training required to operate the DRIVE software. Following the initial configuration and data integration into DRIVE, Kimley-Horn will meet with the City to demonstrate software features and functions with the goal of providing City staff with the training required to operate the system independently. The initial DRIVE software licensing period will remain in effect for one (1) year and can be renewed by the City annually with additional compensation to Kimley-Horn.

II. GENERAL REQUIREMENTS

- A.** Specific design requirements shall be obtained from the City of Sherman Engineering Design Standards. Consultant will establish and summarize design criteria. The design criteria will be reviewed by the City for approval prior to beginning design work.
- B.** Consultant shall coordinate with other engineering consultants, utility companies, franchise utilities, City of Sherman, pipeline companies, and any other entity which has facilities within or adjacent to the Project.
- C.** Each time the Consultant submits plans and/or specifications to City, two (2) copies (as well as PDF versions) of each shall be submitted, unless otherwise instructed. These shall be reviewed and checked by City and returned to Consultant for corrections. When the corrected copies of the plans and specifications are returned to City, the original and reviewed plans and specifications shall also be returned to City. All plans, specifications, documents, provisions, attachments, and correspondence provided in accordance with this contract shall be dated.
- D.** The Consultant shall submit a monthly report outlining, at a minimum, the work on the project which occurred the previous month, the work expected to be completed the following month, the next major project milestone, and any information needed from the City. The report is to be submitted with monthly invoice.
- E.** Communications and Reporting:
 - i Attend a pre-design project kickoff meeting with City staff to confirm and clarify scope, understand City objectives, and ensure economical and functional designs meet City requirements.
 - ii Attend review meeting with the City at the end of each design phase.
 - iii Prepare and submit monthly invoices in the format acceptable to the City.
 - iv Prepare and submit monthly progress reports.
 - v Prepare and submit baseline Project Schedule initially, Project Schedule updates, and updated Opinion of Probable Construction Cost with each plan submittal.
 - vi Coordinate with other agencies and entities as necessary for the design

EXHIBIT A SCOPE OF SERVICES

of the proposed infrastructure and provide and obtain information needed to prepare the design.

- vii With respect to coordination with permitting authorities, Consultant shall communicate with permitting authorities such that their regulatory requirements are appropriately reflected in the designs. Consultant shall work with regulatory authorities to obtain approval of the designs, and make changes necessary to meet their requirements.
- viii Attend additional project coordination meetings, if needed.

EXHIBIT B
PROJECT BUDGET SUMMARY

I. Basic Services

A. Project Coordination Services (Expected Completion: December 2025)	\$5,000.00
B. Network Definition (Expected Completion: May 2025)	\$6,000.00
C. Data Collection and Integration (Expected Completion: August 2025)	\$71,500.00
D. Reporting and Training (Expected Completion: November 2025)	\$16,000.00
<i>Total Basic Services (Lump Sum)</i>	<u><i>\$98,500.00</i></u>
<i>Project Budget, Grand Total (Not-To-Exceed)</i>	<i>\$98,500.00</i>

EXHIBIT C
GUIDELINES FOR COMPUTER AIDED DESIGN AND DRAFTING (CADD)

1. Files shall done in DWG/DXF format.
2. Files shall be georeferenced in the State Plane, Texas North Central FIPS 4202 (feet) coordinate system, using a datum of NAD 83 Grid.
3. If a surface adjustment factor is applied to the data, any surface adjustment factors used should be clearly documented on the drawing.
4. If submissions for the Project relate to a plat, the file submitted must match exactly the plat that is submitted for recording.
5. The file shall contain required features for the project type as detailed below:
 - a. Pre-Construction/As-Built Plans and/or Record Documents:
 - i. Layers from Final Plat Requirements as Applicable to Project Type.
 - ii. Water Utility Features.
 - iii. Sanitary Sewer Features.
 - iv. Storm Sewer Features.
6. Each required feature group should be provided as a separate layer within the file.
7. Layer names should be representative of the information contained in the layer.
8. Line work should be done per accepted industry norms.

Text should not be smaller than 0.08" on a full size sheet, and should be a font such as Simplex, Calibri, or Arial.

EXHIBIT D
CONSULTANT'S GUIDELINES FOR DIRECT EXPENSES; GENERAL AND
ADMINISTRATIVE MARKUP; TRAVEL AND SUBSISTENCE EXPENSES

- I. **CONSULTANT'S RESPONSIBILITY**. Consultant shall be solely responsible for the auditing and accuracy of all Direct Expenses, approved markup (general and/or administrative), and approved travel and/or subsistence charges, including those of its subcontractors, prior to submitting to City for reimbursement. Any over-payment by City for errors in submittals for reimbursement may be deducted from Consultant's subsequent payment(s) for services; however, this shall not be City's sole and exclusive remedy for said over-payment.

II. **GUIDELINES FOR DIRECT EXPENSES**.

- A. **Local Transportation** – Transportation in connection with the Project, when such transportation is not a function of routine performance of the duties of Consultant in connection with the Project, and when such transportation exceeds beyond fifty (50) miles from the Project site, shall be reimbursed at a standard mileage rate consistent with that as issued, and periodically revised, by the United States Internal Revenue Service (IRS). Under no circumstances shall City reimburse Consultant at a higher standard mileage rate or pay additional markup on charges for local transportation. Completion of City's Standard Mileage Log is required for submittal of these charges for reimbursement, including justification for each submitted expense.

Under no circumstances are charges associated with rental cars for local transportation eligible for reimbursement by City. Toll road subscriptions or toll plaza receipts are not reimbursable. Consultant agrees to place these standards in all subcontracts for work on the Project.

- B. **Supplies, Material, Equipment** – City shall reimburse the actual cost of other similar direct Project-related expenses, which are duly presented in advance and approved by City's Project Manager in writing.
- C. **Commercial Reproduction** – City shall reimburse the actual cost of reproductions, specifically limited to progress prints prepared for presentation to City at each phase of progress, and final Construction Documents prepared for distribution at bidding phase, provided that Consultant has duly obtained at least three (3) quotations from commercial firms and has chosen the best value for City. Consultant shall provide such documentation to City for review prior to submitting these expenses for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.
- D. **In-House Reproduction** – Consultant shall make arrangements with City for prior approval of in-house reproduction rates prior to submitting these expenses for reimbursement. City shall provide Consultant with a standard format for documenting these charges. Completion of City's reproduction log is required as

a prerequisite for payment, including the number or reproductions, the date, time, description, the approved standard rate, and a justification for each submitted expense for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.

- E. **Commercial Plotting** – City shall reimburse the actual cost of plots, specifically limited to final documents, provided Consultant has duly obtained at least three (3) quotations from commercial firms and has chosen the best value for City. Consultant shall provide such documentation to City for review prior to submitting these expenses for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.
- F. **In-House Plotting** – Consultant shall make arrangements with City for prior written approval of in-house plotting rates prior to submitting these charges for reimbursement. City shall provide Consultant with a standard format for documenting these charges. Completion of City's reproduction log is required as a prerequisite for payment, including the number of plots, the date, time, description, the approved standard rate, and a justification for each submitted charge for reimbursement.
- G. **Communications** – Reimbursement for expenses relating to electronic communications shall be limited to long-distance telephone or fax toll charges specifically required in the discharge of professional responsibilities related to the Project. Telephone service charges including office or cellular phones, WATTS, or Metro line services or similar charges are not reimbursable.
- H. **Postage, Mail, and Delivery Service** – City shall reimburse the actual cost of postage and delivery of Instruments of Service, provided Consultant duly considers all circumstances (including available time for assured delivery) of the required delivery and selects the best value for City, which may require comparison of delivery costs offered by three (3) or more sources or methods of delivery, which at a minimum shall include U.S. Mail. Courier service is acceptable only in circumstances requiring deadline-sensitive deliveries and not for the convenience of Consultant and/or Consultant's employees. Consultant agrees to place these standards in all subcontracts for work on the Project.
- I. **Meals and Other Related Charges** – Meals or any other related expenses are not reimbursable unless incurred outside a fifty (50) mile radius of the Project, and then only reimbursable for the actual cost subject to compliance with City's currently adopted policy. Non-allowable costs include, but are not limited to, charges for entertainment, alcoholic beverages, and gratuities.

III. GUIDELINES FOR GENERAL AND ADMINISTRATIVE MARKUP.

- A. **Requirement of Prior Approval** – Consultant may be allowed to charge a General and/or Administrative Markup on work completed if Consultant can clearly define to City specifically what costs are included in the markup calculation. To apply General and/or Administrative Markup, Consultant must also document to City what costs would be considered direct costs. City shall issue approval in writing to allow Consultant to charge General and/or Administrative Markup. City reserves the right to reject any and all requests for General and/or Administrative Markup.

IV. GUIDELINES FOR TRAVEL AND SUBSISTENCE EXPENSES.

- A. **Requirement of Prior Approval** – City shall reimburse the actual cost of travel and/or subsistence expenses upon prior written approval by City's Project Manager.
- B. **Adherence to Currently Adopted City Travel Policy** – Reimbursements shall be governed by the same travel policies provided for City employees according to current adopted policy. Prior to the event, Consultant shall request, and City's Project Manager shall provide the provisions and the restrictions that apply to out-of-town reimbursements.

EXHIBIT E
CONTRACTOR'S INSURANCE GUIDELINES

I. GENERAL INSURANCE REQUIREMENTS –

- A. All policies shall name the City of Sherman, its officers, agents, representatives and employees as additional insured as to all applicable coverage with the exception of workers compensation insurance and professional liability insurance.
- B. Such policies shall require the provision of written notice to City at least thirty (30) days prior to cancellation, non-renewal or material modification of any policies, evidenced by return receipt or United States Certified Mail.
- C. Such policies shall provide for a waiver of subrogation against City for injuries, including death, property damage or any other loss to the extent the same is covered by the proceeds of the insurance.

II. INSURANCE COMPANY QUALIFICATION – All insurance companies providing the required insurance shall be authorized to transact business in the State of Texas, and shall have a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s).

III. CERTIFICATE OF INSURANCE – A Certificate of Insurance and policy endorsement(s) evidencing the required insurance shall be submitted prior to execution of the Agreement. If the Agreement is renewed or extended by City, a Certificate of Insurance and policy endorsement(s) shall also be provided to City prior to the date the Agreement is renewed or extended.

IV. INSURANCE CHECKLIST – "X" means that the following coverage(s) is required for this Agreement.

Coverage Required		Limits
<u> X </u>	1. Worker's Compensation & Employer's Liability	▪ Statutory Limits of the State of Texas
<u> X </u>	2. General Liability	▪ Minimum \$1,000,000.00 each occurrence; ▪ Minimum \$2,000,000.00 in the aggregate
<u> </u>	3. XCU Coverage	▪ Minimum \$1,000,000.00 each occurrence; ▪ Minimum \$2,000,000.00 in the aggregate

EXHIBIT E
CONTRACTOR'S INSURANCE GUIDELINES

-
- | | | | |
|---------------|-----|---|--|
| <u> X </u> | 4. | Professional Liability | <ul style="list-style-type: none">▪ Minimum \$1,000,000.00 each claim;▪ Minimum \$2,000,000.00 in the aggregate |
| <u> X </u> | 5. | Umbrella Coverage of Excess Liability Coverage | <ul style="list-style-type: none">▪ An amount of \$2,000,000.00▪ Minimum \$2,000,000.00 in the aggregate |
| <u> X </u> | 6. | City and its officers, agents, representatives and employees named as additional insured on General Liability Policy, as provided above. This coverage is primary to all other coverage City may possess. | |
| <u> X </u> | 7. | General Liability Insurance provides for a Waiver of Subrogation against the City for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. All insurance policies that are required to name the City as an additional insured must be endorsed to read as primary and non-contributory coverage regardless of the application of other insurance. | |
| <u> X </u> | 8. | Thirty (30) days' notice of cancellation, non-renewal, or material change required. The words "endeavor to" and "but failure" (to end of sentence) are to be eliminated from the Notice of Cancellation provision on standard ACORD certificates. | |
| <u> X </u> | 9. | Insurance company has a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s). | |
| <u> X </u> | 10. | The Certificate of Insurance must state the project title and bid number. | |
| <u> </u> | 11. | Other Insurance Requirements (State Below): | |

EXHIBIT F
CONFLICT OF INTEREST QUESTIONNAIRE, FORM CIQ

CONFLICT OF INTEREST QUESTIONNAIRE For vendor doing business with local governmental entity		FORM CIQ
This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session. This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a). By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code. A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.	OFFICE USE ONLY 	
1 Name of vendor who has a business relationship with local governmental entity.		
2 ☐ Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)		
3 Name of local government officer about whom the information is being disclosed. Name of Officer		
4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary. A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor? ☐ Yes ☐ No B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity? ☐ Yes ☐ No		
5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.		
6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).		
7 Signature of vendor doing business with the governmental entity Date		



City Council Regular Meeting

Agenda Item No. E.3.

Meeting Date: 5/5/2025

Prepared By: Tom Pruitt, Utility Engineer

Approved By: Zachary Flores, Acting City Manager

Caption:

RESOLUTION NO. 7523

Awarding a Bid to and Authorizing Execution of a Contract Between Blackrock Construction and the Greater Texoma Utility Authority Based on an Invitation to Bid for the Progress Park Industrial Sewer Outfall

Issue:

To consider awarding a bid to and authorizing execution of a contract between Blackrock Construction of Mansfield, Texas, and the Greater Texoma Utility Authority based on an invitation to bid for the Progress Park Industrial Sewer Outfall Project

Background:

This project will provide additional wastewater capacity in the Progress Park area south of FM 1417, to include industrial users on the north side of FM 1417 off Northgate Drive. Of paramount importance on this project was the time to complete it along with the overall price. A best value scoring system was implemented to the bidding process to allow for maximum points for those bidders who have a low price and the shortest time of completion. Both those categories were given 40-points each. The third and fourth scoring categories were safety record and quality of prior work which were scored at 10-points each, for a total maximum score of 100 points.

Fourteen (14) responsive and responsible bids were received on Thursday, April 17, 2025. Scoring was undertaken by the engineer, the City, and GTUA on 4/23/2025. Results are included with the Bid Tabulation. It is recommended to award this contract to Blackrock Construction, who had the highest point score, including a price 21% under budget. The contractor has informed staff that they will begin as quickly as possible following the Notice to Proceed.

Capital Improvement Program:

Origination:

Engineering Department

Financial Consideration:

Funding will be provided through GTUA Open Market Bonds.

Staff Recommendation:

It is recommended that the bid be awarded for the Progress Park Sewer Industrial Sewer Outfall Project to Blackrock Construction in the amount of \$5,436,911.00. It is also recommended that the Greater Texoma Utility Authority (GTUA) be authorized to execute the required contract documents.

Alternatives:

As may be directed by City Council.

Attachments:

1. Resolution No. 7523
2. GTUA Agreement_rev1
3. Bid Summary Letter
4. Bid Proposal Evaluation Score Sheet
5. Location Map

RESOLUTION NO. 7523

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT BETWEEN BLACKROCK CONSTRUCTION AND THE GREATER TEXOMA UTILITY AUTHORITY BASED ON AN INVITATION TO BID FOR THE PROGRESS PARK SEWER INDUSTRIAL SEWER OUTFALL; 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 Blackrock Construction of Mansfield, Texas, is hereby awarded the bid and the City of Sherman hereby approves the contract between said contractor and the Greater Texoma Utility Authority in the amount of Five Million Four Hundred Thirty-Six Thousand Nine Hundred Eleven Dollars and Zero Cents (\$5,436,911.00) for the Progress Park Sewer Industrial Sewer Outfall; subject to all Contract Documents being properly completed and approved as to form and content.

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

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS on this the 5th day of May 2025.

CITY OF SHERMAN, TEXAS

ATTEST:

**BY: _____
LINDA ASHBY, CITY CLERK**

**BY: _____
SHAWN TEAMANN, MAYOR**

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

**BY: _____
RYAN D. PITTMAN, CITY ATTORNEY**

AGREEMENT

THIS AGREEMENT is by and between the GREATER TEXOMA UTILITY AUTHORITY (“GTUA”) on behalf of THE CITY OF SHERMAN, and Blackrock Construction, a Texas corporation (the “CONTRACTOR”). GTUA and CONTRACTOR are sometimes referred to collectively as the “parties” or individually as a “party.”

GTUA and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

Article 1. **WORK**

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents (hereinafter defined) and shall furnish all personnel, labor, equipment, supplies and all other items necessary to provide the services and deliverables as specified by the terms and conditions of the Contract Documents (collectively, the “Work”). The Work is generally described as follows:

Progress Park Sewer Industrial Sewer Outfall

Article 2. **ENGINEER**

The Project has been designed by Kimley-Horn & Associates, Inc., Sherman, Texas, who is hereinafter called ENGINEER and who is to act as GTUA'S representative, assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Article 3. **CONTRACT TIME**

- 3.1 The Work must be substantially completed within 130 calendar days and ready for final payment within 175 calendar days from the date when the Contract Time commences to run, as provided in the General Conditions.
- 3.2 Liquidated Damages. GTUA and CONTRACTOR recognize that time is of the essence of this Agreement and that GTUA will suffer financial loss and actual damages if the Work is not completed within the substantial completion time specified above, plus any extensions thereof allowed in accordance with the General Conditions. The parties also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss and damages suffered by GTUA if the Work is not completed on time. The exact amount of such loss and damages will be difficult to ascertain. Accordingly, instead of requiring any such proof, GTUA and CONTRACTOR agree that CONTRACTOR shall pay GTUA \$ ~~500.00~~ 1,500 for each calendar day past substantial completion in which the Work is not completed, not as a penalty but as liquidated damages for the loss and damages that would be suffered by GTUA as a result of delay for each and every calendar day that the CONTRACTOR shall have failed to have completed the Work as required herein.



Article 4. **CONTRACT PRICE**

GTUA shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents

in current funds as follows:

At the unit prices shown on the Unit Price Bid Schedule included in the Contract Documents.

Article 5. PAYMENT PROCEDURES

CONTRACTOR shall submit an Application for Payment in accordance with the General Conditions. Applications for Payment will be processed by GTUA, as provided in the Special Provisions.

CONTRACTOR and GTUA acknowledge and agree that the continuation of this Agreement after the close of any given fiscal year of GTUA, which fiscal year ends on September 30th of each year, shall be subject to GTUA Board approval. In the event that the GTUA Board does not approve the appropriation of funds for this Agreement, the Agreement shall terminate at the end of the fiscal year for which funds were appropriated, and the parties shall have no further obligations hereunder, except that GTUA shall be obligated to pay monies owed CONTRACTOR for Services it has provided pursuant to this Agreement through the end of that fiscal year provided that CONTRACTOR is not in breach of this Agreement.

Article 6. INTEREST

If the contract amount of this Agreement is less than \$5,000,000, no interest will be paid to the CONTRACTOR on retained money. When the contract amount exceeds \$5,000,000, no interest will be paid unless required by law.

Article 7. CONTRACTOR'S REPRESENTATIONS

In order to induce GTUA to enter into this Agreement, CONTRACTOR makes the following representations:

- 7.1 CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that, in any manner, may affect cost, progress, performance or furnishing of the Work.
- 7.2 CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.
- 7.3 CONTRACTOR has reviewed and fully agrees to the limitation of liability provisions included in the Special Provisions.
- 7.4 CONTRACTOR certifies that they are eligible to be awarded government contracts. CONTRACTOR also certifies that any agreement entered into with a subcontractor will contain a clause stating that the subcontractor is eligible to be awarded government contracts.

Article 8. CONTRACT DOCUMENTS

The "Contract Documents," which comprise the entire agreement between GTUA and CONTRACTOR concerning the Work, consist of the following:

- 8.1 This Agreement
- 8.2 Solicitation for Bids
- 8.3 Instructions to Respondents
- 8.4 Certifications Required by Texas Law
- 8.5 Suspension and Debarment Certification
- 8.6 Bid Bond and Bid Bond POA
- 8.7 Statement of Respondent's Qualifications
- 8.8 Insurance Requirement Affidavit
- 8.9 Bid Submittal
- 8.10 Resolution of Award
- 8.11 Form 1295, Certificate of Interested Parties
- 8.12 Certificate of Insurance
- 8.13 Performance Bond and POA
- 8.14 Payment Bond and POA
- 8.15 Notice to Proceed
- 8.16 Closeout Documents
- 8.17 Special Provisions
- 8.18 Technical Specification prepared or issued by Kimley-Horn & Associates, Inc. dated March 13, 2025.
- 8.19 Drawings, consisting of sheets numbered G1 through D4, inclusive with each sheet bearing the following general title: Progress Park Sewer Industrial Sewer Outfall
- 8.20 Addenda numbers 1 to 2, inclusive.
- 8.22 The following, which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:

All written Amendments, change orders, and other documents amending, modifying, or supplementing the Contract Documents pursuant to the Special Provisions. The parties understand and agree that deviations or modifications to the scope of Work described in the Contract Documents, in the form of one or more written Contingency Change Allowance or also change orders, may be authorized from time to time by GTUA ("Change Orders"). "Extra" work, "claims" invoiced as "extra" work or "claims" which have not been issued as a duly executed, written Change Orders by the GTUA Manager or his designee will not be authorized for payment and/or shall not become part of this Agreement. A duly executed, written Change Order shall be preceded by the GTUA's authorization for the GTUA Manager to execute said Change Order. CONTRACTOR agrees that GTUA'S project managers are authorized to issue Contingency Allowance Authorization but GTUA'S project managers, superintendents and/or inspectors not authorized to issue verbal or written Change Orders.

There are no Contract Documents other than those listed above. The Contract Documents may only be amended, modified or supplemented, as outlined in this Agreement.

Article 9. INDEMNITY

CONTRACTOR HEREBY RELEASES AND SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS GTUA, THE CITY OF SHERMAN AND THEIR RESPECTIVE BOARD OR CITY COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES (COLLECTIVELY REFERRED TO AS "GTUA" FOR PURPOSES OF THIS SECTION) FROM AND AGAINST ALL DAMAGES, INJURIES (WHETHER IN CONTRACT OR IN TORT, INCLUDING PERSONAL INJURY AND DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, ACTIONS, JUDGMENTS, LIENS, COSTS AND EXPENSES, INCLUDING REASONABLE

ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEY'S FEES AND EXPENSES INCURRED IN ENFORCING THIS SECTION), THAT IN WHOLE OR IN PART ARISE OUT OF OR ARE CONNECTED WITH GOODS AND/OR SERVICES PROVIDED BY CONTRACTOR, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FOR WHOM CONTRACTOR IS LEGALLY RESPONSIBLE (COLLECTIVELY REFERRED TO AS "CONTRACTOR" FOR PURPOSES OF THIS SECTION) PURSUANT TO THIS AGREEMENT AND/OR THE NEGLIGENT, GROSSLY NEGLIGENT AND/OR INTENTIONAL WRONGFUL ACT AND/OR OMISSION OF CONTRACTOR IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OF GTUA (COLLECTIVELY, "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT IS NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST GTUA BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CONTRACTOR AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH CONTRACTOR, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE.

IN ITS SOLE DISCRETION, GTUA SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY CONTRACTOR IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY GTUA, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY GTUA IN WRITING. GTUA RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, GTUA IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY GTUA IS NOT TO BE CONSTRUED AS A WAIVER OF CONTRACTOR'S OBLIGATION TO DEFEND GTUA OR AS A WAIVER OF CONTRACTOR'S OBLIGATION TO INDEMNIFY GTUA PURSUANT TO THIS AGREEMENT. CONTRACTOR SHALL RETAIN GTUA-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF GTUA'S WRITTEN NOTICE THAT GTUA IS INVOKING ITS RIGHT TO DEFENSE OR INDEMNIFICATION UNDER THIS AGREEMENT. IF CONTRACTOR FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, GTUA SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND CONTRACTOR SHALL BE LIABLE FOR ALL COSTS INCURRED BY GTUA.

THE RIGHTS AND OBLIGATIONS CREATED BY THIS SECTION SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

Article 10. **LIABILITY**

To the fullest extent permitted by law, CONTRACTOR shall be fully and solely responsible and liable for its own acts and omissions, including those of its officers, agents, representatives, employees, subcontractors, licensees, invitees and all other parties performing services for or on behalf of CONTRACTOR under this Agreement, and for any and all damage to CONTRACTOR's equipment and other property. GTUA and the City of Sherman assume no such responsibility or liability. GTUA and the City of Sherman shall have no such responsibility or liability to either CONTRACTOR or its officers, agents, representatives, employees,

subcontractors, licensees, invitees or other persons.

Article 11. **TERMINATION**

GTUA or the City of Sherman is entitled to terminate this Agreement at any time for any reason or for no reason by giving CONTRACTOR at least thirty (30) days' prior written notice of the termination date.

GTUA or the City of Sherman is entitled to terminate this Agreement immediately on breach of any term or provision of the Contract Documents by CONTRACTOR. If at any time during the term of this Agreement, CONTRACTOR shall fail to commence the work in accordance with the provisions of the Contract Documents or fail to diligently perform the work in an efficient, timely and careful manner and in strict accordance with the provisions of the Contract Documents, then GTUA or the City of Sherman shall have the right to terminate this Agreement. Any such act by GTUA or the City of Sherman shall not be deemed a waiver of any other right or remedy of GTUA or the City of Sherman.

The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its rights to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

Article 12. **MISCELLANEOUS**

12.1 Terms used in the Agreement will have the meanings indicated in the Special Provisions.

12.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically, but without limitation, monies that may become due and monies that are due, may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

12.3 CONTRACTOR acknowledges and agrees that the existence of a prohibited interest during the term of this Agreement will render this Agreement voidable. CONTRACTOR further acknowledges and agrees that it also is aware of, and will abide by, the vendor disclosure requirements set forth in Chapter 176 of the Texas Local Government Code, as amended.

12.4 Each party represents and warrants to the other that it has the full power and authority to enter into and fulfill the obligations of this Agreement. The respective signatories to this Agreement, by affixing their signatures hereto, warrant and represent that they have the authority to bind their respective parties as duly authorized representatives thereof.

12.5 The parties acknowledge and agree that, in executing and performing this Agreement, GTUA has not waived, nor shall be deemed to have waived, any defense or immunity, including governmental, sovereign and official immunity, that would otherwise be available to it or the City of Sherman against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein.

- 12.6 In the event that a term, condition or provision of this Agreement is determined to be invalid, illegal, void, unenforceable or unlawful by a court of competent jurisdiction, then that term, condition or provision shall be deleted and the remainder of the Agreement shall remain in full force and effect as if such invalid, illegal, void, unenforceable or unlawful provision had never been included in this Agreement.
- 12.7 If either party files any action or brings any proceeding against the other arising from this Agreement, then as between GTUA and CONTRACTOR, the prevailing party shall be entitled to recover as an element of its costs of suit, and not as damages, reasonable and necessary attorneys' fees and litigation expenses both at trial and on appeal, subject to the limitations set forth in TEX. LOC. GOV'T CODE § 271.153, as it exists or may be amended, if applicable.
- 12.8 The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Agreement, without regard to conflict of law principles. This Agreement is performable in Grayson County, Texas, and the exclusive venue for any action arising out of this Agreement shall be a court of appropriate jurisdiction in Grayson County, Texas.
- 12.9 Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit, or waive such party's right thereafter to enforce and compel strict compliance.
- 12.10 CONTRACTOR covenants and agrees that CONTRACTOR is an independent contractor and not an officer, agent, servant or employee of GTUA; that CONTRACTOR shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing the same; that the doctrine of respondent superior shall not apply as between GTUA and CONTRACTOR, its officers, agents, employees, contractors, subcontractors and consultants; and that nothing herein shall be construed as creating a partnership or joint enterprise between GTUA and CONTRACTOR.
- 12.11 GTUA and CONTRACTOR agree the City of Sherman is an intended third-party beneficiary of CONTRACTOR's obligations under the Contract Documents and shall be entitled to enforce such obligations as if it were a party hereto and may seek and obtain any and all available remedies against CONTRACTOR in the event CONTRACTOR breaches any term or provision of the Contract Documents, it being the intent of GTUA and CONTRACTOR to confer direct benefits on the City of Sherman under the Contract Documents. In addition, GTUA and CONTRACTOR agree that the City of Sherman is entitled to exercise all rights of GTUA under the Contract Documents.
- 12.12 This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this document.
- 12.13 This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. An electronic mail and/or facsimile signature will also be deemed to constitute an original if properly executed and delivered to the other party.

12.14 GTUA and CONTRACTOR each binds itself, its partners, successors, assign, and legal representatives to the other party hereto, its partners, successors, assign and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

Article 13. **OTHER PROVISIONS**

None.

IN WITNESS WHEREOF, GTUA and CONTRACTOR have signed this Agreement in multiple copies. One counterpart each has been delivered to GTUA, CONTRACTOR and ENGINEER. All portions of the Contract Documents have been signed or identified by GTUA and CONTRACTOR or by ENGINEER on their behalf. The date this Agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature below) will be deemed the effective date of this Agreement (the "Effective Date").

GTUA:

CONTRACTOR: Blackrock Construction

By: _____

By: _____

Date: _____

Date: _____

(Corporate Seal)

Attest: _____

Attest: _____

Address for giving notices:

Address for giving notices:



April 23rd, 2025

Mr. Tom Pruitt
City of Sherman, TX
Temporary City Hall, Office of City Engineering
317 South Travis Street
Sherman, TX 75090

RE: *City of Sherman – Progress Park Sewer Industrial Sewer Outfall*

Dear Mr. Pruitt:

On April 17th, 2025, the City of Sherman received bid proposals for the Progress Park Sewer Industrial Sewer Outfall project. The following bid proposals were received:

Bidder	Bid Price	Completion Time	Total Evaluation Score (Out of 100)
MH Civil Constructors	\$7,824,000.00	240	57
Hayes Construction	\$5,554,242.50	150	78
Canary Construction	\$6,541,884.00	330	58
Timco Services	\$6,885,614.75	220	64
Acadia Services	\$4,029,000.00	180	73
Blue Star Utilities	\$5,500,000.00	240	62
J&L Construction	\$4,760,721.20	180	75
Belt Construction	\$7,135,099.00	120	73
ANA Site Construction	\$5,437,903.00	150	82
Western Municipal	\$7,468,183.00	180	59
SYB Construction	\$4,578,064.50	180	80
Black Rock Construction	\$5,436,911.00	130	87
Wilson Contractor	\$4,988,011.08	270	68
Mountain Cascade	\$6,907,578.00	280	60

Kimley-Horn and Associates, Inc. has reviewed the bid proposers' qualifications and safety record and has also checked with multiple references provided. Based on these reviews, it appears that Blackrock Construction has submitted the bid proposal most advantageous to the City based on the evaluation criteria in the contract, and Kimley-Horn can find no reason to disqualify them from receiving a contract award.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

David Perkins, P.E.

Progress Park WW - Proposal Evaluation

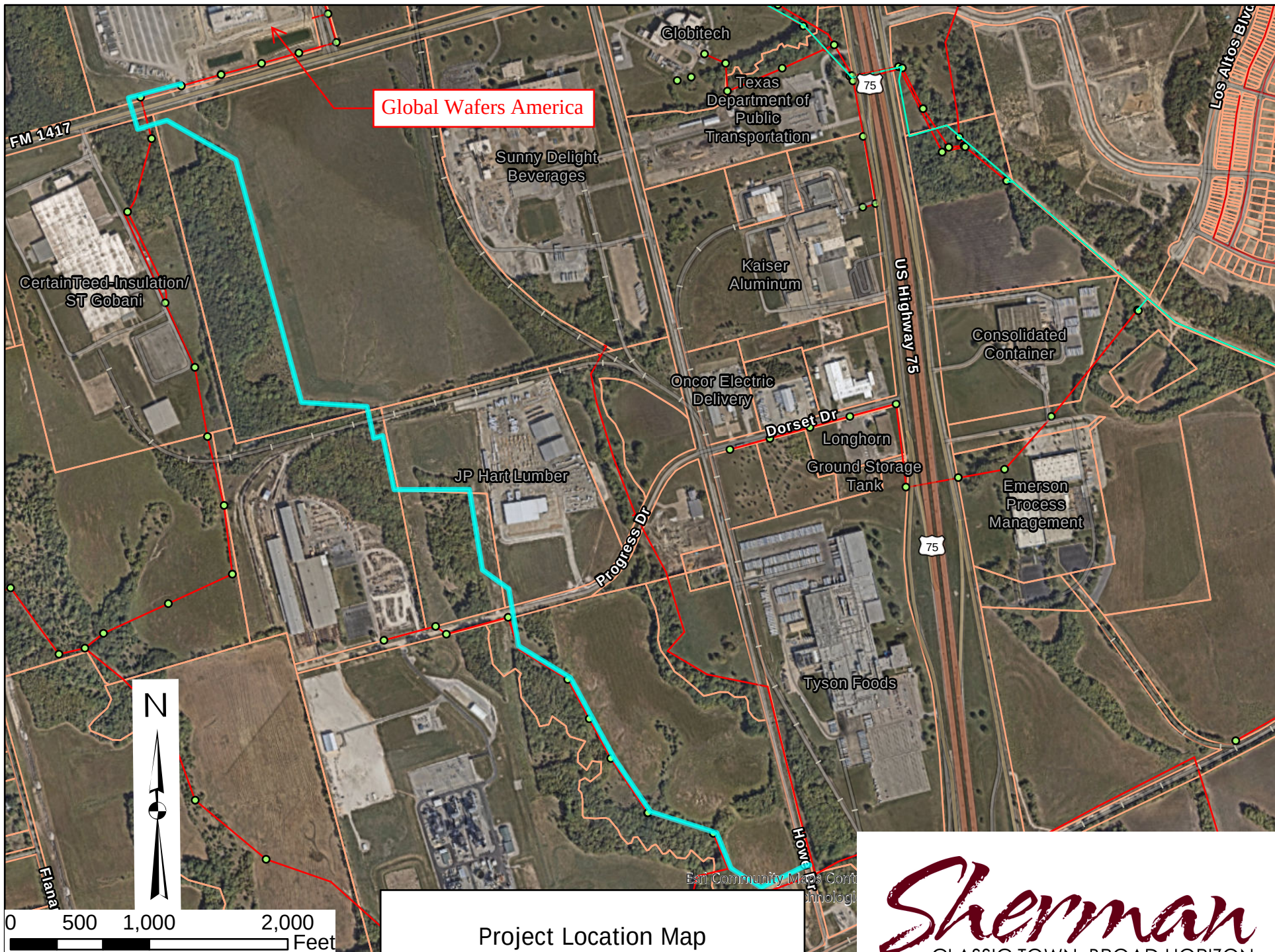
Bid Opening - April 17, 2025

Selection Criteria	Weighted Scores														Max Point Value
	MH Civil	Hayes	Canary	Timco	Acadia	Blue Star	J&L	Belt	ANA	Western Municipal	SYB	Black Rock	Wilson	Mountain Cascade	
Price Score	21	29	25	23	40	29	34	23	30	22	35	30	32	23	40
Contractor Qualifications Score															
City of Sherman	10	10	10	10	5	10	10	10	10	8	10	10	10	10	
Kimly-Horn Engineers	10	7	10	10	7	8	10	10	10	10	10	10	10	10	
GTUA	10	10	10	10	5	10	10	10	10	10	10	10	10	10	
Average Qualifications Score	10	9	10	10	6	9	10	10	10	9	10	10	10	10	10
Safety Record Questionnaire Score															
City of Sherman	7	10	10	10	1	1	1	0	10	1	10	10	10	10	
Kimly-Horn Engineers	5	7	7	7	0	3	3	0	10	3	7	10	7	10	
GTUA	7	8	8	8	0	7	8	0	10	1	8	10	8	8	
Average Safety Score	6	8	8	8	0	4	4	0	10	2	8	10	8	9	10
Construction Time Score	20	32	15	22	27	20	27	40	32	27	27	37	18	17	40
Total Weighted Score	57	78	58	64	73	62	75	73	82	59	80	87	68	60	100

Bid Evaluation Rank	13	4	12	8	6	9	5	6	2	11	3	1	7	10
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	Individual Prices and Construction Times														
	MH Civil	Hayes	Canary	Timco	Acadia	Blue Star	J&L	Belt	ANA	Western Municipal	SYB	Black Rock	Wilson	Mountain Cascade	
Price	\$7,824,000.00	\$5,554,242.50	\$6,541,884.00	\$6,885,614.75	\$4,029,000.00	\$5,500,000.00	\$4,760,721.20	\$7,135,099.00	\$5,437,903.00	\$7,468,183.00	\$4,578,064.50	\$5,436,911.00	\$4,988,011.08	\$6,907,578.00	
Construction Time	240	150	330	220	180	240	180	120	150	180	180	130	270	280	

indicates low price or time





City Council Regular Meeting

Agenda Item No. E.4.

Meeting Date: 5/5/2025

Prepared By: Kim Hobbs, Quality Services Administrative Assistant

Approved By: Zachary Flores, Acting City Manager

Caption:

*** RESOLUTION NO. 7524**

Authorizing the City of Sherman to Obtain General Issue License Plates for City Vehicle(s) for the Equipment Services Department

Issue:

Authorizing the City of Sherman to obtain general issue license plates for city vehicle(s). The positions designated to apply for the general issue license plates will be the Equipment Services Superintendent or the Equipment Services Shop Foreman.

Background:

A resolution is required for the City to obtain non-exempt license plates. The resolution must identify who is designated by the Council to obtain the general issue license plates. It is recommended the Equipment Services Superintendent or the Equipment Services Shop Foreman be designated for this task. These license plates will be issued to vehicles that are part of our fleet travel, which will be used by all departments.

Capital Improvement Program:

Origination:

Department of Public Works

Financial Consideration:

There is no fee associated with this application.

Staff Recommendation:

It is recommended that the Equipment Services Superintendent or the Equipment Services Shop Foreman be designated to apply for the general issue license plates for the City of Sherman.

Alternatives:

As may be recommended by the City Council

Attachments:

1. Resolution No. 7524
2. Application for General Issue Lic Plate for Exempt Veh

RESOLUTION NO. 7524

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE CITY OF SHERMAN TO OBTAIN GENERAL ISSUE LICENSE PLATES FOR CITY VEHICLE(S) FOR THE EQUIPMENT MAINTENANCE SERVICE DEPARTMENT; 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 Equipment Services Superintendent or City Equipment Services Shop Foreman is authorized and directed to obtain general issue license plates for city vehicle(s).

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

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS on this the 5th day of May 2025.

CITY OF SHERMAN, TEXAS

**BY: _____
SHAWN TEAMANN, MAYOR**

ATTEST:

**BY: _____
LINDA ASHBY, CITY CLERK**

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

**BY: _____
RYAN D. PITTMAN, CITY ATTORNEY**



Texas Department
of Motor Vehicles

Application for General Issue License Plates for Exempt Vehicle(s)

Instructions

Submit the completed application and any required attachments to your local county tax assessor-collector's office to obtain general issue license plates for vehicles exempt from the payment of registration fees. Each vehicle must be titled in the name of the entity. If applying for title, attach the *Application for Texas Title and/or Registration* (Form 130-U). If an application for title was recently submitted, attach a copy of the title application receipt (VTR-500 RTS). If the vehicle is leased, attach a copy of the lease agreement. Note: To obtain exempt license plates, do not use this application; complete the *Application for Standard Texas Exempt License Plates* (Form VTR-62-A). Contact your county tax assessor-collector if you have any questions.

Applicant Information

Name of Entity City of Sherman		Department/Office	
Address PO Box 1106	City Sherman	State Tx	ZIP 75091
Email		Phone Number	
Authorized Agent First Name	Middle Name	Last Name	Suffix

- ☐ **Municipality:** An original or certified copy of a city council resolution must be filed with this application to obtain general issue license plates for city vehicle(s). The name of the municipality, eligible department or office, and the name or position of the person designated to apply for license plates must be stated in the resolution.
- ☐ **County:** An original or certified copy of a commissioner's court order must be filed with this application to obtain general issue license plates for county vehicle(s). The name of the county eligible department or office, and the name or position of the person designated to apply for license plates must be stated in the court order.
- ☐ **Law enforcement:** I certify these vehicle(s) are dedicated to law enforcement activities as required by Transportation Code, §502.451(f)(1).
- ☐ **State agency:** I certify my agency is exempt under Transportation Code, §721.003 from the requirement of displaying identification or inscription on agency vehicles and in compliance with rules of the Office of the Secretary of State, including filing required paperwork.
- ☐ **Nonprofit food bank:** I certify as the owner of the vehicle that the vehicle has a gross vehicle weight of at least 25,000 lbs. and is used by a nonprofit food bank to deliver food.

Exempt Vehicle Information

	Year Model	Vehicle Make	Body Style	Vehicle Identification Number	Empty Weight (lbs.)	COUNTY USE ONLY Plate Issued
1						
2						
3						
4						

Certification – State law makes falsifying information a third degree felony.

- ☐ I certify the vehicle(s) listed do not carry any identification or inscription of the governmental entity and are exempt from the requirement by Transportation Code, §721.003 or §721.005, or the vehicle(s) are operated by law enforcement and dedicated to law enforcement activities.
- ☐ I certify as an officer of the nonprofit food bank that the vehicle will be used by a nonprofit food bank to deliver food.

Signature

Date



City Council Regular Meeting

Agenda Item No. E.5.

Meeting Date: 5/5/2025

Prepared By: Tom Pruitt, Utility Engineer

Approved By: Zachary Flores, Acting City Manager

Caption:

*** RESOLUTION NO. 7525**

Authorizing Execution of the First Amendment to the Professional Services Agreement with Plummer Associates, Inc. for Engineering Services for the Post Oak WWTP 12.5-KV Distribution System and Generator Design

Issue:

To consider an amendment to the contract for Professional Services with Plummer Associates, Inc. for engineering services for the design of the Post Oak WWTP 12.5-KV Distribution System and Generator Design

Background:

The Post Oak Wastewater Treatment Plant – Medium Voltage Loop Project was let for construction to install a medium voltage electrical system.

Current City inspectors will provide inspection in areas we commonly inspect on other CIP projects. Because of the technical nature of electrical systems, staff would like to procure engineering services to review submittals and provide inspections in areas of construction that are more technical in nature. The total cost of these supplemental inspection services is \$350,080.

The overall project is to replace and provide new electrical power and an emergency backup for the Post Oak Wastewater Treatment Plant.

Capital Improvement Program:

23-008

WWTP Electrical, Switchgear, ATS, Gen Construction

Origination:

Engineering Department

Financial Consideration:

The total funding needed for Amendment No. 1 is \$350,080.00 for a total contract value of \$1,331,199.00. This will be funded through the GTUA 2025 OM Bond funds.

Staff Recommendation:

It is recommended that the Council approves the engineering contract Amendment No. 1 to provide construction services for the Wastewater Treatment Plant 12.5-kV Distribution System (MV Loop Project).

Alternatives:

As may be directed by the City Council

Attachments:

1. Resolution No. 7525
2. Amendment No. 1
3. Res 6932-& contract
4. Location Map

RESOLUTION NO. 7525

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH PLUMMER ASSOCIATES, INC. FOR ENGINEERING SERVICES FOR THE POST OAK WWTP 12.5-KV DISTRIBUTION SYSTEM AND GENERATOR DESIGN; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form and content by the City Attorney, to execute a First Amendment to the Professional Services Agreement with Plummer Associates, Inc. for engineering services for the Post Oak WWTP 12.5-KV Distribution System and Generator Design, in accordance with all contract documents attached hereto and made a part hereof for all purposes.

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

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS on this the 5th day of May 2025.

CITY OF SHERMAN, TEXAS

ATTEST:

**BY: _____
LINDA ASHBY, CITY CLERK**

**BY: _____
SHAWN TEAMANN, MAYOR**

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

**BY: _____
RYAN D. PITTMAN, CITY ATTORNEY**

AMENDMENT NO. 1

TO THE PROFESSIONAL SERVICES AGREEMENT FOR ENGINEERING DESIGN SERVICES BETWEEN
THE CITY OF SHERMAN ("OWNER") AND PLUMMER ASSOCIATES, INC. ("CONSULTANT")
FOR THE POST OAK WWTP 12.5-KV DISTRIBUTION SYSTEM AND GENERATOR DESIGN PROJECT

Dated August 1, 2022 ("Original Agreement")

This Amendment No. 1 serves to increase the original contract fees under the Original Agreement (\$981,119) based on the following **changes** to the project scope as detailed in the attached Exhibit A1: "Amendment 1 - Scope of Services." The new total professional services shall now be \$ 1,331,199.

The contract amount under the Original Agreement shall be increased by a fee not to exceed \$ 350,080 as presented in the attached Exhibit B1: "Amendment No. 1 – Project Design Budget Summary."

I. Special Services (Time & Materials)

Scope Item		Fee	
A	Construction Manager and Resident Project Representative Services	\$	350,080
Total Special Services Amendment No. 1:		\$	350,080
TOTAL AMENDMENT NO. 1 NOT TO EXCEED		\$	350,080

This Amendment No. 1 shall be effective on the date it is executed by the last party to execute it. The OWNER and CONSULTANT hereby agree to amend the Proposed Fees section of this Original Agreement to read as follows:

Proposed Fees

Consultant shall be compensated on the following time and materials basis. Special and Additional Services shall be performed based on the rate schedule included in this Amendment.

I. Basic Services (Lump Sum)

Scope Item	Fee
A Design Phase Services	\$ 520,842
B Advertisement and Bid Phase Services	\$ 32,788
C Construction Phase Services	\$ 345,374
D Project Administration Services	\$ 82,115
Total Basic Services:	\$ 981,119

Special Services	Fee
Amendment 1 – CM and RPR Services	\$ 350,080
Total Special Services:	\$ 350,080

TOTAL NOT TO EXCEED (LUMP SUM)	\$ 1,331,199
---------------------------------------	---------------------

The parties hereby ratify and confirm all of the terms, provisions, covenants and conditions of the Original Agreement and acknowledge and agree that the Original Agreement remains in full force and effect, except as amended in this Amendment No. 1. To the extent that any provision contained herein conflicts with the Original Agreement, the provision contained herein shall supersede such conflicting provision contained in the Original Agreement and Amendment No. 1. This Amendment No. 1 and the Original Agreement contain the entire agreement of the parties with respect to the matters contained herein. This Amendment No. 1 may not be modified or terminated except upon the provisions hereof or by the mutual written agreement of the Parties hereto.

[Rest of page left intentionally blank]

EXECUTED in three (3) counterparts (each of which is an original) on behalf of CONSULTANT shown below, and on behalf of the OWNER by its City Manager (thereunto duly authorized) this _____ day of _____, 2025.

OWNER:
CITY OF SHERMAN, TEXAS

CONSULTANT:
PLUMMER ASSOCIATES, INC

Dr. Zachary Allen Flores, City Manager

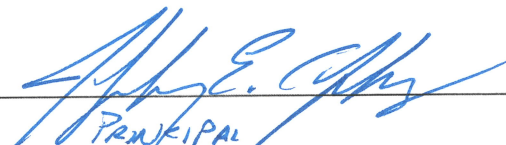


Alan E. Davis, P.E., Principal

ATTEST:

ATTEST:

Linda Ashby
City Clerk



PRINCIPAL

APPROVAL RECOMMENDED:



Wayne E. Lee, P.E., CFM / Director Engineering

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

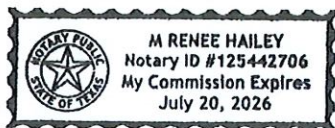
BY: _____
NAME: _____
CITY ATTORNEY

CORPORATE ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF Tarrant §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Alan E. Davis, P.E. of Plummer Associates, Inc. known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Plummer Associates, Inc., a corporation, that (s)he was duly authorized to perform the same by appropriate resolution of the board of directors of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 11th day of April, A.D. 2025.



M. Renee Hailey
Notary Public In and For Tarrant County, Texas

My Commission Expires:

July 20, 2026

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

PROJECT DESCRIPTION

The City has selected Plummer Associates, Inc. (Plummer) to provide engineering consulting services for design and construction administration associated with upgrading their aging electrical distribution system at the Post Oak Wastewater Treatment Plant (WWTP) with a system that will automatically switch between incoming Oncor services, has a standby generation capability, and can be expanded to serve future treatment expansions. The design includes a medium voltage distribution system with paralleling switchgear.

Amendment No.1 includes Construction Management and Resident Project Representation for eighteen (18) months of construction for the distribution and switchgear system.

I. ASSUMPTIONS

- A.** Ongoing coordination with the Lab Building Expansion project will be required to provide temporary power from the EQ Basin Blower Building until the distribution system construction is complete.
- B.** Construction activities are anticipated to continue through December 2026.

II. TASK SUMMARY, SPECIAL SERVICES

A. TASK I: RESIDENT PROJECT REPRESENTATIVE SERVICES

- a. General services:
 - i. Represent the City's interests in administering the construction contract with both overall construction oversight and daily on-site representation for the contractor's construction activity. The requested services include documentation and reporting to the City the issues and status relating to the contractor's work.
 - ii. Provide the staff necessary to perform the on-site representation as outlined below and for the Project. Construction Manager (CM) and Resident Project Representatives will provide these services for an anticipated period of 18 months. Services assumed to begin July 2025 and end in December 2026. Initial planning level assumption is for the following contract positions:
 - a. On-site representatives – Work in coordination with City's Project Manager, observe and document construction performance in accordance with the Contract Documents. Also provide comments and advice to the City on the contractor's performance with regard to industry standard practices. This scope includes one (1) part-time inspector, and one (1) part-

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

time construction manager across the following disciplines: civil, structural, electrical, and instrumentation and controls.

- b. Construction Materials Testing (CMT) – The CMT will not be subcontracted. The RPR will coordinate with the City Project Manager to provide quality assurance testing in accordance with the Contract Documents.
- iii. Cost Management:
 - a. Review proposed schedule of values and payment requests prepared by Contractor. CM will review pay requests monthly.
 - b. Coordinate with City and Contractor to establish a basis and procedure for review of monthly quantities of work in place and payment requests.
- iv. Schedule Management:
 - a. Review approved baseline schedules, “look-ahead” schedules, and monthly construction progress schedules prepared by the Contractor.
- v. Project Status Reports and Invoicing:
 - a. Provide written project status reports to the City once per month throughout the duration of the project. Project status reports will include, at a minimum, a summary description of activities completed, description of activities planned for the next 30 days, financial status of the project, status of schedule for the project, and identification of any technical or other issues which may have an impact on the overall project budget and/or schedule. Project status reports will be provided to the City with each invoice.
 - b. Submit invoices monthly along with the project status report referenced above.
- vi. Issues Management:
 - a. Provide initial interpretation of the drawings and specifications and coordinate with EOR to develop official interpretation for City and Contractor. Track and coordinate the resolution of all project related issues. An Issues Log will be saved to the Construction Management site.
- vii. Change Management:
 - a. Receive and evaluate notices of Contractor claims and make recommendations to the City on the merit and value of the claim on the basis of information submitted by the Contractor or available in project documentation.
- viii. Project Completion:
 - a. When Contractor requests that substantial completion be granted for the Project (or applicable portions thereof), the Construction Manager will conduct, in company with City's representative, a review of the Project for

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

conformance with the design concept of the Project and general compliance with the construction contract documents. Coordinate with EOR as appropriate regarding any reviews of the work that are deemed necessary. Support the EOR in the development of a list of deficiencies to be corrected by the Contractor before recommending Substantial Completion be granted and/or any partial release or reduction of retainage is made.

- b. Support the EOR in conducting a final review of the Project for conformance with the design concept of the Projects and general compliance with the construction contract documents.
- b. Construction Management Roles
 - i. Construction Manager / Assistant Construction Manager:
 - a. Primary responsibilities of CM include the following:
 - 1) Work with City staff when needed to coordinate construction activities that may impact the City's ongoing operations. Coordinate upcoming shut-downs at the plant and prepare a Shut-Down Request Form following the City's policies and procedures.
 - 2) Attend progress meetings and report on project progress.
 - 3) Review daily construction reports prepared by the Inspectors and discuss any issues noted with the Inspector and other parties as required.
 - 4) Monitor overall construction of the project and determine that construction is in conformance with Contract Documents. Recognize when an issue might impact or improve scheduling or construction operation on another known efforts and bring this to the attention of the City's Project Manager.
 - 5) Support administration and negotiations of claims with Contractor with support from the EOR.
 - 6) Verify that the inspectors have reviewed the quantities of work in place, review the payment requests and supporting documentation, and recommend the amount the Contractor be paid on monthly and final payment requests.
 - 7) Administer Construction Contracts: Prepare project documentation in accordance with the contract documents.
 - 8) Manage the receipt, logging, control, tracking, and timely processing of all Project documents.
 - 9) Schedule and conduct construction progress meetings with Contractor, City, EOR, and other staff.

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

- 10) Attend other on-site project related construction meetings, as needed.
 - 11) Review Shop Drawings received from the Contractor for conformance with the Contract Documents' submittal requirements and administrative completeness. Distribute shop drawings to the appropriate EOR staff and monitor the responsiveness of the EOR during the review process.
 - 12) Work directly with the EOR to see that documentation and submittals provided for review are returned with adequate and timely written review comments. Determine that design issues related to requests for information on construction documents, Shop Drawing reviews, and proposed contract modifications are adequately addressed.
 - 13) Consolidate written comments on Shop Drawings and other submittals by the EOR and return to the Contractor.
 - 14) Review Contractor Requests for Information. Distribute requests to inspectors, City PM, other appropriate staff, and EOR when applicable and coordinate timely response. Review answers and prepare formal response to Contractor pursuant to contract documents.
 - 15) Prepare notices of defective work. Coordinate the resolution of non-compliant work with the Contractor, and the City. Document and follow up on non-conforming work to determine that acceptable correction of defects is accomplished.
 - 16) Review schedules presented in accordance with the Contract Documents.
 - 17) Review and coordinate approval of a Schedule of Values. Conduct monthly schedule and progress payment meetings with the Contractor. Work with the Contractor to have pay requests ready for City processing in accordance with the Contract Documents. Determine that documentation required for measurement for payment of work is in place and that the materials on hand are accurate.
- ii. On-Site Representatives:
- a. Provide Electrical Instrumentation & Controls inspection services.
 - b. Primary responsibilities of On-Site Representatives include the following:
 - 1) Serve as point of contact for the Owner, with primary responsibility for construction quality assurance.
 - 2) Observe construction work daily to determine that construction is in conformance with Construction Contract Documents. In this effort the On-Site Representatives will endeavor to protect the City against defects and deficiencies in the work of contractor.

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

- 3) Prepare Daily Construction Reports (DCRs) documenting daily construction activities in Construction Management site, number of construction staff on site, equipment staged and/or operating on site, visitors to the site, discussions of any field issues with any parties, and any other information pertinent to or potentially impacting the Project.
 - 4) Assist the CITY staff when needed to coordinate construction activities that may impact the CITY's ongoing operations.
 - 5) Coordinate the efforts of CMT laboratories and technicians.
 - 6) Verify quantities of work in place and assist Owner in the review of the payment requests and supporting documentation.
 - 7) Attend periodic project coordination meetings (semi-monthly or monthly) when requested by the Owner to provide updates and inputs on construction progress and issues as appropriate.
 - 8) Attend other project related construction meetings as needed.
 - 9) Assist Owner in preparation of notices of defective work. Assist in coordinating the resolution of non-compliant work with the contractor. Document and follow up on non-conforming work to determine that acceptable correction of defects is accomplished.
 - 10) Maintain a working set of record documents. Determine that measurements required for record documents are taken before work is covered.
 - 11) Take photographs to document differing site conditions, change order and claim items, and any special or unique conditions as they arise.
- c. Limitations of Authority of Construction Management:
- i. The CM and On-Site Representatives will not authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items), unless authorized by City and EOR via Change Order, Field Order, or other written authorization for or-equal items.
 - ii. The CM and On-Site Representatives will not exceed the authority as set forth in Agreement or the Contract Documents.
 - iii. The CM and On-Site Representatives will not undertake any of the responsibilities of Contractor, Subcontractor, Suppliers, or Contractor's superintendent.
 - iv. On-site representative services do not relieve the Contractor of its contractual responsibility for construction quality.
 - v. The CM and On-Site Representatives will not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences, or procedures of construction unless such advice or directions are specifically required by the Contract Documents.

EXHIBIT A1
AMENDMENT NO. 1 - SCOPE OF SERVICES

- vi. The CM and On-Site Representatives will not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work or any activities or operations of City or Contractor.
- d. Schedule:
 - i. Refer to the following list for the On-Site Personnel.

Position	Budgeted Hours this Amendment*
Construction Manager (24hrs/wk)	624
On-Site Representative 1 (full time)	936
On-Site Representative 2 (8hrs/wk)	624

*Assumes a work schedule of 5 days per week, 8 hours per day, and 18 months of the construction period and does not include additional seasonal shift work during the summer.

- e. Deliverables:
 - i. Monthly invoices and Project Status Reports (submitted electrically by email and saved to Construction Management site).
 - ii. Daily Construction Reports, including photos, will be loaded into Construction Management site.
- f. Recurring Meetings:
 - i. Possible Bi-weekly construction progress meetings with City, CM, Contractor to discuss construction specific topics.
 - ii. Monthly project meetings with City, Contractor, EOR, and CM Team for the benefit of the City Staff to provide overview of progress of construction and to discuss any major project issues.

EXHIBIT B1
AMENDMENT NO. 1 - PROJECT BUDGET SUMMARY

I. Special Services (Time & Materials)

Scope Item		Fee	
I	Construction Management and Resident Project Representative Services (<u>18 months of construction</u>)	\$	350,080
Total Special Services Amendment No. 1:		\$	350,080
TOTAL AMENDMENT NO. 1 NOT TO EXCEED		\$	350,080

RESOLUTION NO. 6932

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH PLUMMER ASSOCIATES, INC. FOR ENGINEERING SERVICES FOR THE POST OAK WWTP 12.5-KV DISTRIBUTION SYSTEM AND GENERATOR DESIGN; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form and content by the City Attorney, to execute a Professional Services Agreement with Plummer Associates, Inc. for engineering services for the Post Oak WWTP 12.5-KV Distribution System and Generator Design, in accordance with all contract documents attached hereto and made a part hereof for all purposes.

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

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS on this the 1st day of August, 2022.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: Linda Ashby
LINDA ASHBY, CITY CLERK

BY: David Plyler
DAVID PLYLER, MAYOR

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

BY: Ryan D. Pittman
RYAN D. PITTMAN, CITY ATTORNEY

AGREEMENT
BETWEEN
THE CITY OF SHERMAN, TEXAS AND
PLUMMER ASSOCIATES, INC.
FOR
PROFESSIONAL SERVICES

Made as of the 1 day of August, 2022:

Between City: **The City of Sherman, Texas**
220 W. Mulberry Street
Sherman, Texas 75090
Telephone: (903) 892-7208

and Consultant: **Plummer Associates, Inc.**
1320 South University Dr. Suite 300
Fort Worth, TX 76182
Telephone: 817.806.1700

for the following Project: **Post Oak WWTP 12.5-KV Distribution System and Generator Design**

THIS AGREEMENT ("Agreement") is made and entered into by and between the City of Sherman, Texas, a home-rule municipality ("City"), and Plummer Associates, Inc., a Texas corporation ("Consultant"), to be effective from and after the date as provided above. City and Consultant are at times each referred to herein as a "party" or collectively as the "parties."

WHEREAS, City desires to engage Consultant to provide professional civil engineering services for the Wastewater Treatment and Water Reuse Master Plan Project ("Project"); and

WHEREAS, Consultant desires to render such professional services ("Services") for City on the terms and conditions provided herein.

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:

That for and in consideration of the covenants contained herein, for the mutual benefits to be obtained hereby and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 CONSULTANT'S SERVICES

- 1.1 **Employment of Consultant** – City hereby agrees to retain Consultant to perform the Services in connection with the Project. Consultant agrees to perform the Services in accordance with the terms and conditions of this Agreement. Consultant further agrees that if any employee of Consultant who is performing the day-to-day Services under this Agreement for the Project is separated, for any reason, from employment with Consultant, Consultant shall provide City with written notice thereof at least five (5) business days' prior to said separation unless circumstances reasonably warrant a shorter notice period, which shall not exceed two (2) business days following the separation.
- 1.2 **Scope of Services** – The parties agree that Consultant shall perform the Services as are set forth and described in **Exhibit A**, attached hereto and incorporated herein by reference for all purposes ("**Scope of Services**"). The parties understand and agree that deviations or modifications to the Scope of Services described in **Exhibit A**, in the form of written amendment to this Agreement, may be authorized from time to time by City ("**Amendment(s)**").
- 1.2.1 **Requirement of Written Amendment** – "Extra" work, "claims" invoiced as "extra" work or "claims" which have not been issued as a duly executed, written Amendment by the Sherman Director of Engineering or designee will not be authorized for payment and/or shall not become part of this Agreement. A duly executed, written Amendment requiring additional funding of \$50,000 or more of the original contract shall be preceded by the Sherman City Council's authorization for the Sherman City Manager to execute said Amendment.
- 1.2.2 **CONSULTANT SHALL NOT PERFORM ANY "EXTRA" WORK AND/OR ADDITIONAL SERVICES WITHOUT A DULY EXECUTED, WRITTEN AMENDMENT ISSUED BY THE CITY.**
- 1.3 **Schedule of Work** – Consultant agrees to commence work immediately on the execution of this Agreement, and to proceed diligently with said work to completion as described in the Project Engineering Budget Summary, attached hereto as **Exhibit B** and incorporated herein by reference for all purposes.
- 1.4 **Standard of Care** – Consultant shall perform the Services required hereunder in accordance with the prevailing engineering standard of care by exercising the skill and care ordinarily utilized by engineers performing the same or similar services under the same or similar circumstances in the State of Texas.

ARTICLE 2 CITY'S RESPONSIBILITIES

City shall do the following in a timely manner so as not to delay the Services of Consultant:

- 2.1 **Project Data** – City shall furnish required information that is reasonably requested by Consultant and that City has in its possession at the time of Consultant's request, as expeditiously as necessary for the orderly progress of the Project, and Consultant shall be entitled to rely upon the accuracy and completeness of the information furnished by City under this Article 2.1.
- 2.2 **City Project Manager** – When necessary in City's sole discretion, City shall designate a representative authorized to act on City's behalf with respect to the Project ("Project Manager"). City, the Project Manager and/or his or her authorized designee shall examine the documents submitted by Consultant and shall render any required decisions pertaining thereto as soon as practicable to avoid unreasonable delay in the progress of Consultant's Services.

ARTICLE 3 CONSULTANT'S COMPENSATION

- 3.1 **Compensation for Consultant's Services** – As described in "Article 1, Consultant's Services" of this Agreement, compensation for this Project shall be: (a) for Basic Services, in an amount not to exceed **WRITTEN DOLLAR AMOUNT (\$981,119.00)** ("Consultant's Fee"); and (b) paid in accordance with this Article 3 and the Project Design Budget Summary as set forth in Exhibit B.
- 3.1.1 **Completion of Record Documents** – City and Consultant agree that the completion of Record Documents and/or "As-Built" Documents, including hard copy formatting and electronic formatting, shall be completed, submitted to, and accepted by City prior to payment. Completion of the Record Documents and/or "As-Built" documents shall be included in the Consultant's Fee and considered to be within the Scope of Services defined under this Agreement." The electronic formatting shall be consistent with the standards established in Exhibit C, Guidelines for Computer Aided Design and Drafting ("CADD"), which is attached hereto and incorporated herein by reference for all purposes.
- 3.1.2 **Disputes between City and Construction Contractor** – If the Project involves Consultant performing Construction Administration Services relating to an agreement between a Construction Contractor ("Contractor") and City, and on receipt of a written request by City, Consultant shall research previous and existing conditions of the Project, and make a determination whether or not to certify that sufficient cause exists for City to declare Contractor in default of the terms and conditions of the Agreement. Consultant shall submit his findings in writing to City, or submit a written request for a specific extension of time (including the basis for such

extension), within fifteen (15) calendar days of receipt of the written request from City. City and Consultant agree that if requested by City, completion of this task shall be included in the Consultant's Fee and considered to be within the Scope of Services as defined under this Agreement.

3.1.3 **Consultation and Approval by Governmental Authorities and Franchised Utilities** – Consultant shall be solely responsible for identifying and analyzing the requirements of governmental agencies and all franchise utilities involved with the Project, and for consulting with such agencies and utilities to assist the City in obtaining all applicable necessary approvals and/or permissions. Consultant shall be responsible for preparation and timely submittal of documents required for review, approval and/or recording by such agencies and/or utilities. Consultant shall be solely responsible for making such changes in the construction documents ("Construction Documents") as may be required by existing written standards promulgated by such agencies and/or utilities at no additional charge to City. City shall be responsible for permitting and approval fees.

3.2 **Direct Expenses** – Direct Expenses ("Direct Expenses") are included in Consultant's Fee as described in Article 3.1 of this Agreement and include actual reasonable and necessary expenditures made by Consultant and Consultant's employees and subcontractors in the interest of the Project. All submitted Direct Expenses are to be within the amounts as stated in the Project Engineering Budget Summary set forth in **Exhibit B**, and consistent with **Exhibit D**, Guidelines for Direct Expenses; General and Administrative Markup; Travel and Subsistence Expenses, which is attached hereto and incorporated herein by reference for all purposes. Consultant shall be solely responsible for the auditing and accuracy of all Direct Expenses, including those of its subcontractors, prior to submitting to City for reimbursement. Any over-payment by City for errors in submittals for reimbursement may be deducted from Consultant's subsequent payment for Services; provided, however, that this shall not be City's sole and exclusive remedy for said over-payment.

3.3 **Additional Services** – Consultant shall provide the Services as described in the Scope of Services set forth in **Exhibit A** of this Agreement. If authorized in writing by City, Consultant shall provide additional services, to be compensated as provided in an Amendment to the Contract on a cost not to exceed sum or hourly basis in accordance with this paragraph ("Additional Services") and a mutually agreed estimate of man-hours and expenses. These services may include, but are not limited to:

3.3.1 Additional meetings, hearings, work-sessions or other similar presentations which are not provided for or contemplated in the Scope of Services described in **Exhibit A**.

3.3.2 Additional drafts and revisions to the Project which are not provided for or

contemplated in the Scope of Services as described in **Exhibit A**.

- 333 Additional copies of final reports and construction plans which are not provided for or contemplated in the Scope of Services as described in **Exhibit A**.
- 334 Photography, professional massing models which are not provided for or contemplated in the Scope of Services as described in **Exhibit A**.
- 335 Compensation for Additional Services authorized by City shall be in addition to Consultant's Fee and shall be based on direct billable labor rates and expenses.
- 336 Compensation for Additional Services authorized by City shall be in addition to Consultant's Fee and shall be based on an hourly basis according to the following personnel rates. The rates set forth in this chart are subject to reasonable change provided prior written notice of said change is given to and approved by City.

Hourly Billable Rates by Position

Staff Description	Range of Billing Rates
Admin Staff	\$ 85.00 - \$ 105.00
Senior Admin Staff	\$ 90.00 - \$ 130.00
Designer/Technician	\$ 75.00 - \$ 115.00
Designer/Technician III	\$ 100.00 - \$ 130.00
Senior Designer/Technician	\$ 125.00 - \$ 160.00
Engineer/Scientist Intern	\$ 50.00 - \$ 95.00
Engineer-in-Training/Scientist-in-Training	\$ 95.00 - \$ 130.00
Engineer-in-Training/Scientist-in-Training	\$ 115.00 - \$ 145.00
Project Engineer/Scientist	\$ 120.00 - \$ 155.00
Senior Project Engineer/Scientist	\$ 135.00 - \$ 195.00
Project Manager	\$ 180.00 - \$ 250.00
Senior Project Manager	\$ 225.00 - \$ 295.00
Principal I	\$ 250.00 - \$ 330.00
Principal II	\$ 290.00 - \$ 400.00
Electrical Engineer in Training I	\$ 85.00 - \$ 110.00
Electrical Engineer in Training II	\$ 100.00 - \$ 115.00
Electrical Engineer in Training III	\$ 120.00 - \$ 150.00
Electrical Specialist	\$ 130.00 - \$ 165.00
Programmer	\$ 135.00 - \$ 170.00

Programmer II	\$ 140.00 - \$ 175.00
Senior Electrical Engineer	\$ 260.00 - \$ 295.00

- 3.4 **Invoices** – No payment to Consultant shall be made until Consultant tenders an invoice to City. Consultant shall submit monthly invoices for Services rendered, based upon the actual percentage of work complete at the time the invoice is prepared, or shall submit invoices to City immediately upon completion of each individual task listed in **Exhibit B**. On all submitted invoices for Services rendered, Consultant shall include appropriate background materials to support the submitted charges on said invoice. Upon request, such background material may include, but is not limited to, employee timesheets, invoices for work obtained from other parties, and receipts and/or log information relating to Direct Expenses. All invoices shall provide a summary methodology for administrative markup and/or overhead charges.
- 3.5 **Timing of Payment** – City shall make payment to Consultant for said invoices within thirty (30) days following receipt and acceptance thereof. The parties agree that payment by City to Consultant is considered to be complete upon mailing of payment by City. Furthermore, the parties agree that the payment is considered to be mailed on the date that the payment is postmarked.
- 3.6 **Disputed Payment Procedures** – In the event of a disputed or contested billing by City, only that portion so contested may be withheld from payment, and the undisputed portion will be paid. City shall notify Consultant of a disputed invoice, or portion of an invoice, in writing by the twenty-first (21st) calendar day after the date City receives the invoice. City shall provide Consultant an opportunity to cure the basis of the dispute. If a dispute is resolved in favor of Consultant, City shall proceed to process said invoice, or the disputed portion of the invoice, within the provisions of **Article 3.5** of this Agreement. If a dispute is resolved in favor of City, Consultant shall submit to City a corrected invoice, reflecting any and all payment(s) of the undisputed amounts, documenting the credited amounts, and identifying outstanding amounts on said invoice to aid City in processing payment for the remaining balance. Such revised invoice shall have a new invoice number, clearly referencing the previous submitted invoice. City agrees to exercise reasonableness in contesting any billing or portion thereof that has background materials supporting the submitted charges.
- 3.7 **Failure to Pay** – Failure of City to pay an invoice, for a reason other than on written notification as stated in the provisions of **Article 3.6** of this Agreement, to Consultant within sixty (60) days from the date of the invoice shall grant Consultant the right, in addition to any and all other rights provided, to, upon written notice to City, suspend performance under this Agreement, and such act or acts shall not be deemed a breach of this Agreement. However, Consultant shall not suspend performance under this Agreement prior to the tenth (10th) calendar day after written notice of suspension was provided to City, in accordance with Chapter 2251, Subchapter "D" of the TEX. GOV'T CODE. City shall not be required to pay any

invoice submitted by Consultant if Consultant breached any provision(s) herein.

- 3.8 **Adjusted Compensation** – If the Scope of the Project ("Scope of the Project") or if the Services are materially changed due to no error by Consultant in the performance of Services under this Agreement, the amounts of Consultant's compensation shall be equitably adjusted as approved by City in its sole discretion. Any additional amounts paid to Consultant as a result of any material change to the Scope of the Project shall be authorized by written Change Order duly executed by both parties before the Services are performed.
- 3.9 **Project Suspension** – If the Project is suspended or abandoned in whole or in part for more than three (3) months, Consultant shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to suspension or abandonment. In the event of such suspension or abandonment, Consultant shall deliver to City all finished or unfinished documents, data, studies, drawings, maps, models, reports, photographs and/or any other items prepared by Consultant in connection with this Agreement prior to Consultant receiving final payment. If the Project is resumed after being suspended for more than three (3) months, Consultant's compensation shall be equitably adjusted as approved by City. Any additional amounts paid to Consultant after the Project is resumed shall be agreed upon in writing by both parties before the services are performed.

ARTICLE 4 OWNERSHIP OF DOCUMENTS

- 4.1 **Documents Property of City** – The Project is the property of City, and Consultant may not use the documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs and/or any materials for any other purpose not relating to the Project without City's prior written consent. City shall be furnished with such reproductions of the Project, plans, data, documents, maps, and any other information as defined in **Exhibit A**. Upon completion of the work, or any earlier termination of this Agreement under Article 3 and/or Article 8 of this Agreement, Consultant will revise plans, data, documents, maps, and any other information as defined in **Exhibit A** to reflect changes while working on the Project through the date of completion of the work, as solely determined by City, or the effective date of any earlier termination of this Agreement under Article 3 and/or Article 8 of this Agreement, and promptly furnish the same to City in an acceptable electronic format. All such reproductions shall be the property of City who may use them without Consultant's permission for any purpose relating to the Project, including, but not limited to, completion of the Project, and/or additions, alterations, modifications, and/or revisions to the Project. Any reuse of the documents not relating to the Project shall be at City's own risk.
- 4.2 **Documents Subject to Laws Regarding Public Disclosure** – Consultant acknowledges that City is a governmental entity and that all documents, plans,

data, studies, surveys, drawings, maps, models, reports, photographs and/or any items prepared or furnished by Consultant (and Consultant's professional associates and/or sub-consultants) under this Agreement are instruments of service in respect of the Project and property of City. Upon completion of the Project, all of the documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs and/or any items prepared or furnished by Consultant (and Consultant's professional associates and/or sub-consultants) shall thereafter be subject to the Texas Public Information Act (Chapter 552, TEX. GOV'T CODE, as amended) and any other applicable laws requiring public disclosure of the information contained in said documents.

ARTICLE 5

CONSULTANT'S INSURANCE REQUIREMENTS

- 5.1 **Required General Liability Insurance** – Consistent with the terms and provisions of **Exhibit E**, Contractor Insurance Guidelines, which is attached hereto and incorporated herein by reference for all purposes, Consultant shall procure and maintain throughout the term of this Agreement, at no expense to City, a general liability insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s), and is authorized to transact business in the State of Texas, in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) for each occurrence, and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. Such policy shall name City, its officers, agents, representatives, and employees as additional insureds as to all applicable coverage. Such policy shall provide for a waiver of subrogation against City for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to City at least thirty (30) days prior to cancellation or non-renewal of any policies, evidenced by return receipt or United States Certified Mail. Consultant shall furnish City with certificates and required endorsement(s) evidencing such coverage prior to commencing work on the Project.
- 5.2 **Required Professional Liability Insurance** – Consistent with the terms and provisions of **Exhibit E**, Consultant shall procure and maintain throughout the term of this Agreement, at no expense to City, a professional liability (errors and omissions) insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s), and is authorized to transact business in the State of Texas, in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) for each claim, and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. Such policy shall require the provision of written notice to City at least thirty (30) days prior to cancellation or non-renewal of any policies, evidenced by return receipt or United States Certified Mail. Consultant shall furnish City with certificates and required endorsement(s) evidencing such coverage prior to commencing work on the Project.

- 5.3 **Required Workers Compensation Insurance** – Consistent with the terms and provisions of **Exhibit E**, Consultant shall procure and maintain throughout the term of this Agreement, at no expense to City, all Statutory Workers Compensation Insurance as required by the laws of the State of Texas. Such insurance policy shall be with a company that maintains a minimum rating of “A” by A.M. Best’s Key Rating Guide, or other equivalent service(s), and is authorized to transact business in the State of Texas. Such policy shall require the provision of written notice to City at least thirty (30) days prior to cancellation or non-renewal of any policies, evidenced by return receipt or United States Certified Mail. Consultant shall furnish City with certificates and required endorsement(s) evidencing such coverage prior to commencing work on the Project.
- 5.4 **Circumstances Requiring Umbrella Coverage or Excess Liability Coverage** – If the Project’s size and scope warrant, and if identified on the checklist located in **Exhibit E**, Consultant shall procure and maintain throughout the term of this Agreement, at no expense to City, an umbrella coverage or excess liability coverage insurance policy with a company that maintains a minimum rating of “A” by A.M. Best’s Key Rating Guide, or other equivalent rating service(s), and is authorized to transact business in the State of Texas, in an amount of Two Million and 00/100 Dollars (\$2,000,000.00). Such policy shall require the provision of written notice to City at least thirty (30) days prior to cancellation or non-renewal, of any policies, evidenced by return receipt or United States Certified Mail. Consultant shall furnish City with certificates and required endorsement(s) evidencing such coverage prior to commencing work on the Project.

ARTICLE 6 CONSULTANT’S ACCOUNTING RECORDS

Records of Direct Expenses and expenses pertaining to services performed in conjunction with the Project shall be kept on the basis of generally accepted accounting principles. Invoices will be sent to City as indicated in Article 3.4 of this Agreement. Copies of employee time sheets, receipts for direct expense items and other records of Project expenses will be made available if requested.

ARTICLE 7 AUDITS AND RECORDS/VENDOR DISCLOSURE

Consultant agrees that at any time during normal business hours and as often as City may deem necessary, Consultant shall make available to representatives of City for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of City to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, and for a period of four (4) years from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

Consultant agrees that it is further aware of the vendor disclosure requirements set forth in Chapter 176, TEX. LOC. GOV'T CODE, as amended, and will abide by the same. In this connection, a lawful representative of Consultant shall execute and deliver to City the Conflict of Interest Questionnaire, Form CIQ, attached hereto as Exhibit F and incorporated herein for all purposes, no later than the Effective Date of this Agreement.

ARTICLE 8 TERMINATION OF AGREEMENT/REMEDIES

City may, upon thirty (30) days written notice to Consultant, terminate this Agreement, for any reason or no reason at all, before the termination date hereof, without prejudice to any other remedy it may have. If City terminates this Agreement due to a default of and/or breach by Consultant and the expense of finishing the Project exceeds Consultant's Fee at the time of termination, Consultant waives its right to any portion of Consultant's Fee as set forth in Article 3 of this Agreement and agrees to pay any costs over and above the fee which City is required to pay in order to finish the Project. On any default and/or breach by Consultant, City may elect not to terminate the Agreement, and in such event it may make good the deficiency in which the default consists, and deduct the costs from Consultant's Fee due Consultant as set forth in Article 3 of this Agreement. If City terminates this Agreement and Consultant is not in default of the Agreement, Consultant shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to termination.

In the event of any termination, Consultant shall deliver to City all finished and/or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs and/or any items prepared by Consultant in connection with this Agreement prior to Consultant receiving final payment.

The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its rights to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

ARTICLE 9 DISPUTE RESOLUTION/MEDIATION

In addition to all remedies at law, the parties may agree to attempt to resolve any controversy, claim or dispute arising out of or relating to the interpretation or performance of this Agreement, or breach thereof, by voluntary mediation to be conducted by a mutually acceptable mediator. However, if both parties do not agree to voluntarily mediate any such controversy, claim or dispute, mediation shall not be required.

ARTICLE 10 INDEMNITY

CONSULTANT SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ITS CITY COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES (COLLECTIVELY REFERRED TO AS "CITY") FOR PURPOSES OF THIS ARTICLE 10) FROM AND AGAINST ALL DAMAGES, INJURIES (WHETHER IN CONTRACT OR IN TORT, INCLUDING PERSONAL INJURY AND DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS (REGARDLESS OF WHETHER THE ALLEGATIONS ARE FALSE, FRAUDULENT OR GROUNDLESS), SUITS, ACTIONS, JUDGMENTS, LIENS, COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEY'S FEES AND EXPENSES INCURRED IN ENFORCING THIS ARTICLE 10), THAT IN WHOLE OR IN PART ARISE OUT OF OR ARE CONNECTED WITH, OR THAT ARE ALLEGED TO HAVE ARISEN OUT OF OR CONNECTED WITH, GOODS AND/OR SERVICES PROVIDED BY CONSULTANT, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FOR WHOM CONSULTANT IS LEGALLY RESPONSIBLE (COLLECTIVELY REFERRED TO AS "CONSULTANT" FOR PURPOSES OF THIS ARTICLE 10) PURSUANT TO THIS AGREEMENT AND/OR THE NEGLIGENT, GROSSLY NEGLIGENT AND/OR INTENTIONAL WRONGFUL ACT AND/OR OMISSION OF CONSULTANT IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OR STRICT LIABILITY OF THE CITY (COLLECTIVELY, "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT IS NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST CITY BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CONSULTANT AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH THE CONSULTANT, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR

ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE. CONSULTANT IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS; PROVIDED, HOWEVER, THAT IF A COURT OF COMPETENT JURISDICTION SIGNS A JUDGMENT THAT BECOMES FINAL AND NON-APPEALABLE, DETERMINING THAT THE CITY (WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY) HAS JOINT, CONCURRENT OR SOLE NEGLIGENCE FOR THE CLAIMS IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS ("JUDGMENT"), THEN CONSULTANT IS NOT REQUIRED TO INDEMNIFY OR DEFEND CITY TO THE EXTENT OF THE NEGLIGENCE APPORTIONED TO CITY FOR EACH CAUSE(S) OF ACTION IDENTIFIED IN THE JUDGMENT. IN THE EVENT THE JUDGMENT PROVIDES THAT CITY IS JOINTLY, CONCURRENTLY OR SOLELY NEGLIGENT FOR THE CLAIMS REFERRED TO THEREIN, CITY AGREES TO REIMBURSE CONSULTANT FOR ALL REASONABLE AND NECESSARY COSTS INCURRED AND PAID BY CONSULTANT THAT ARE ATTRIBUTABLE TO CITY'S PERCENTAGE OF JOINT, CONCURRENT OR SOLE NEGLIGENCE, AS SET FORTH IN THE JUDGMENT, INCLUDING REASONABLE AND NECESSARY ATTORNEY'S FEES AND EXPENSES, WITHIN SIXTY (60) DAYS OF THE DATE THE JUDGMENT BECOMES FINAL AND NON-APPEALABLE. IF THIS AGREEMENT IS A CONTRACT FOR ENGINEERING OR ARCHITECTURAL SERVICES, THEN CONSULTANT'S INDEMNITY AND DEFENSE OBLIGATIONS UNDER THIS ARTICLE 10 ARE LIMITED BY, AND TO BE READ AS COMPLYING WITH, SECTION 271.904 OF THE TEXAS LOCAL GOVERNMENT CODE.

IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY CONSULTANT IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY CITY, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF CONSULTANT'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF CONSULTANT'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. CONSULTANT SHALL RETAIN CITY-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO DEFENSE OR INDEMNIFICATION UNDER THIS AGREEMENT. IF CONSULTANT FAILS TO RETAIN

COUNSEL WITHIN SUCH TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND CONSULTANT SHALL BE LIABLE FOR ALL COSTS INCURRED BY CITY. THE RIGHTS AND OBLIGATIONS CREATED BY THIS ARTICLE SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

ARTICLE 11 NOTICES

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing the same in the United States Mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt requested; by facsimile; by electronic mail, with documentation evidencing the addressee's receipt thereof; or by delivering the same in person to such party via hand-delivery service, or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notification, the addresses of the parties shall be as follows:

If to City, addressed to:

Wayne E. Lee, P.E., CFM
Director of Engineering
City of Sherman
220 W Mulberry St.
Sherman, TX 75091
Telephone: (903) 892-7327
Email: waynel@cityofsherman.com

With a copy to:

Abernathy, Roeder, Boyd & Hullett, P.C.
Attention: Ryan D. Pittman
1700 Redbud Blvd., Suite 300
McKinney, Texas 75069
Telephone: (214) 544-4000
Facsimile: (214) 544-4054
Email: rpittman@abernathy-law.com

If to Consultant, addressed to:

Alan E. Davis
Principal
Plummer Associates, Inc
1320 South University Dr.
Fort Worth, TX 76182
Telephone: 817.806.1700
Email: adavis@plummer.com

ARTICLE 12 MISCELLANEOUS

12.1 **Complete Agreement** – This Agreement, including the exhibits hereto labeled “A” through “F,” all of which are incorporated herein for all purposes, constitute the entire Agreement by and between the parties regarding the subject matter hereof and supersedes all prior and/or contemporaneous written and/or oral understandings. This Agreement may not be amended, supplemented, and/or modified except by written agreement duly executed by both parties. The following exhibits are attached below and made a part of this Agreement:

12.1.1 **Exhibit A**, Scope of Services.

12.1.2 **Exhibit B**, Project Engineering Budget Summary.

12.1.3 **Exhibit C**, Guidelines for Computer Aided Design and Drafting (CADD).

12.1.4 **Exhibit D**, Guidelines for Direct Expenses; General and Administrative Markup; Travel and Subsistence Expenses.

12.1.5 **Exhibit E**, Contractor Insurance Guidelines.

12.1.6 **Exhibit F**, Conflict of Interest Questionnaire, Form CIQ.

To the extent that **Exhibit A**, **Exhibit B**, **Exhibit C**, **Exhibit D**, **Exhibit E**, or **Exhibit F** are in conflict with provisions of this Agreement or each other, the provisions of this Agreement, then the provisions of **Exhibit C**, **Exhibit D**, **Exhibit E**, **Exhibit F**, **Exhibit B** or **Exhibit A** shall prevail in that order.

12.2 **Assignment and Subletting** – Consultant agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of City. Consultant further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve Consultant of its full obligations to City as provided by this Agreement. All such approved work performed by assignment or subletting shall be billed through Consultant, and there shall be no third party billing.

12.3 **Attorney’s Fees** – If either party files any action or brings any proceeding against the other arising from this Agreement, then as between City and Consultant, the prevailing party shall be entitled to recover as an element of its costs of suit, and not as damages, reasonable and necessary attorneys’ fees and litigation expenses both at trial and on appeal, subject to the limitations set forth in TEX. LOC. GOV’T CODE § 271.153, as it exists or may be amended, if applicable.

12.4 **Successors and Assigns** – City and Consultant, and their respective partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives and administrators are hereby bound to the terms and conditions

of this Agreement.

- 12.5 **Savings/Severability** – In the event of a term, condition, or provision of this Agreement is determined to be invalid, illegal, void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision, shall be deleted and the remainder of the Agreement shall remain in full force and effect as if such invalid, illegal, void, unenforceable or unlawful provision had never been contained in this Agreement.
- 12.6 **Governing Law/Venue** – This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to conflict of law principles. The exclusive venue for any action arising out of this Agreement shall be a court of appropriate jurisdiction in Grayson County, Texas.
- 12.7 **Execution/Consideration** – This Agreement is executed by the parties hereto without coercion or duress for any substantial consideration, the sufficiency of which is forever confessed.
- 12.8 **Authority** – The individuals executing this Agreement on behalf of the respective parties below represent to each other that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the other party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.
- 12.9 **Waiver** – Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit, or waive such party's right thereafter to enforce and compel strict compliance.
- 12.10 **Headings** – The headings of the various sections of this Agreement are included solely for convenience of reference and are not to be full or accurate descriptions of the content thereof.
- 12.11 **Multiple Counterparts** – This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. An electronic mail and/or facsimile signature will also be deemed to constitute an original if properly executed and delivered to the other party.
- 12.12 **Immunity** – It is expressly understood and agreed that, in the execution and performance of this Agreement, City has not waived, nor shall be deemed to have waived, any immunity, governmental, sovereign and/or official, or defense that is

available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth in this Agreement.

- 12.13 **Incorporation of Recitals** – The representations, covenants and recitations set forth in the foregoing recitals of this Agreement are true and correct and are incorporated into the body of this Agreement and adopted as findings of City and the authorized representative of Consultant.
- 12.14 **Additional Representations** – Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had the opportunity to confer with its counsel.
- 12.15 **Miscellaneous Drafting Provisions** – This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply.
- 12.16 **No Third Party Beneficiaries** – Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third party beneficiaries by entering into this Agreement.
- 12.17 **Indemnity** – The parties agree that the Indemnity provision set forth in Article 10 of this Agreement is conspicuous and the parties have read and understood the same.
- 12.18 **Representations** – All representations and covenants made by one party to the other in this Agreement or in any certificate or other instrument delivered by one party to the other under this Agreement shall be considered to have been relied upon by the other party and will survive the satisfaction of any fees under this Agreement, regardless of any investigation made by either party.
- 12.19 **Independent Contractor** – In performing this Agreement, Consultant shall act as an independent contractor with respect to City. In no event shall this Agreement be construed as establishing a partnership, joint venture or similar relationship between the parties and nothing herein shall authorize either party to act as agent for the other. Consultant shall be liable for its own debts, obligations, acts and omissions, including the payment of all required withholding, social security and other taxes and benefits with respect to all of Consultant's officers, directors, partners, employees and representatives, who shall not be considered City employees and shall not be eligible for any employee benefit plan offered by City.
- 12.20 **Debarment/Suspension** – City is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise

excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. City, Consultant and Consultant's subcontractors shall comply with federal and state regulations regarding debarment and suspension. Consultant shall include a statement of compliance with federal and state debarment and suspension regulations in all third-party agreements for work on the Project.

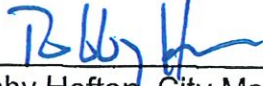
- 1221 **Restrictions on Lobbying** – City and Consultant are prohibited from using funds awarded under the Agreement for lobbying purposes. Consultant shall include a statement of compliance with this provision in applicable procurement solicitations and third-Party agreements for work on the Project.
- 1222 **Appropriation of Funds** – Funds are not presently budgeted for City's performance under this Agreement beyond the end of City's 2021-2022 fiscal year. City will give Consultant sixty (60) days' notice if funds for City's performance are not budgeted to continue beyond that time. City shall have no liability for payment of any money for services performed after the end of City's 2021-2022 fiscal year unless and until such funds are budgeted.
- 1223 **Reference to Consultant** – When referring to "Consultant," this Agreement shall refer to and be binding upon Consultant, and its officers, directors, partners, employees, representatives, contractors, subcontractors, licensees, invitees, agents, successors, assignees (as authorized herein), vendors, grantees, trustees, legal representatives and/or any other third parties for whom Consultant is legally responsible.
- 1224 **Reference to City** – When referring to "City," this Agreement shall refer to and be binding upon City, its Council members, officers, agents, representatives, employees and/or any other authorized third parties for whom City is legally responsible.

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the date set forth in the introductory clause of this Agreement.

CITY:

City of Sherman, Texas,
a Texas home-rule municipality

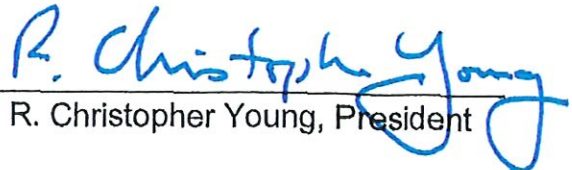
By: _____


Robby Hefton, City Manager

CONSULTANT:

Plummer Associates, Inc.
a Texas corporation

By: _____


R. Christopher Young, President

APPROVED AS TO FORM:


Abernathy, Roeder, Boyd & Hullett, P.C.
Ryan D. Pittman, City Attorneys

STATE OF TEXAS §
 §
COUNTY OF Tarrant §

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED **R. CHRISTOPHER YOUNG**, KNOWN TO ME TO BE ONE OF THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT; HE ACKNOWLEDGED TO ME THAT HE IS THE PRESIDENT AND DULY AUTHORIZED REPRESENTATIVE FOR **PLUMMER ASSOCIATES, INC.**, AND THAT HE EXECUTED SAID INSTRUMENT FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 18 DAY
OF July 2022.

Cylena Eason
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS
My commission expires: July 5, 2025

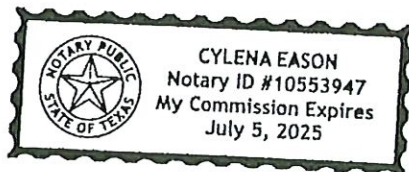


EXHIBIT A SCOPE OF SERVICES

Background

City of Sherman (City) desires to upgrade their aging electrical distribution system at the Post Oak Wastewater treatment Plant (WWTP), with a system that will automatically switch between incoming Oncor services, has a standby generation capability, and can be expanded to serve future treatment expansions. Both, Post Oak WWTP Condition Assessment Report, by Plummer and Backup Power Study for Wastewater Treatment Plant and Emergency Power Connections at the Existing Lift Stations, by Freeman-Millican, Inc. recommend a medium voltage distribution system with paralleling switchgear. This proposal includes the paralleling switchgear to be housed in a masonry building, with air conditioning, in the southwest corner of the WWTP. The medium voltage distribution system of 12.5-KV will be provided with step-down transformers at various locations in the WWTP.

This document defines the scope of work for the new 12.5 KV Distribution System and Emergency Backup Generator.

Assumptions

Definition of Design Levels:

1. Level I goes to approximately 30% Complete – this package will include the following preliminary deliverables:
 - a. Construction Sequence concepts;
 - b. General drawings and Site drawings;
 - c. Electrical Buildings Layout;
 - d. Electrical one-line diagrams;
 - e. Fiber Optic System Architecture;
 - f. Generator and Paralleling Switchgear Preselection Documents;
 - g. Technical specifications for major equipment items; and
 - h. Opinion of probable construction cost.
2. Level II goes to approximately 60% Complete – This package will include the following deliverables:
 - a. Modified Level I package reflecting higher level of completion as described below;
 - b. Structural plans and sections including buildings and generator pad;
 - c. Electrical drawings;
 - d. Fiber Optic System Communications drawings;
 - e. Heating, ventilation, and air conditioning drawings;
 - f. Civil and structural standard details;
 - g. Technical specifications; and
 - h. Updated opinion of probable construction cost.

EXHIBIT A SCOPE OF SERVICES

3. Level III goes to approximately 90% Complete – This package will include the following deliverables:
 - a. Modified Level II package with nearly complete Drawings and specifications;
 - b. Divisions 0 and 1 (construction contract documents); and
 - c. Updated opinion of probable construction cost.

Basic Services

Basic Services provided by the Engineer shall generally be covered under the following tasks:

1. Design Phase Services, Level I, II, III, & 100% Plans and Specifications
2. Advertisement and Bid Phase Services
3. Construction Phase Services
4. Project Management, Quality Control, and Meetings for Tasks 1, 2, 3

The specific activities for each task are identified in the following sections.

The Engineer shall prepare, for approval by the City, drawings and specifications. Drawings and specifications will set forth in detail the requirements for the construction of the PROJECT, which shall comply with all applicable laws, statutes, ordinances, codes, and regulations. The standard of care applicable to the Engineer's services will be the degree of skill and diligence normally employed by professional Engineers or consultants performing the same or similar services at the time of such services are performed. The Engineer will re-perform any service not meeting this standard of care without additional compensation.

Opinion of Probable Construction Cost based on current area, volume, or other unit costs and which indicates the cost of each category of work involved in pre-procurement and construction of the Project. In providing opinions of cost, financial analysis, economic feasibility projections, and schedules for the Project, the Engineer has no control over cost or price of labor and materials; unknown or latent conditions of existing equipment or structures that may affect operation and maintenance costs; competitive bidding procedures and market conditions; time or quality of performance by third parties; quality, type, management, or direction of operating personnel; and other economic and operational factors that may materially affect the ultimate Project cost or schedule. Therefore, the Engineer makes no warranty that the City's actual Project cost, financial aspects, economic feasibility, or schedules will not vary from the Engineer's opinions, analyses, projections or estimates except as agreed upon caveats in the Engineering Agreement.

Design Phase Services – Task 1 Task 1A: Meetings and Site Investigation

EXHIBIT A SCOPE OF SERVICES

1. Kickoff Meeting: Prepare for and facilitate an in-person kickoff meeting in Sherman to review the scope and schedule; identify critical success factors and potential risks; and discuss data/information that will be used in the planning process. Data currently available to Plummer will be identified. Meeting minutes will be taken and submitted for concurrence.
2. Information Request: Prepare and submit to City a request for information not already in Engineer's possession. The City will provide available requested information, and any other related information City is aware of that may benefit the project team.
3. Site Investigations: At various times during design, the Plummer Team will be making site trips to confirm information, conditions, validate design, etc.
4. Quality Control (QC) Meetings: The Engineer will conduct the following QC review meetings, and the following review workshops with the City. QC meetings will be at the Engineer's office and Workshops with the City will be held at the City's facility. Each workshop will consist of members from the City and the Engineer's design team. The QC review meetings will utilize senior members of the Engineer's staff providing an independent review and critique of the design:
 - QC and Review Workshop No. 1 (Level I Design) – Internal and with City
 - QC and Review Workshop No. 2 (Level II Design) – Internal and with City
 - QC and Review Workshop No. 3 (Level III Design) – Internal and with City

Review Workshops for each project - The Engineer will furnish the City with the following items for each of the three (3) workshops:

- Electronic workshop packages, which include the items listed above, shall be provided to the City no later than ten (10) business days prior to each review workshop.
- Workshop notes will be provided to each participant in the workshop within five (5) business days of the meeting.

Task 1B: Level I Design

1. Level I Design: Perform Level I Design for the WWTP 12.5-KV Electrical Distribution System and Generator, design includes the following:
 - a. 12.5-KV Distribution System
 - i. Preliminary Plant One-Line Diagrams, with Load Sheets, of each process area. These one-line diagrams will be used to estimate loads for generator sizing, conductor size, conductor length and for connection to future distribution system.
 - ii. Plant Site Plan, with Key Map, of the WWTP. The plant site plan will be used to show overall facility, 12.5-KV routing, location of existing facilities and motor control centers. The key map will be used to

EXHIBIT A SCOPE OF SERVICES

- divide the site into sections of a more enlarged scale to show site details.
 - iii. Overall Routing, an anticipated routing of the 12.5-KV distribution system with transformer locations will be shown.
 - iv. Establish horizontal and vertical controls for all installed components.
- b. Paralleling Switchgear and Generator
- i. Coordination with Oncor for new service locations and routing of overhead electrical to new electric connection location.
 - ii. Preliminary Generator Sizing, based upon existing loads and engineering reports to determine selection of generator and foot-print size.
 - iii. Preliminary One-Line Diagram, develop one-line diagram showing incoming power services, generator service, paralleling switchgear, and distribution feeders.
 - iv. Assemble data sheets of major pieces of the equipment to develop layouts and provide to the City to illustrate equipment.
 - v. Provide a General Area Layout of Oncor incoming service, transformers, generator, and buildings.
 - vi. Geotechnical investigation for foundation, including GIS processing of geophysical and/or geotechnical data.
- c. Electrical Building
- i. Provide a preliminary building layout meeting working clearances. Layout shall include HVAC and cable trays.
 - ii. Geotechnical investigation to be used for proper foundation design.
- d. Fiber Optic System Architecture
- i. Preliminary system architecture that shows the fiber optic ring, workstations, PLC locations and network cabinets.
 - ii. Data sheets of network equipment.
 - iii. Coordination with City's System Integrator.
- e. UV Disinfection
- i. Preliminary One-Line Diagram for UV Disinfection system to provide a more reliable power source from the Influent Pump Station, utilizing automatic transfer switches at the UV Building to automatically switch between sources.
 - ii. Preliminary site plan showing routing of conductors from the Influent Pump Station to the UV Building.

EXHIBIT A SCOPE OF SERVICES

- f. Preselection Documents
 - i. Preparing drawings and selection for Emergency Backup Generator and Paralleling Switchgear with the following assumptions:
 - 1. Performing preselection of this equipment
 - a. Preparing front-end documents including bid forms and bid evaluation recommendation procedures. Submit one electronic (PDF format) draft copy to the OWNER for review.
 - b. Advertise on Civcast for bids, responding to questions, and preparing and issuing addenda.
 - c. Assisting in receipt of bids. Performing detailed evaluations of bids.
 - d. Preparing recommendation of award letter.
 - e. Preparing notice of award letters and notice to proceed for shop drawing preparation and coordinating preparation of contracts and bonds.
 - f. Incorporating preselected equipment in plans and specifications for General Contractor.
- 2. Opinion of Probable Construction Cost: Prepare OPCC that will include a 30% contingency line item.
- 3. Specifications: Prepare draft technical specifications for the major equipment items.
- 4. Level I Deliverables: Submit one (1) electronic copy and four (4) bound hardcopies of the specifications, preliminary electrical one-lines, switchgear layouts, building layout, and distribution drawings (11" x 17" format) to the City for review.

Task 1C: Level II Design

- 1. Level II Design: Modified the Level I package reflecting higher level of completion.
 - a. 12.5-KV Distribution System
 - i. Finalize Plant One-Line Diagrams with Load Sheets. One-lines diagram will show modifications required to be served from the 12.5-KV electrical distribution system.
 - ii. Utilizing quadrants to develop section site plans showing the overall routing of the 12.5-KV electrical distribution.
 - b. Paralleling Switchgear and Generator
 - i. Finalize generator sizing, based upon verified one-line diagrams.

EXHIBIT A SCOPE OF SERVICES

- ii. Paralleling Switchgear One-Line Diagram showing breaker sizing, metering, instrument transformer, controls and conduit/wire schedules.
 - iii. Area site plan with additional detail showing pad sizes, ductbank location, transformer pads, building location, and generator pad.
 - iv. Generator pad structural plan along with associated catwalks and grating.
 - c. Electrical Building
 - i. Building layout showing electrical equipment, control panel, cable trays, and HVAC equipment.
 - ii. Building structural plans and roofing system.
 - iii. HVAC Layout, including duct layout.
 - iv. Open space for future components.
 - d. Fiber Optic System Architecture
 - i. Site and building plans of fiber optic routing.
 - ii. Local System Architecture of network cabinets.
 - iii. Coordination with City's System Integrator.
 - e. UV Disinfection
 - i. Detail one-Line diagram, including conduit/wiring schedules, building layout and ATS sizing.
 - ii. Site Plan, shown on the key map section plans, routing and ductbank sections.
 - f. Oncor coordination on new electrical service, abandonment of existing transformers and pads, abandonment and removal of existing power poles, etc.
2. Construction Sequence: The Engineer will develop a construction sequence for the construction activities. This construction sequence will be reviewed with the City and then incorporated into the contract documents.
3. Opinion of Probable Construction Cost: Prepare OPCC that will include a 15% contingency line item.
4. Specifications: Technical specifications will be prepared based on the Engineer's standard specifications.
5. Level II Deliverables: Submit one (1) electronic copy and four (4) bound hardcopies of the specifications and drawings (11" x 17" format) to the City for review.

EXHIBIT A SCOPE OF SERVICES

Task 1D: Level III Design

1. Level III Design: Modified the Level II package with nearly complete Drawings and specifications;
 - a. 12.5-KV Distribution System
 - i. Manhole Details and Ductbank Sections.
 - ii. Detail building plans showing incoming service to various plant processes
 - iii. Details one-line diagrams.
 - b. Paralleling Switchgear and Generator
 - i. Final One-Line Diagrams with termination diagrams.
 - c. Electrical Building
 - i. Final building layout
 - ii. Structural Details and Notes
 - iii. HVAC Details and Schedules
 - d. Fiber Optic System Architecture
 - i. Final Drawings
 - e. UV Disinfection
 - i. Final Drawings
2. Opinion of Probable Construction Cost: Prepare OPCC that will include a contingency line item.
3. Specifications: The Engineer will prepare necessary notification to bidder information and proposal forms. The Engineer will utilize the Engineer's front-end documents (Division 0, which include the notification to bidders, bid forms, contractual terms and conditions, etc.). These documents will be prepared by the Engineer for review and input by the City.
4. Level III Deliverables: Submit one (1) electronic copy and four (4) bound hardcopies of the specifications and drawings (11" x 17" format) to the City for review.
5. Final Plans: Upon incorporation of comments from the last Review Workshop, the Engineer shall prepare final plans and specifications. The Engineer shall furnish the City with the following final documents:

EXHIBIT A SCOPE OF SERVICES

- a. Half-size drawings (11" x 17") – five (5) sets;
- b. Full-size drawings (22" x 34") – one (1) set;
- c. Specifications – size (6) sets; and
- d. Adobe Portable Document Format (PDF) files of the drawings and specifications.

Task 1E: Geotechnical Engineering And Survey Services

1. Geotechnical Services: Engineer will coordinate and subcontract Geotechnical services for the following activities:
 - a. Collection and analysis of up to two (2) borings at the proposed Electrical Building location.
2. Surveying Services: Engineer will coordinate surveying services for the following activities:
 - a. Plummer will provide for and coordinate land survey at locations for the WWTP sites as required to perform the design.
 - b. The survey will base horizontal and vertical control on the treatment plant benchmark coordinates and datum. Survey measurements will be based on NAD 83 state plane coordinates.
 - c. Survey will produce a topographical survey of project area to map utilities and existing structures. The topographic survey will include contours shown at one-foot intervals, plotted locations of structures, paving, visible improvements, and utility information based on surface evidence.
 - d. The electronic survey files will be provided to the City for future use.

Task 1F: Power System Study

1. The Engineer will perform the required power system study utilizing SKM Modelling Software. This will determine the ARC Flash ratings and ground fault protection. These rating are required by the National Fire Protection Associates, and by having the Engineer perform the Study during the design, the opportunity presents itself for reducing the ARC Flash Energy by design changes.
2. The Engineer will collect the field data required to populate the SKM Data Files.
3. The SKM Study Files will be provided to the City for their use in future projects.

Advertisement and Bid Phase Services – Task 2

1. Advertisement and Bid Phase Services will be provided for the preselection of the Emergency Backup Generator and Paralleling Switchgear, and for selecting

EXHIBIT A SCOPE OF SERVICES

the construction contractor for the construction of the project. The advertisement and bid phase services, for each, will include the following items listed below.

2. Advertisement: Upon acceptance by the City for the final design and bid documents and the most recent Opinion of Probable Construction Cost as determined from the Detailed Design Phase, and upon written authorization by the City to proceed, Engineer shall:
 - a. Assist City in advertising by providing to the City the notice to bidders for publication in the local news media, the cost of which shall be paid by the City;
 - b. Notify construction news publications and plan rooms for securing bids or proposals for the Work
 - c. Distribute bid documents, plans, and specifications for the Project to prospective bidders via CivCast; and
 - d. Maintain a record of the plan holders list to whom Bidding Documents have been issued.
3. Addendum: The Engineer will assist the prospective bidders in interpreting the plans and specifications through the preparation and issuance of addenda to clarify, correct, or modify the Bid Documents for the preselection of generator/switchgear and for the construction of the project.
4. Pre-bid Conference for the Construction of the project: The Engineer will participate in one (1) pre-bid conference at the Post Oak Wastewater Treatment Plant.
5. Bid Opening for the preselection of generator/switchgear and for the construction of the project:
 - a. The Engineer will participate in a bid opening at a location designated by the City.
 - b. The Engineer will assist the City in opening, tabulating, and analyzing the bids received and furnish recommendations on the award of contract or the appropriate actions to be taken by the City for the project.
 - c. The Engineer will provide a bid tabulation of the bids submitted.
 - d. The Engineer will provide recommendation and award letters to the City
6. Conformed Specifications and Drawings:
 - a. The Engineer shall prepare conformed specifications and drawings based upon the addenda issued during the advertisement.
 - b. The Engineer shall prepare formal contract documents for the construction contract between the City and the awarded contractor.

EXHIBIT A SCOPE OF SERVICES

- c. The Engineer shall provide the following items to the City for the project:
 - i. Half-size drawings (11" x 17") – five (5) sets;
 - ii. Full-size drawings (22" x 34") – one (1) set;
 - iii. Specifications – size (6) sets; and,
 - iv. Adobe Portable Document Format (PDF) files of the drawings and specifications.
 - d. The Engineer shall provide the following items to the selected contractor for each project:
 - i. Half-size drawings (11" x 17") – five (5) sets;
 - ii. Full-size drawings (22" x 34") – two (2) sets;
 - iii. Specifications – six (6) sets; and,
 - iv. Adobe Portable Document Format (PDF) files of the drawings and specifications.
7. Executable Documents:
- a. The Engineer will furnish four (4) sets of contract documents (specifications of the project) for execution by the City and contractor. Two (2) executed originals will be delivered to the City and one (1) to the contractor. The remaining original will be retained by the Engineer.

Construction Phase Services – Task 3

Task 3A: General Construction Administration Phase Services

- 1. The Engineer's responsibility to provide Basic Engineering Services for the Construction Phase under this Agreement commences with the award of the Contract for Construction and terminates at the end of the construction period for the Project including associated testing and startup service identified in this Agreement. The scope of the BASIC ENGINEERING SERVICES is based on a construction timeframe of eighteen (18) months from construction Notice to Proceed to construction substantial completion and twenty (20) months from construction Notice to Proceed to construction final completion.
- 2. Construction Phase duties, responsibilities, and limitations of the Engineer shall not be restricted, modified, or extended without agreement of the City and Engineer in writing.
- 3. The City's approval, acceptance, use of, or payments for all or any part of Engineer's services hereunder or the Project itself shall in no way alter the Engineer's obligations to the City's rights herein.
- 4. The Engineer shall be a representative of and shall advise and consult the City during construction. The Engineer shall have the authority to act on behalf of the

EXHIBIT A SCOPE OF SERVICES

City only to the extent provide in this Agreement, unless otherwise modified by written instrument.

5. Engineer's Personnel at the Construction Site

- a. The presence and duties of Engineer's personnel at a construction site, whether as onsite representative or otherwise, do not make the Engineer or its personnel in any way responsible for those duties that belong to the City and/or construction contractors or other entities, and do not relieve the construction contractors or any other entity from their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the contract documents and any health and/or safety precautions related to such construction work.
- b. Engineer and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health and/or safety precautions related to such work and have no duty for inspecting, noting, observing, correcting, or reporting on health and/or safety deficiencies of the construction contractors or other persons at the site except Engineer's own personnel.
- c. The presence of the Engineer's personnel at a construction site is for the purpose of providing the Engineer and the City a greater degree of confidence that the completed work will conform generally to the contract documents and that the integrity of the design concept, as reflected in the contract documents, has been implemented and preserved. The Engineer neither guarantees the performance of any construction contractor nor assumes responsibility for contractor's failure to perform the work in accordance with the contract documents.
- d. Engineer to include halftime/fulltime on-site representative for installation of the Emergency Backup Generator.

6. Internet-based Construction Management

- a. The Engineer will provide, for use by the City and the selected contractor, an internet-based construction management system, including the following items:
 - i. Establish and maintain the project construction management system (Procore Construction Management software) consistent with the requirements of the construction contract documents. Monitor the processing of contractor's submittals and provide for filing and retrieval of project documentation. Produce monthly reports indicating the status of all submittals in the review process.

EXHIBIT A
SCOPE OF SERVICES

- ii. Monitor the progress of the contractor in sending and processing submittals to see that documentation is being processed in accordance with schedules.

Task 3B: Meetings and Site Visits

1. Pre-Construction Conference: The Engineer shall conduct one (1) pre-construction conference for the Project. Meeting shall be conducted with the City and contractor at the City's facility. At a minimum, the following items will be discussed at the pre-construction conference:
 - a. The construction schedules prepared by the contractor;
 - b. Schedule of values and payment procedures and schedules;
 - c. Designation of key personnel and their duties; and
 - d. Procedures for the construction administration of the Project.
2. Construction Progress Meetings: The Engineer will participate in up to eighteen (18) in-person monthly construction progress meetings for the Project.
 - a. The Engineer will prepare and distribute agendas and meetings notes for each meeting.
3. Limited On-Site Project Representative Site Visits: The Engineer shall visit the construction site, when construction is in progress, to become familiar with the progress and quality of the work and to determine if the work is being performed in a manner that indicates that the work, when completed, will be in accordance with the contract documents.
 - a. The scope and fee is based on the Engineer making no more than Ten (10), four-hour site visits (four-hour duration excludes travel time to/from the site).
 - b. In addition, on the basis of these on-site observations as an engineer, the Engineer shall keep the City informed of the progress and quality of the work, and shall exercise reasonable care and due diligence in discovering and promptly reporting to the City any defects or deficiencies of the contractor or any subcontractor. The Engineer will notify the contractor, who is defined as the person or company that entered into a contract with the City to complete the Project, of non-conforming work observed on site visits.
 - c. As part of the site visits, the Engineer will prepare and furnish the City a field site visit report summarizing the work observed along with photographs
4. Substantial and Final Review:
 - a. The Engineer will conduct, in the company of the City's representative, a substantial completion review for the project for conformance with the design concept of the project and general compliance with the contract documents and provide a list of deficiencies to the contractor.

EXHIBIT A SCOPE OF SERVICES

- b. The Engineer will conduct, in the company of the City's representative, a final review for the project for conformance with the design concept of the project and general compliance with the contract documents, verify that items identified on the deficiency list from the substantial completion review have been completed, and make recommendation for final payment to the contractor.
5. Additional Site Visits: Additional site visits beyond those listed will be a Special service and the Engineer shall be entitled to additional compensation.

Task 3C: Construction Administration

1. Shop Drawings and Submittal Review: The Engineer will review samples; catalog data; schedules; shop drawings; laboratory, shop, and mill tests of materials and equipment; and other data pursuant to the general conditions of the construction contract. Review quality related documents provided by the contractor such as test reports, equipment installation reports, or other documentation required by the construction contract documents. This review is for the benefit of the City and covers only general compliance with the information given by the construction contract documents. This review does not relieve the contractor of any responsibilities such as dimensions to be confirmed and correlated at the job site, appropriate safety measures to protect the workers and the public, or the necessary to construct and complete a workable facility in accordance with the construction contract documents.
 - a. The fee is based on review of up to sixty (60) submittals.
 - b. Additional submittal reviews beyond those listed will be a Special service and the Engineer shall be entitled to additional compensation.
2. Requests for Information: The Engineer will interpret the intent of the plans and specifications and respond to requests for information (RFIs) for the City and contractors.
3. Contract Modifications: The Engineer will review contract modification request (CMRs) and prepare proposed contract modifications (PCMs) for items identified during construction that are necessary or requested by the City or contractor but are not in accordance with the construction documents. The Engineer will only review CMRs initiated by the Owner or Contractor that will improve the original design.
 - a. The Engineer will prepare documentation for construction modifications required to implement modifications in the design of the.
 - b. The fee is based on processing up to a total of five (5) CMR, PCM, and field/change orders.

EXHIBIT A SCOPE OF SERVICES

- c. Additional contract modifications beyond those listed will be a Special service and the Engineer shall be entitled to additional compensation.
4. Pay Estimates: The Engineer will review and comment on a maximum of twenty (20) estimates for payment to contractor, pursuant to the general conditions of the construction contract. Recommendations by the Engineer to the City for periodic construction progress payments to the construction contractor will be based on the Engineer's knowledge, information, and belief from selective sampling that the work has progressed to the point indicated. Such recommendations do not represent: that continuous or detailed examinations have been made by the Engineer to ascertain that the construction contractor has completed the work in exact accordance with the contract documents; that the final work will be acceptable in all aspects; that the Engineer has made an examination to ascertain how or for what purpose the construction contractor has used the monies paid; that title to any of the work, materials, or equipment passed to the City free and clear of liens, claims, security interests, or encumbrances, record drawings; or that there are no other matters at issue between the City and the construction contractor that affect the amount that should be paid.
5. Investigations, analyses, studies, or design for substitutions of equipment or materials, corrections of defective or deficient work of the contractor or other deviations from the construction contract documents requested by the contractor and approved by the City are a Special service. Substitutions of materials or equipment or design modifications requested by the City are a Special Service and the Engineer shall be entitled to additional compensation.

Task 3D: Record ("As-Built") Drawings

1. The contractor will provide to the Engineer red-line drawings for use in the development of the record drawings. In the event that the contractor does not provide adequate red-line drawings and the Engineer must develop the record drawings based on in-depth investigation and research, this additional effort shall be a Special Service.
2. The Engineer will revise the construction drawings in accordance with the information furnished by the contractor reflecting changes to the project made during construction. Record drawings are defined as the drawings produced by the Engineer's modifications to the original design drawings to reflect the changes during the construction.
3. The Engineer will prepare record drawings, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location,

EXHIBIT A SCOPE OF SERVICES

type of various components, or exact manner in which the project was finally constructed.

4. Engineer is not responsible for any errors or omissions in the information from others that are incorporated into the record drawings.
5. Record drawings for the project will be issued by the Engineer within sixty (60) days after the comments and markups are provided by the contractor, and the City.
6. The Engineer will provide the City with digital copies in Adobe PDF on one flash drive, one (1) half-sized (11" x 17") sets of plans (bound, bond), to the City. No technical specification books will be provided.

Task 3E: O&M Manual

1. Engineer to prepare and submit a summary of the O&M Manuals provided by each equipment manufacturer. This summary manual will include equipment data along with operation and maintenance requirements. The Engineer will submit three (3) copies of this manual marked "Draft" for the Owner's review and comments.
2. The Engineer will meet with the Owner to receive comments on the "Draft" manual.
3. The Engineer will incorporate the Owner's changes and submit a digital copy in Adobe PDF on a flash drive, along with one (1) bound copy of the manual.

Project Administration Services – Task 4

Task 4: Project Administration and Additional Meetings

1. Project Administration: Project administration will include but not be limited to developing and implementing a project management plan; tracking and managing internal schedules of work; monitoring and addressing issues related to the scope of work, budget and deliverables; preparing and processing monthly billings; providing labor resources necessary to fulfill scoped work; scheduling and participating in quality control reviews; and providing updates to the City on a regular basis. A standard monthly invoice and progress reports will be prepared for all services.
2. Additional Meetings: Prepare for and attend up to 2 additional in-person meetings (not included in other tasks) with City staff, City Council or other stakeholders.

EXHIBIT A SCOPE OF SERVICES

Special Services

1. Special Services incidental to the Project, but not included within the scope of Basic Services covered above, which may be performed or arranged for separately by the Owner, or may be added to the Engineer's responsibilities by mutual agreement and written authorization. At this time, no Special Services are included in the scope of work.

Additional Services

1. Additional Services are those services not included in General Services that may be required for the Project, but cannot be defined sufficiently at this time to establish a Scope of Work. These include, but are not necessarily limited to the following:
 - a. Design of other improvements not identified in Basic or Special Services.
 - b. Other services beyond those included in Basic or Special Services that are approved by the Owner.
 - c. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
 - d. Providing additional hard copies of technical memorandums, reports, plans, specifications, OPCCs, and contract documents beyond those specifically described in Basic and Special Services.
 - e. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation, review, or payment of fees for environmental assessments and impact statements, storm water discharge permits, 404 permit applications, or any other type of permit; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
 - f. Services to investigate existing conditions of facilities (in addition to those furnished under Basic Services), make measured drawings of, or to verify the accuracy of drawings or other information furnished by Owner or others.
 - g. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer or its design requirements including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.

EXHIBIT A SCOPE OF SERVICES

- h. Modifications to the design of improvements previously approved by the Owner by acceptance without comment on conceptual or detailed design progress submittals.
- i. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.
- j. Attending additional meetings or visits to the site during design (if required) that are not identified in Sections above.
- k. Preparing additional Bidding Documents or Contract Documents for alternate bids or prices requested by Owner for the Work or a portion thereof or other services attributable to more than one prime construction contract.
- l. Providing renderings or models for Owner's use.
- m. Preparation of operation and maintenance manuals if not already in the scope of services.
- n. Assistance in connection with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required.
- o. Services in making revisions to drawings and specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; services after the award of the construction contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the project; evaluation and determination of proposed "or equals" or substitutions, whether proposed before or after award of the construction contract, above the number specified under Basic Services.
- p. Services requiring out-of-town travel of Engineer other than for visits to the Site or Owner's office.
- q. Providing construction surveys and staking to enable Contractor to perform its work.
- r. Property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
- s. Processing additional shop drawings, operation and maintenance manuals, requests for information, payment requests/applications, or contract modifications above the numbers specified under Basic Services.
- t. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.
- u. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor.

EXHIBIT A SCOPE OF SERVICES

- v. Easement acquisition assistance or aid in acquiring property in fee, including in-house labor by the Engineer, subconsultant services or property appraisals.
 - w. Corrosion studies.
 - x. Archeological investigations.
 - y. Providing assistance in responding to the presence of any Constituent of Concern at the Site, in compliance with current Laws and Regulations.
 - z. Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work (advance notice not required), (2) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (3) Work damaged by fire or other cause during construction, (4) a significant amount of defective, neglected, or delayed work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by Contractor.
 - aa. GIS processing of geophysical and/or geotechnical data beyond the assumptions provided in Basic or Special Services.
 - bb. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, or other dispute resolution process related to the Project.
 - cc. Public relation activities.
 - dd. Services known to be required for completion of the Project that the Owner agrees are to be furnished by the Engineer or by a subconsultant that cannot be defined sufficiently at this time to establish the maximum compensation.
2. Services in connection with work change directives and change orders to reflect changes requested by Owner.
- a. Perform outside of office services including shop, mill, field, or laboratory inspection of materials or equipment, not otherwise provided as BASIC ENGINEERING SERVICES;
 - b. Perform subsurface excavation in the event such excavation is required to locate existing facilities;
 - c. Provide warranty follow-up on behalf of the City after final acceptance of the construction contract by the City; and
 - d. Provide any other services otherwise excluded in this AGREEMENT but customarily furnished in accordance with generally accepted Engineering practices.

Services by the City

- 1. The City and its representatives will render services inclusive of the follow:
 - a. Provide available criteria and full information as to the City's requirements for the PROJECT;

EXHIBIT A SCOPE OF SERVICES

- b. Provide surveys and easement information for the PROJECT as recommended by the Engineer;
- c. Provide testing services for the PROJECT;
- d. Assist the Engineer by placing at his/her disposable all available written data pertinent to the PROJECT. Engineer shall be entitled to rely upon the accuracy of the data and information provided by the City without independent review, evaluation, or verification. Engineer shall not be liable for any claims for injury or loss arising from errors, omissions, or inaccuracies in documents, data, and other information provided by the City;
- e. Examine PROJECT DOCUMENTS submitted by the Engineer and render a decision pertaining thereto promptly, to avoid unreasonable delay in the progress of the Engineer's services;
- f. Furnish information required as expeditiously as possible for the orderly progress of the work;
- g. The services, information, and reports required by the Services by the City, inclusive, shall be furnished at the City's expense, and the City will use its best efforts to apprise the Engineer of any inaccuracies, or inconsistencies in the information provided.

Schedule

1. The time period for performance of Design and Advertisement and Bid Phase services identified under Basic Services as detailed above shall be completed within 210 days of the execution date of this Agreement plus such additional time as may be considered reasonable for obtaining approval of governmental authorities having jurisdiction to approve the final design documents, if such approval is to be obtained during the Design Phase.

EXHIBIT B
PROJECT DESIGN BUDGET SUMMARY

I. Basic Services

Design Phase Services – Task 1	\$ 520,842 (Lump Sum)
Advertisement and Bid Phase Services – Task 2	\$ 32,788 (Lump Sum)
Construction Phase Services – Task 3	\$ 345,374 (Hourly Basis)
Project Administration Services – Task 4	\$ 82,115 (Lump Sum)

Total Basic Services (Not-To-Exceed) **\$ 981,119**

II. Special Services Zero dollars budgeted for this item

III. Additional Services Zero dollars budgeted for this item

Project Budget, Grand Total (Not-To-Exceed) **\$ 981,119.00**

EXHIBIT C
GUIDELINES FOR COMPUTER AIDED DESIGN AND DRAFTING (CADD)

1. Files shall be done in DWG/DXF format.
2. Files shall be georeferenced in the State Plane, Texas North Central FIPS 4202 (feet) coordinate system, using a datum of NAD 83 Grid.
3. If a surface adjustment factor is applied to the data, any surface adjustment factors used should be clearly documented on the drawing.
4. If submissions for the Project relate to a plat, the file submitted must match exactly the plat that is submitted for recording.
5. The file shall contain required features for the project type as detailed below:
 - a. Pre-Construction/As-Built Plans and/or Record Documents:
 - i. Layers from Final Plat Requirements as Applicable to Project Type.
 - ii. Water Utility Features.
 - iii. Sanitary Sewer Features.
 - iv. Storm Sewer Features.
6. Each required feature group should be provided as a separate layer within the file.
7. Layer names should be representative of the information contained in the layer.
8. Line work should be done per accepted industry norms.
9. Text should not be smaller than 0.08" on a full size sheet, and should be a font such as Simplex, Calibri, or Arial.

EXHIBIT D
CONSULTANT'S GUIDELINES FOR DIRECT EXPENSES; GENERAL AND
ADMINISTRATIVE MARKUP; TRAVEL AND SUBSISTENCE EXPENSES

- I. **CONSULTANT'S RESPONSIBILITY**. Consultant shall be solely responsible for the auditing and accuracy of all Direct Expenses, approved markup (general and/or administrative), and approved travel and/or subsistence charges, including those of its subcontractors, prior to submitting to City for reimbursement. Any over-payment by City for errors in submittals for reimbursement may be deducted from Consultant's subsequent payment(s) for services; however, this shall not be City's sole and exclusive remedy for said over-payment.

II. **GUIDELINES FOR DIRECT EXPENSES**.

- A. **Local Transportation** – Transportation in connection with the Project, when such transportation is not a function of routine performance of the duties of Consultant in connection with the Project, and when such transportation exceeds beyond fifty (50) miles from the Project site, shall be reimbursed at a standard mileage rate consistent with that as issued, and periodically revised, by the United States Internal Revenue Service (IRS). Under no circumstances shall City reimburse Consultant at a higher standard mileage rate or pay additional markup on charges for local transportation. Completion of City's Standard Mileage Log is required for submittal of these charges for reimbursement, including justification for each submitted expense.

Under no circumstances are charges associated with rental cars for local transportation eligible for reimbursement by City. Toll road subscriptions or toll plaza receipts are not reimbursable. Consultant agrees to place these standards in all subcontracts for work on the Project.

- B. **Supplies, Material, Equipment** – City shall reimburse the actual cost of other similar direct Project-related expenses, which are duly presented in advance and approved by City's Project Manager in writing.
- C. **Commercial Reproduction** – City shall reimburse the actual cost of reproductions, specifically limited to progress prints prepared for presentation to City at each phase of progress, and final Construction Documents prepared for distribution at bidding phase, provided that Consultant has duly obtained at least three (3) quotations from commercial firms and has chosen the best value for City. Consultant shall provide such documentation to City for review prior to submitting these expenses for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.
- D. **In-House Reproduction** – Consultant shall make arrangements with City for prior approval of in-house reproduction rates prior to submitting these expenses for reimbursement. City shall provide Consultant with a standard format for documenting these charges. Completion of City's reproduction log is required as

EXHIBIT D
CONSULTANT'S GUIDELINES FOR DIRECT EXPENSES; GENERAL AND
ADMINISTRATIVE MARKUP; TRAVEL AND SUBSISTENCE EXPENSES

a prerequisite for payment, including the number or reproductions, the date, time, description, the approved standard rate, and a justification for each submitted expense for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.

- E. **Commercial Plotting** – City shall reimburse the actual cost of plots, specifically limited to final documents, provided Consultant has duly obtained at least three (3) quotations from commercial firms and has chosen the best value for City. Consultant shall provide such documentation to City for review prior to submitting these expenses for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.
- F. **In-House Plotting** – Consultant shall make arrangements with City for prior written approval of in-house plotting rates prior to submitting these charges for reimbursement. City shall provide Consultant with a standard format for documenting these charges. Completion of City's reproduction log is required as a prerequisite for payment, including the number of plots, the date, time, description, the approved standard rate, and a justification for each submitted charge for reimbursement.
- G. **Communications** – Reimbursement for expenses relating to electronic communications shall be limited to long-distance telephone or fax toll charges specifically required in the discharge of professional responsibilities related to the Project. Telephone service charges including office or cellular phones, WATTS, or Metro line services or similar charges are not reimbursable.
- H. **Postage, Mail, and Delivery Service** – City shall reimburse the actual cost of postage and delivery of Instruments of Service, provided Consultant duly considers all circumstances (including available time for assured delivery) of the required delivery and selects the best value for City, which may require comparison of delivery costs offered by three (3) or more sources or methods of delivery, which at a minimum shall include U.S. Mail. Courier service is acceptable only in circumstances requiring deadline-sensitive deliveries and not for the convenience of Consultant and/or Consultant's employees. Consultant agrees to place these standards in all subcontracts for work on the Project.
- I. **Meals and Other Related Charges** – Meals or any other related expenses are not reimbursable unless incurred outside a fifty (50) mile radius of the Project, and then only reimbursable for the actual cost subject to compliance with City's currently adopted policy. Non-allowable costs include, but are not limited to, charges for entertainment, alcoholic beverages, and gratuities.

EXHIBIT D
CONSULTANT'S GUIDELINES FOR DIRECT EXPENSES; GENERAL AND
ADMINISTRATIVE MARKUP; TRAVEL AND SUBSISTENCE EXPENSES

III. GUIDELINES FOR GENERAL AND ADMINISTRATIVE MARKUP.

- A. **Requirement of Prior Approval** – Consultant may be allowed to charge a General and/or Administrative Markup on work completed if Consultant can clearly define to City specifically what costs are included in the markup calculation. To apply General and/or Administrative Markup, Consultant must also document to City what costs would be considered direct costs. City shall issue approval in writing to allow Consultant to charge General and/or Administrative Markup. City reserves the right to reject any and all requests for General and/or Administrative Markup.

IV. GUIDELINES FOR TRAVEL AND SUBSISTENCE EXPENSES.

- A. **Requirement of Prior Approval** – City shall reimburse the actual cost of travel and/or subsistence expenses upon prior written approval by City's Project Manager.
- B. **Adherence to Currently Adopted City Travel Policy** – Reimbursements shall be governed by the same travel policies provided for City employees according to current adopted policy. Prior to the event, Consultant shall request, and City's Project Manager shall provide the provisions and the restrictions that apply to out-of-town reimbursements.

EXHIBIT E
CONTRACTOR'S INSURANCE GUIDELINES

I. GENERAL INSURANCE REQUIREMENTS –

- A. All policies shall name the City of Sherman, its officers, agents, representatives and employees as additional insured as to all applicable coverage with the exception of workers compensation insurance and professional liability insurance.
- B. Such policies shall require the provision of written notice to City at least thirty (30) days prior to cancellation or non-renewal of any policies, evidenced by return receipt or United States Certified Mail.
- C. Such policies shall provide for a waiver of subrogation against City for injuries, including death, property damage or any other loss to the extent the same is covered by the proceeds of the insurance.

II. INSURANCE COMPANY QUALIFICATION – All insurance companies providing the required insurance shall be authorized to transact business in the State of Texas, and shall have a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s).

III. CERTIFICATE OF INSURANCE – A Certificate of Insurance and policy endorsement(s) evidencing the required insurance shall be submitted prior to execution of the Agreement. If the Agreement is renewed or extended by City, a Certificate of Insurance and policy endorsement(s) shall also be provided to City prior to the date the Agreement is renewed or extended.

IV. INSURANCE CHECKLIST – "X" means that the following coverage(s) is required for this Agreement.

Coverage Required		Limits
<u> X </u>	1. Worker's Compensation & Employer's Liability	▪ Statutory Limits of the State of Texas
<u> X </u>	2. General Liability	▪ Minimum \$1,000,000.00 each occurrence; ▪ Minimum \$2,000,000.00 in the aggregate
<u> </u>	3. XCU Coverage	▪ Minimum \$1,000,000.00 each occurrence; ▪ Minimum \$2,000,000.00 in the aggregate

EXHIBIT E
CONTRACTOR'S INSURANCE GUIDELINES

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| <u> X </u> | 4. Professional Liability | <ul style="list-style-type: none">▪ Minimum \$1,000,000.00 each claim;▪ Minimum \$2,000,000.00 in the aggregate |
| <u> X </u> | 5. Umbrella Coverage of Excess Liability Coverage | <ul style="list-style-type: none">▪ An amount of \$2,000,000.00▪ Minimum \$2,000,000.00 in the aggregate |
| <u> X </u> | 6. City and its officers, agents, representatives and employees named as additional insured on General Liability Policy, as provided above. This coverage is primary to all other coverage City may possess. | |
| <u> X </u> | 7. General Liability Insurance provides for a Waiver of Subrogation against the City for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. All insurance policies that are required to name the City as an additional insured must be endorsed to read as primary and non-contributory coverage regardless of the application of other insurance. | |
| <u> X </u> | 8. Thirty (30) days' notice of cancellation or non-renewal. The words "endeavor to" and "but failure" (to end of sentence) are to be eliminated from the Notice of Cancellation provision on standard ACORD certificates. | |
| <u> X </u> | 9. Insurance company has a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s). | |
| <u> X </u> | 10. The Certificate of Insurance must state the project title and bid number. | |
| <u> </u> | 11. Other Insurance Requirements (State Below): | |

EXHIBIT F
CONFLICT OF INTEREST QUESTIONNAIRE, FORM CIQ

CONFLICT OF INTEREST QUESTIONNAIRE For vendor doing business with local governmental entity		FORM CIQ
This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session. This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a). By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code. A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.		OFFICE USE ONLY
1 Name of vendor who has a business relationship with local governmental entity.		Date Received
2 ☐ Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)		
3 Name of local government officer about whom the information is being disclosed. <u>N/A</u> Name of Officer		
4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary. A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor? ☐ Yes ☒ No B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity? ☐ Yes ☒ No		
5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.		
6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a 1).		
7 <u>R. Christopher Young</u> Signature of vendor doing business with the governmental entity		<u>7/18/22</u> Date



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/12/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Risk Strategies 12801 North Central Expy. Suite 1725 Dallas, TX 75243	CONTACT NAME: Joe Bryant	FAX (A/C, No): (214) 503-8899	
	PHONE (A/C, No, Ext): (214) 323-4602	E-MAIL ADDRESS: certificatedallas@risk-strategies.com	
INSURED Plummer Associates, Inc. 1320 South University Drive Ste. 300 Fort Worth TX 76107	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: XL Specialty Insurance Company		37885
	INSURER B: Hartford Underwriters Insurance Company		30104
	INSURER C: Hartford Accident and Indemnity Company		22357
	INSURER D: Hartford Insurance Co of the Midwest		37478
INSURER E:			
INSURER F:			

COVERAGES

CERTIFICATE NUMBER: 69219328

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
B	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ XCU Coverage ☒ Contractual Liability GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:	☒	☒	84SBWAH8X07	9/30/2021	9/30/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000 \$ 1,000,000
							MED EXP (Any one person)	\$ 10,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
							Valuable Papers	\$ 500,000
C	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☒ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY	☒	☒	84UEGAC4597	9/30/2021	9/30/2022	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
B	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ 10,000	☒	☒	84SBWAH8X07	9/30/2021	9/30/2022	EACH OCCURRENCE	\$ 5,000,000
							AGGREGATE	\$ 5,000,000
								\$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☒ N	N/A	84WEGAS4E8D	5/13/2022	5/13/2023	☒ PER STATUTE ☐ OTH-ER	
							E.L. EACH ACCIDENT	\$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
A	Professional Liability Pollution Liability	☒		DPR9993421	5/9/2022	5/9/2023	Per Claim	\$3,000,000
							Annual Aggregate	\$3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The claims made professional liability coverage is the total aggregate limit for all claims presented within the annual policy period and is subject to a deductible. Thirty (30) day notice of cancellation in favor of certificate holder on all policies.
RE: Plummer #1422-003-01 Post Oak WWTP 12.5-KV Distribution System and Generator Design.

CERTIFICATE HOLDER

CANCELLATION

City of Sherman
Attn: Wayne E. Lee, P.E., CFM
220 W. Mulberry Street
Sherman TX 75091

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Joe Bryant

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CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2022-909137

Date Filed:
07/12/2022

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Plummer Associates, Inc.
Fort Worth, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Sherman

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

1422-003-01

Post Oak WWTP 12.5-KV Distribution System & Generator Design, Plummer #1422-003-001

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Caffey, Jeff	Fort Worth, TX United States	X	
	Davis, Alan	Fort Worth, TX United States	X	
	McDonald, Ellen	Fort Worth, TX United States	X	
	Young, Chris	Fort Worth, TX United States	X	
	Coonan, Steve	Austin, TX United States	X	
	O'Brien, Patrick	Durango, CO United States	X	

5 Check only if there is NO Interested Party.

☐

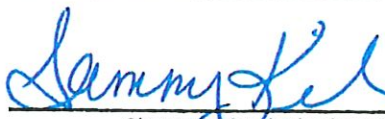
6 UNSWORN DECLARATION

My name is Tammy Kilhullen, and my date of birth is June 4, 1972.

My address is 1320 S. University Drive #300, Fort Worth, TX, 76107, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Tarrant County, State of Texas, on the 12th day of July, 20 22.
(month) (year)


Signature of authorized agent of contracting business entity
(Declarant)



City Council Regular Meeting

Agenda Item No. E.6.

Meeting Date: 5/5/2025

Prepared By: Teri Fine, Assistant to the City Manager

Approved By: Zachary Flores, Acting City Manager

Caption:

*** RESOLUTION NO. 7526**

Authorizing and Approving a Performance Agreement with the Sherman Economic Development Corporation (SEDCO), A Texas Non-Profit Corporation, for Financial Assistance to the City of Sherman through Fiscal Year 2029-2030 for Certain Industrial Infrastructure in Multiple Progress Parks; and Providing for Immediate Effective Date

Issue:

Approving Financial Assistance to the City of Sherman through Fiscal Year 2029-2030 for Certain Industrial Infrastructure in Multiple Progress Parks

Background:

The Sherman Economic Development Corporation (SEDCO) agrees to reimburse the City up to \$11,000,000 for the construction of an 84" water line from Lake Texoma to the water treatment plant, a 36" water line from the water treatment plant to Shepherd Drive, and a 24" to 36" waste water line running south from FM 1417 to an existing wastewater line along Howe Drive. The Agreement has been signed by SEDCO.

Capital Improvement Program:

Origination:

City Manager's Office
SEDCO Board of Directors

Financial Consideration:

SEDCO will reimburse up to \$11,000,000.

Staff Recommendation:

Staff recommends approval

Alternatives:

As directed by Council

Attachments:

1. Resolution No. 7526
2. SEDCO Resolution 2025.08 and Agreement

RESOLUTION NO. 7526

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING AND APPROVING A PERFORMANCE AGREEMENT WITH THE SHERMAN ECONOMIC DEVELOPMENT CORPORATION (SEDCO), A TEXAS NON-PROFIT CORPORATION, FOR FINANCIAL ASSISTANCE TO THE CITY OF SHERMAN THROUGH FISCAL YEAR 2029-2030 FOR CERTAIN INDUSTRIAL INFRASTRUCTURE IN MULTIPLE PROGRESS PARKS; AND PROVIDING FOR IMMEDIATE EFFECTIVE DATE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Sherman, Texas (the “City”) will undertake or has undertaken the following projects: an 84” water line from Lake Texoma to the water treatment plant, a 36” water line from the water treatment plan to Shepherd Drive, near the new Texas Instruments 300mm fabrication facility, and a 24” to 36” wastewater line running south from FM 1417 to an existing the wastewater line along Howe Drive just north of Choctaw Creek, located within the Grayson County, Texas (hereinafter referred to as the “City Projects”); and

WHEREAS, the SEDCO’s Board of Directors have determined the financial assistance provided to City for the City Projects is consistent with and meets the definition of “project” as that term is defined in Sections 501.101 and 501.103 of the Texas Local Government Code; and the definition of “cost” as that term is defined by Section 501.152 of the Texas Local Government Code.

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

SECTION 1. That the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form and content by the City Attorney, to execute a Performance Agreement Between the City of Sherman, Texas and the Sherman Economic Development Corporation for industrial infrastructure in multiple progress parks in accordance with all contract documents attached hereto and made a part hereof for all purposes.

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

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
SHERMAN, TEXAS on this the 21st day of April 2025**

CITY OF SHERMAN, TEXAS

ATTEST:

**BY: _____
LINDA ASHBY, CITY CLERK**

**BY: _____
SHAWN TEAMANN, MAYOR**

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

**BY: _____
RYAN D. PITTMAN, CITY ATTORNEY**

RESOLUTION NO. SEDCO-2025.08

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SHERMAN ECONOMIC DEVELOPMENT CORPORATION, A TEXAS NON-PROFIT CORPORATION, APPROVING A PERFORMANCE AGREEMENT PROVIDING FINANCIAL ASSISTANCE TO THE CITY OF SHERMAN THROUGH FISCAL YEAR 2029-2030 FOR CERTAIN INDUSTRIAL INFRASTRUCTURE IN MULTIPLE PROGRESS PARKS.

WHEREAS, the **CITY OF SHERMAN, TEXAS** is a Texas home-rule municipality (hereinafter referred to as the “City”); and

WHEREAS, the **Sherman Economic Development Corporation** is an economic development corporation operating pursuant to Chapter 504 of the Texas Local Government Code (hereinafter referred to as “SEDCO”), as amended (also referred to as the “Act”), and the Texas Non-Profit Corporation Act, as codified in the Texas Business Organizations Code, as amended; and

WHEREAS, Section 501.101 of the Texas Local Government Code, in pertinent part, defines the term “project” to mean “land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are: (1) for the creation or retention of primary jobs; and (2) found by the board of directors to be required or suitable for the development, retention, or expansion of: (A) manufacturing and industrial facilities; (B) research and development facilities; (C) military facilities, including closed or realigned military bases; . . . (F) recycling facilities; . . . (I) distribution centers; (J) small warehouse facilities capable of serving as decentralized storage and distribution centers; (K) primary job training facilities for use by institutions of higher education; or (L) regional or national corporate headquarters facilities”; and

WHEREAS, Section 501.103 of the Texas Local Government Code, in pertinent part, defines the term “project” to mean “expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to: (1) streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements; (2) telecommunications and Internet improvements . . .”; and

WHEREAS, the City will undertake or has undertaken the following projects: an 84” water line from Lake Texoma to the water treatment plant, a 36” water line from the water treatment plant to Shepherd Drive, near the new Texas Instruments 300mm fabrication facility, and a 24” to 36” wastewater line running south from FM 1417 to an existing the wastewater line along Howe Drive just north of Choctaw Creek, located within Grayson County, Texas (hereinafter referred to as the “City Projects”); and

WHEREAS, the SEDCO’s Board of Directors have determined the financial assistance provided to City for the City Projects is consistent with and meets the definition of “project” as that term is defined in Sections 501.101 and 501.103 of the Texas Local Government Code; and the definition of “cost” as that term is defined by Section 501.152 of the Texas Local Government

Code; and

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the SEDCO and City agree as follows:

Section 1. The foregoing recitals are hereby found to be true and correct findings of the Board of Directors of the Sherman Economic Development Corporation and are fully incorporated into the body of this Resolution.

Section 2. That the Board of Directors of the Sherman Economic Development Corporation find and determine that the City Projects and the Performance Agreement, attached hereto as ***Exhibit A***, will promote new and expanded business development, and is otherwise consistent with Sections 501.101 and 501.103 of the Texas Local Government Code.

Section 3. That the Board of Directors of the Sherman Economic Development Corporation do hereby approve the Performance Agreement, attached hereto as ***Exhibit A***, and authorize the Chair to execute the Performance Agreement and this Resolution.

Section 4. That this Resolution shall become effective from and after its passage.

DULY RESOLVED by the Board of Directors of the Sherman Economic Development Corporation, on this the _____ day of _____, 2025.

APPROVED:

Gail Utter, Chair

ATTEST:

Jason Brumm, Secretary

APPROVED AS TO FORM:

Jeff Moore, Attorney for SEDCO

Exhibit A

[Performance Agreement]

PERFORMANCE AGREEMENT

WHEREAS, the **CITY OF SHERMAN, TEXAS** is a Texas home-rule municipality (hereinafter referred to as the “City”); and

WHEREAS, the **Sherman Economic Development Corporation** is an economic development corporation operating pursuant to Chapter 504 of the Texas Local Government Code (hereinafter referred to as “SEDCO”), as amended (also referred to as the “Act”), and the Texas Non-Profit Corporation Act, as codified in the Texas Business Organizations Code, as amended; and

WHEREAS, Section 501.101 of the Texas Local Government Code, in pertinent part, defines the term “project” to mean “land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are: (1) for the creation or retention of primary jobs; and (2) found by the board of directors to be required or suitable for the development, retention, or expansion of: (A) manufacturing and industrial facilities; (B) research and development facilities; (C) military facilities, including closed or realigned military bases; . . . (F) recycling facilities; . . . (I) distribution centers; (J) small warehouse facilities capable of serving as decentralized storage and distribution centers; (K) primary job training facilities for use by institutions of higher education; or (L) regional or national corporate headquarters facilities”; and

WHEREAS, Section 501.103 of the Texas Local Government Code, in pertinent part, defines the term “project” to mean “expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to: (1) streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements; (2) telecommunications and Internet improvements . . .”; and

WHEREAS, the City will undertake or has undertaken the following projects: an 84” water line from Lake Texoma to the water treatment plant, a 36” water line from the water treatment plant to Shepherd Drive, near the new Texas Instruments 300mm fabrication facility, and a 24” to 36” wastewater line running south from FM 1417 to an existing the wastewater line along Howe Drive just north of Choctaw Creek, located within Grayson County, Texas (hereinafter referred to as the “City Projects”); and

WHEREAS, the SEDCO’s Board of Directors have determined the financial assistance provided to City for the City Projects is consistent with and meets the definition of “project” as that term is defined in Sections 501.101 and 501.103 of the Texas Local Government Code; and the definition of “cost” as that term is defined by Section 501.152 of the Texas Local Government Code; and

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby

acknowledged, the SEDCO and City agree as follows:

SECTION 1. FINDINGS INCORPORATED.

The foregoing recitals are hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

SECTION 2. TERM.

This Agreement shall be effective as of the Effective Date, as defined herein, and shall continue thereafter until **September 30, 2030**.

SECTION 3. DEFINITIONS.

The following words shall have the following meanings when used in this Agreement.

- (a) **Act.** The word “Act” means Chapters 501 to 505 of the Texas Local Government Code, as amended.
- (b) **Agreement.** The word “Agreement” means this Performance Agreement, together with all exhibits and schedules attached to this Performance Agreement from time to time, if any.
- (c) **City.** The word “City” means the City of Sherman, Texas, a Texas home-rule municipality, whose address for the purposes of this Agreement is 317 S Travis Street, Sherman, Texas 75090.
- (d) **City Projects.** The words “City Projects” mean those projects undertaken by the City consisting of the following: an 84” water line from Lake Texoma to the water treatment plant, a 36” water line from the water treatment plant to Shepherd Drive, near the new Texas Instruments 300mm fabrication facility, and a 24” to 36” wastewater line running south from FM 1417 to an existing the wastewater line along Howe Drive just north of Choctaw Creek, located within Grayson County, Texas (hereinafter referred to as the “City Projects”), and which meet the definition of “project” as that term is defined in Sections 501.101 and 501.103 of the Act, and meet the definition of “cost” as that term is defined in Section 501.152 of the Act.
- (e) **Effective Date.** The words “Effective Date” mean the date of the latter to execute this Agreement by and between the City and SEDCO.
- (f) **Event of Default.** The words “Event of Default” mean and include any of the Events of Default set forth below in the section entitled “Events of Default.”
- (g) **SEDCO.** The term “SEDCO” means the Sherman Economic Development Corporation, a Texas non-profit corporation, its successors and assigns, whose corporate address for the purposes of this Agreement is 307 West Washington, Suite 102, Sherman, Texas 75090.

- (h) **Term.** The word “Term” means the term of this Agreement as specified in Section 2 of this Agreement.

SECTION 4. AFFIRMATIVE OBLIGATIONS.

The parties covenant and agree with each other that, while this Agreement is in effect, it shall comply with the following terms and conditions:

- (a) **City Projects.** City covenants and agrees to commence construction of new City Projects by **September 30, 2026**. Further, City covenants and agrees to complete construction of the City Projects by **September 30, 2030**. In addition, the City covenants and agrees to submit copies of invoices and proof of payment of invoices detailing expenses associated with the City Projects in a reimbursable amount of **Eleven Million and No/100 Dollars (\$11,000,000.00)** by **September 30, 2030**.
- (b) **Financial Assistance for City Projects.** SEDCO covenants and agrees to provide to the City the total amount not to exceed **Eleven Million and No/100 Dollars (\$11,000,000.00)** for the City Projects to be paid consistent with the invoices and proof of payment of invoices submitted to SEDCO detailing expenses associated with the City Projects.
- (c) **Performance.** The City and SEDCO agree to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements between the City and SEDCO.

SECTION 5. EVENTS OF DEFAULT.

Failure of either party to comply with or perform any term, obligation, or condition of this Agreement shall constitute an event of default. The non-defaulting party shall give written notice to the other party of any default, and the defaulting party shall have thirty (30) days to begin to cure said default. Should said default remain uncured, the non-defaulting party shall have the right to terminate this Agreement, enforce specific performance as appropriate, or maintain a cause of action for damages caused by the event(s) of default.

SECTION 6. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

- (a) **Amendments.** This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- (b) **Applicable Law and Venue.** This Agreement shall be governed by and construed in

accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Grayson County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of Grayson County, Texas.

- (c) **Assignment.** This Agreement may not be assigned without the express written consent of the other party.
- (d) **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. The City warrants and represents that the individual or individuals executing this Agreement on behalf of City has full authority to execute this Agreement and bind the City to the same. SEDCO warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same.
- (e) **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement.
- (f) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- (g) **Notices.** Any notice or other communication required or permitted by this Agreement (hereinafter referred to as the "Notice") is effective when in writing and (i) personally delivered either by facsimile (with electronic information and a mailed copy to follow) or by hand or (ii) three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

if to the City: City of Sherman, Texas
 317 S Travis Street
 Sherman, Texas 75090
 Attn: Zachary Flores, City Manager
 Telephone: (903) 892-7206
 E-mail: zacharyf@cityofsherman.com

if to SEDCO: Sherman Economic Development Corporation
 307 West Washington, Suite 102
 Sherman, Texas 75090
 Attn: Kent Sharp, President/CEO
 Telephone: (903) 868-2566
 E-mail: kents@sedco.org

- (h) **Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of

enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.

[The Remainder of this Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed.

CITY:

CITY OF SHERMAN, TEXAS,
A Texas home-rule municipality

By: _____
Shawn Teamann, Mayor

Date: _____

ATTEST:

Linda Ashby, City Clerk

SEDCO:

**SHERMAN ECONOMIC
DEVELOPMENT CORPORATION,**
a Texas non-profit corporation

By: _____
Gail Utter, Chair

Date: _____

ATTEST:

Jason Brumm, Secretary



City Council Regular Meeting

Agenda Item No. E.7.

Meeting Date: 5/5/2025

Prepared By: Justin Eastwood, Director of Parks and Recreation

Approved By: Zachary Flores, Acting City Manager

Caption:

*** RESOLUTION NO. 7527**

Award a Bid to and Authorizing Execution of a Contract with Dun-Al Cleaning, LLC for Park Restroom Cleaning Services

Issue:

To consider awarding and authorizing execution of a contract with Dun-AL Cleaning, LLC. of Sherman, Texas, based on a Request for Proposals (RFP) for park restroom cleaning services.

Background:

On March 27, 2025, a public request for competitive, sealed proposals resulted in three (3) responsive submittals and one (1) non-responsive submittals. Dun-Al Cleaning LLC, of Sherman, Texas, received the highest valuation, based on specific criteria detailed in the Request for Proposals.

Capital Improvement Program:

Origination:

Parks and Recreation

Financial Consideration:

The proposed cost is approximately \$49,200.00, with funding available in the FY 2024 budget.

Staff Recommendation:

Staff recommends that the City Council award the annual contract to Dun-Al Cleaning, LLC of Sherman, Texas.

Alternatives:

As may be directed by the City Council

Attachments:

1. Resolution No. 7526
2. Exhibit A_Parks RR Cleaning RFP 2025
3. Exhibit B_Dun-Al Cleaning LLC
4. Master Agreement_signed
5. Bid Evaluation
6. Exhibits C. D and E

RESOLUTION NO. 7526

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING AND APPROVING A PERFORMANCE AGREEMENT WITH THE SHERMAN ECONOMIC DEVELOPMENT CORPORATION (SEDCO), A TEXAS NON-PROFIT CORPORATION, FOR FINANCIAL ASSISTANCE TO THE CITY OF SHERMAN THROUGH FISCAL YEAR 2029-2030 FOR CERTAIN INDUSTRIAL INFRASTRUCTURE IN MULTIPLE PROGRESS PARKS; AND PROVIDING FOR IMMEDIATE EFFECTIVE DATE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Sherman, Texas (the “City”) will undertake or has undertaken the following projects: an 84” water line from Lake Texoma to the water treatment plant, a 36” water line from the water treatment plan to Shepherd Drive, near the new Texas Instruments 300mm fabrication facility, and a 24” to 36” wastewater line running south from FM 1417 to an existing the wastewater line along Howe Drive just north of Choctaw Creek, located within the Grayson County, Texas (hereinafter referred to as the “City Projects”); and

WHEREAS, the SEDCO’s Board of Directors have determined the financial assistance provided to City for the City Projects is consistent with and meets the definition of “project” as that term is defined in Sections 501.101 and 501.103 of the Texas Local Government Code; and the definition of “cost” as that term is defined by Section 501.152 of the Texas Local Government Code.

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

SECTION 1. That the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form and content by the City Attorney, to execute a Performance Agreement Between the City of Sherman, Texas and the Sherman Economic Development Corporation for industrial infrastructure in multiple progress parks in accordance with all contract documents attached hereto and made a part hereof for all purposes.

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

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
SHERMAN, TEXAS on this the 21st day of April 2025**

CITY OF SHERMAN, TEXAS

ATTEST:

**BY: _____
LINDA ASHBY, CITY CLERK**

**BY: _____
SHAWN TEAMANN, MAYOR**

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

**BY: _____
RYAN D. PITTMAN, CITY ATTORNEY**

Exhibit A
Request for Proposal



City of Sherman
PO Box 1106
Sherman, TX 75091-1106

Request for Proposals

For

PARK RESTROOM CLEANING SERVICES
RFP No. 2025-11

Publication Dates: March 8, 2025
 March 15, 2025

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CITY OF SHERMAN, TEXAS

FINANCE DEPARTMENT

REQUEST FOR PROPOSAL - BID NO. 2025-11; Park Restroom Cleaning Services

The enclosed **REQUEST FOR PROPOSAL** (RFP) and accompanying **SPECIFICATIONS** are for your convenience in bidding the enclosed referenced **Park Restroom Cleaning Services** for the City of Sherman.

Questions may be addressed to the Finance Department at the address listed below. The bids will be opened at **2:00 p.m. on Thursday, March 27, 2025**, at the following address:

**City of Sherman – Finance Department
Municipal Building
405 N. Rusk Street
Sherman, TX
903-892-7215
craigl@cityofsherman.com**

Bids may be submitted by mail to the following address:

**City of Sherman
Finance Dept. – RFP for Park Restroom Cleaning Services - No. 2025-11**

**P.O. Box 1106
Sherman, TX 75091-1106**

OR

Electronically at www.publicpurchase.com

OR

By delivery at the Municipal Building address listed above.

NOTICE TO BIDDERS

Bids will be received by the City of Sherman, Sherman, Texas, at the Finance Department, Attention: Craig Long, Sherman Municipal Building, 405 N. Rusk, Sherman, Texas 75091 until the hour **2:00 PM on the 27th day of March, 2025**, at which time bids duly delivered and submitted will be considered for supplying the following:

BID NO. 2025-11 – Park Restroom Cleaning Services

The award is intended to be included on the agenda of a regularly scheduled meeting of the City Council at the following address:

**City Council Chambers
City Hall
220 W. Mulberry
Sherman, TX**

Each bid delivered to the City shall be sealed and clearly marked “Park Restroom Cleaning Services 2025-11” on the exterior of the bid. Electronic submittals may only be made through Public Purchase at <https://www.publicpurchase.com>. No email or faxed bids will be accepted. Each bid shall be **manually signed and dated by a person having the authority to bind the firm in a contract. Bids that are not signed and dated will be rejected.**

A **mandatory** pre-bid meeting is scheduled at **10:00 a.m., Tuesday, March 18, 2025**, to be located at **1002 N. Music Street, Sherman, Texas**. Bids received from any contractor that did not attend the mandatory pre-bid meeting shall be considered void and unacceptable.

Please note that all bids **must be received at the designated location or through Public Purchase by the deadline shown**. Bids received after the deadline will not be considered for the award of the contract, and shall be considered void and unacceptable. The Opening is scheduled for **2:00 p.m., Thursday, March 27, 2025**, at which time the sealed bids will be opened.

Any bid received after stated closing time will be returned unopened. If bids are sent by mail to the Finance Department, the bidder shall be responsible for actual delivery of the bid before the advertised date and hour for opening of bids. If the mail is delayed by the postal service, courier service, or an ISP (Internet Service Provider), beyond the date and hour set for the bid opening, bids thus delayed will not be considered.

The City of Sherman will receive sealed bids for: **Park Restroom Cleaning Services.**

Bidders should carefully examine all terms, conditions, specifications and related documents. Should a bidder find discrepancies in or omissions from the specifications or related documents, or

should there be doubt as to their meaning, the City of Sherman Finance Department should be notified immediately for clarification prior to submitting the bid. In the event of any conflict between the terms and conditions of these requirements and the specifications, the specifications shall govern. In the event of any conflict of interpretation of any part of this overall document, the City of Sherman's interpretation shall govern.

Information concerning the bid specifications or bid process/procedures may be submitted in writing to Craig Long, Budget Analyst at craigl@cityofsherman.com, or via phone at (903) 892-7215.

Until the final awarding by the City of Sherman, said City reserves the right to reject any and/or all bids, to waive technicalities, to re-advertise, and proceed otherwise when the best interests of said City will be realized hereby.

[Rest of Page Intentionally Left Blank]

CITY OF SHERMAN GENERAL CONDITIONS

ADDENDA

It is the responsibility of the vendor to check for addenda. Addenda will be posted to: www.ci.sherman.tx.us and to www.publicpurchase.com.

ANNUAL CONTRACT FUNDING

The city operates on a fiscal year that ends on September 30th. Because state law mandates that a municipality may not commit funds beyond a fiscal year, this bid is subject to cancellation if funds for this commodity are not approved in the next fiscal year.

ASSIGNMENT OF BID/CONTRACT

The successful bidder may not assign their rights and duties under and award without the written consent of the City. Such consent shall not relieve the assignor of liability in event of default by their assignee.

BID CONSIDERATION / TABULATION

Until final award of the Contract, the city reserves the right to reject any or all bids, to waive technicalities, and to re-advertise for new bids, or proposed to do the work otherwise in the best interests of the City. Please refer to the **EVALUATION CRITERIA** for additional information.

BID SUBMISSION

Bids may be submitted in person, by mail, or electronically at www.publicpurchase.com.

- Submit bids via mail to PO Box 1106, Sherman, TX 75091-1106.
- To submit a bid via mail, all documents must be returned and an original signature provided on the proposal to bidders sheet.
- Bids will not be accepted without a signature.
- Bids submitted by email or fax will not be accepted.
- The City is not responsible for mail service. See page 4, paragraph 2 of the Notice to Bidders.

BRAND NAMES

If items for which bids have been called for have been identified by a “brand name or equal” description, such identification is intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Bids offering “equal” products will be considered for award if such products are clearly identified in the bids and are determined by the City to be equal in all material respects to the brand name products referenced. **Unless the bidder clearly indicates in their bid that they are offering an “equal product”, their bid shall be considered as offering a brand name product referenced in the Proposal Schedule.**

CHANGES OR ALTERATIONS

No part of this bid may be changed/alterd in any way. Vendors must submit written requests to change any specifications/conditions with their proposal. ***Changes made without submission of a written request to this bid will result in disqualification.***

COMPLETING INFORMATION

Bidder must fill in all information asked for in the blanks provided under each item. Failure to comply may result in rejection of the Bid at the City's option.

CONTRACT CLAUSE

All bidders understand and agree that the vendor's bid response will become a legally binding contract upon acceptance in writing by the City. This contract may be superseded only if replaced with a more extensive contract that is agreed to by both parties.

DEFAULT

In case of default of the successful bidder, the city of Sherman may procure the articles from other sources and hold the bidder responsible for any excess cost occasioned thereby.

DELIVERY

The City reserves the right to demand bond or penalty to guarantee delivery by the date indicated. If order is given and the Bidder fails to furnish the materials by the guaranteed date, the City reserves the right to cancel the order without liability on its part. All prices are to be F.O.B. Sherman, Texas all freight prepaid.

DELIVERY DATE

Delivery date is an important factor to the City and may be required to be a part of each bid. The city of Sherman considers delivery time to be that period elapsing from the time the individual order is placed until that order or work thereunder is received by the City at the specified delivery location. The delivery date indicates a guaranteed delivery at Sherman, Texas. Failure of the bidder to meet guaranteed delivery dates or service performance could affect future City orders.

Whenever the Contractor encounters any difficulty which is delaying or threatens to delay timely performance (including actual or potential labor disputes), the Contractor shall immediately give notice thereof in writing to the City, stating all relevant information with respect thereto. Such notice shall not in any way constitute a basis for an extension of the delivery or performance schedule or be construed as a waiver by the City of any rights or remedies to which it is entitled by law or pursuant to provisions herein. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery or performance schedule because of such delivery.

INDEMNIFICATION

In case any action in court is brought against the Owner, or any officer or agent of the Owner, for the failure, omission, or neglect of the vendor to perform any of the covenants, acts, matters, or things by this contract undertaken; or for injury or damage caused by the alleged negligence of the

vendor or his subcontractors or his or their agents, or in connection with any claim based on lawful demands of subcontractors, workmen, materialmen, or suppliers the vendor shall indemnify and save harmless the Owner and his officers and agents, from all losses, damages, costs, expenses, judgments, or decrees arising out of such action.

INSURANCE

Deductibles, of any type, are the responsibility of the vendor/contractor.

MISCELLANEOUS

Except as to any supplies or components which the specifications provide need not be new, all supplies and components to be provided under this contract shall be new (not used or reconditioned, and not of such age or so deteriorated as to impair their usefulness or safety), of current production and of the most suitable grade for the purpose intended. If at any time during the performance of this contract the Contractor believes that the furnishing of supplies or components which are not new is necessary or desirable, they shall notify the City immediately, in writing, including the reasons therefore and proposing any consideration which will flow to the City if authorization to use supplies or components is granted.

The city of Sherman supports a recycling program. Recycled materials are acceptable and will be considered for award. The City desires to use recycled products when a comparable material/product is available. If your company distributes products made of recycled materials please submit an alternate bid for the items requested. All recycled products should meet the minimum standards established in the bid specifications provided. State any exceptions: costs, warranties and percentage of recycle materials used in the manufacture of the material/product. The City will determine the acceptability of the materials/product bid as an alternate.

Successful bidder(s) agrees to extend prices to all entities that have entered into or will enter into joint purchasing inter-local cooperation agreements with the city of Sherman. As such, the city of Sherman has executed an inter-local agreement with certain other governmental entities authorizing participation in a cooperative purchasing program. The successful vendor may be asked to provide product/services, based upon the bid price, to any other participant in the forum.

The City operates on a fiscal year that ends on September 30th. State law mandates that a municipality may not commit funds beyond a fiscal year; this bid is subject to cancellation if funds for this commodity are not approved in the next fiscal year.

PAYMENT TERMS & CONDITIONS

All bids shall specify terms and conditions of payment, which will be considered as part of, but not control, the award of bid. City review, inspection, and processing procedures ordinarily require thirty (30) days after receipt of invoice, materials or service. Bids which call for payment before 30 days from receipt of invoice, or cash discounts given on such payment, will be considered only if in the opinion of the City the review, inspection and processing procedures can be completed as to the specific purchases within the specified time.

It is the intention of the city of Sherman to make payment on completed orders within thirty (30) days

of receiving invoicing unless unusual circumstances arise. Invoices shall be fully documented as to labor, materials and equipment provided.

PROVISIONAL CLAUSES

The city of Sherman will not enter into any contract where the cost is provisional upon such clauses as are known as “escalator” or “cost-plus” clauses.

REJECTION OF BIDS

The City reserves the right to reject any or all bids or to waive technicalities at its option when in the best interests of said City. Bids will be considered irregular if they show any omissions, alteration of form, additions, or conditions not called for, unauthorized alternate bids or irregularities of any kind. However, the City reserves the right to waive any irregularities and to make the award in the best interests of the City.

The City reserves the right to reject any or all bids, and all bids submitted are subject to this reservation. Bids may be rejected, among other reasons, for any of the following specific reasons:

- Bids received after the time limit for receiving bids as stated in the advertisement.
- Proposal containing any irregularities.
- Bids submitted via fax or email.
- Unbalanced value of any items.

Bidders may be disqualified and their bids not considered, among other reasons, for any of the following specific reasons:

- Reason for believing collusion exists among the Bidders.
- Reasonable grounds for believing that any Bidder is interested in more than one Proposal for the work contemplated.
- The Bidder being interested in any litigation against the City.
- The Bidder being in arrears on any existing contract or having defaulted on a previous contract.
- Lack of competency as revealed by a financial statement, experience and equipment, questionnaires, etc.
- Uncompleted work, which in the judgment of the City will prevent or hinder the prompt completion of additional work if awarded.

REQUEST FOR NON-CONSIDERATION

Bids deposited with the City cannot be withdrawn prior to the time set for opening bids. Request for non-consideration of bids must be made in writing to the Finance Department and received by the City prior to the time set for opening bids. After other bids are opened and publicly read, the Proposal for which non-consideration is properly requested may be returned unopened. The Proposal may not be withdrawn after the bids have been opened, and the Bidder, in submitting the same, warrants and guarantees that this bid has been carefully reviewed and checked and that it is in all things true and accurate and free of mistakes and that such bid will not and cannot be withdrawn because of any mistake committed by the Bidder.

SALES TAX

The total for each bid submitted must include any applicable taxes. Although the City is exempt from most City, State, or Federal taxes, this is not true in all cases. It is suggested that taxes, if any, be separately identified, itemized, and stated on each bid. The City cannot determine for the bidder whether or not the bid is taxable to the City. The bidder through the bidder's attorney or tax consultant must make such determination. Bills submitted for taxes after the bids are awarded will not be honored.

PROPOSAL DEFINITIONS:

"City" is the City of Sherman, Texas.

"Bidder" is an individual or business submitting a bid or proposal to the City of Sherman.

"Independent contractor" or "contractor" is one who contracts to perform work or furnish materials in accordance with a contract.

I. PROPOSAL TERMS

- A. The City of Sherman reserves the right to reject any and all proposals received as a result of this RFP. If a proposal is selected, it will be the most advantageous regarding price, quality of service, the independent contractor's qualifications and capabilities to provide the specified service, and other factors which the City of Sherman may consider. The City does not intend to award a contract fully on the basis of any response made to the proposal: the City reserves the right to consider proposals for modifications at any time before a contract would be awarded; and negotiations would be undertaken with the independent contractor whose proposal is deemed to best meet the City's specifications and needs.
- B. Proposals must be signed by an official authorized to bind the independent contractor to its provisions for a period of at least ninety (90) days. Failure of the successful bidder to accept the obligation of the contract may result in the cancellation of any award.
- C. In the event it becomes necessary to revise any part of the RFP, addenda will be provided. The deadline for submission of proposals may be adjusted to allow for revisions. To be considered, the entire proposal document, with any amendments, should be returned by the specified date, time and method identified on page 2 of this document.
- D. Proposals should be prepared simply and economically providing a straightforward, concise description of the independent contractor's ability to meet the requirements of the RFP. Proposals shall be written in ink or typewritten. No erasures are permitted. Mistakes may be crossed out and corrected and must be initialed in ink by the person signing the proposal.
- E. The price quotations from the contractor stated in this proposal will not be subject to any price increase from the closing date of this RFP to the mutually agreed to date of contract.
- F. The City of Sherman reserves the right to increase or decrease the amount of janitorial services based upon annual budget constraints with fifteen (15) days' notice.

- G. The City of Sherman reserves the right to award a separate contract to separate vendors for each item/group or to award one contract for the entire RFP.

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SPECIFICATIONS

Scope

The following bid specifications and contract details describe the requirements for privatized cleaning of City of Sherman owned public use park restroom facilities.

Objective

To provide all-inclusive, year-round, janitorial services and nightly locking for all City of Sherman park restrooms listed in this bid. Also included in the contract will be a service for emergency call out weekend and after normal business hours services.

Location

Fairview Park (1)	1121 S. Taylor St.
Hawn Park	1202 S. Dewey
Herman Baker Park	2500 W. Center
Old Settlers Park (inside the quad)	1609 N. Harrison
Old Settlers Park	1609 N. Harrison
MLK Jr. Park	922 N. East St.
Center St Park	1401 Center St.
Pecan Grove West	3200 Canyon Creek Dr.
Pecan Grove Athletic Complex (PGAC) (2)	3320 Canyon Creek Drive

Frequency

- Cleaning will take place for 12 months of the year.
- Restrooms will be cleaned at night with work not to be started before 10:30pm seven (7) nights a week.
- Fairview Park restroom will be the last cleaned on a nightly basis and Old Settlers Park's two (2) restrooms will be cleaned next to last due to evening athletic schedules.
- Contract price for "emergency call out" cleaning services for problems that arise after 4:00pm during the week and on weekends and holidays will be quoted separately. These "call-outs" will require a response time of no longer than one (1) hour and be documented for monthly reporting to the Contract Administrator.
- Communication procedures for "call-outs" will be established by the City and the successful bidder.
- Special events that will conflict with restroom closings will be communicated by the City's Contract Administrator to the contractor in a timely fashion.

Cleaning Requirements

All restroom facilities shall be cleaned in the same manner following normal and expected practices and specified work objectives included here.

- All fixtures, floors, inside and outside walls, partitions, mirrors, ceilings, benches, shelves, urinals, toilets, sinks, drinking fountains, and toilet stalls shall be cleaned using appropriate soaps, detergents, disinfectants, deodorizers, and cleaning solutions.
- **ALL cleaning supplies must be pre-approved by the City.**
- Cleaning shall consist of sweeping, mopping, spraying, scrubbing, washing, wiping, litter and trash removal, spider web removal, rinsing and excess water removal.
- In the case of non-functioning or broken plumbing or vandalism, the contractor shall try removing any obstruction by use of plungers, probes or grasping device. If a problem cannot be corrected, a “closed” or “out of order” sign shall be displayed on the affected fixture for the next day’s opening and a repair request must be turned in to the City’s representative as soon as possible. Details of the reporting procedure will be established by the City and the successful bidder.

Supplies

The successful bidder shall supply all toilet paper, paper towel and soap for dispensers, hand sanitizer, replace needed light bulbs, and trash bags. All supplies must meet quality approval by Parks Maintenance Superintendent.

City will furnish dispensers for toilet paper, paper towel and soap and trash cans.

Below are some City-recommended cleaning products:

- SIMPLY GREEN INDUSTRIAL CLEANER AND DEGREASER
- CLOROX 409 CLEANER DEGREASER DISINFECTANT
- FABULOSO
- PINE-SOL
- LYSOL
- LAS TOTALLY AWESOME
- BETCO
- NCL DUAL-BLEND 20 BATHROOM PLUS CONCENTRATE

Below are some City-recommended hand soap lotions:

- GENUINE JOE
- DIAL
- SOFTSOAP
- ZEP
- GOJO

Below are recommendations for toilet paper and air fresheners, respectively:

- Green Heritage Pro Jumbo Roll Tissue (9" Dia. x 1000)
- Fresh Remind Air Curve Air Refresheners

Equipment

- The successful bidder will provide all necessary equipment for completion of the cleaning requirements.
- The city will furnish water for cleaning needs

Performance

- Facilities shall be inspected by City of Sherman Parks Maintenance Department representatives on a regular basis to insure thorough cleaning and contract compliance.
- The Parks and Recreation Manager and/or her representative shall be Contract Administrator for the City of Sherman. The Contract Administrator shall have the authority to communicate with contractor regarding any deficiencies in performance, changes in schedule, and contract service pay schedule. The Contract Administrator shall have authority to terminate the contract under the written conditions of the Contract Terms section.
- The Contract Services pay schedule will be monthly with procedures for invoicing established by the City and the contractor.

Contract Terms

- The contract shall remain in effect from March 1st through the end of February.
- The contract may be renewed and extended upon mutual agreement of the City and Contractor for one (1) additional one (1) year period for up to a total of 4 additional years after the first contract year, at the same terms and conditions. The first renewal would be for March 2025 through February 2026 with additional options going through 2030.
- The City, at its option, may cancel the contract immediately without written notice or recourse in the event of unsatisfactory performance, breach of contract, or any unlawful and illegal acts committed by the contractor and/or his/her employees.
- The contractor or City may terminate the contract within thirty (30) days written notice.

Insurance

Bidder must provide current proof of insurance for public liability and property damage with standard limits to cover bidder's company liability as may arise directly or indirectly from work performed under terms of this bid specification package.

Proof of current insurance must be submitted with bid.

BIDDERS INFORMATION

Bidder's Name: _____

Bidder's Company _____

Bidder's Address _____

Bidder's City/State _____

Bidder's Phone/Fax # _____

Bidder's E-Mail _____

BID FORM

Bidder accepts all of the terms and conditions set forth in the Advertisement for Bid and the Bid Specification Package. Bidder has visited the sites and become familiar with and is satisfied as to the general conditions that may affect cost, progress, and performance of specified work.

General Restroom Cleaning Services Bid: \$ _____

Restroom "call out" Services \$ _____ *per call out*

Bidder must include current proof of insurance as specified and two (2) similar job references including address and contact phone number with this bid proposal.

Signature of Bidder _____

Bidder (print name) _____

EVALUATION PROCESS

All submitted proposals will be reviewed by the City of Sherman for compliance with the specified RFP requirements. The selection committee will decide proposals which meet the RFP requirements and receive further evaluation.

Based on the firms' response to the RFP requirements, the selection committee will determine

the top firm(s) capable of meeting the needs of the City for such services. The City may invite the top firm(s) for an interview before considering a contract. Once the firm has been selected, the City will submit an agreement to the City Council for approval. The following evaluation criteria will be considered by the selection committee.

BEST VALUE EVALUATION CRITERIA

- 40% Pricing
- 40% Commercial Cleaning Experience
- 20% Experience with City/References

[REST OF THIS PAGE INENTIONALLY LEFT BLANK]

Contractor References

Customer Name: _____

Address: _____

Contact: _____ Telephone #: _____

Scope of work performed: _____

Length of Service: _____

Customer Name: _____

Address: _____

Contact: _____ Telephone #: _____

Scope of work performed: _____

Length of Service: _____

Customer Name: _____

Address: _____

Contact: _____ Telephone #: _____

Scope of work performed: _____

Length of Service: _____

Exhibit C

City's Insurance Requirements

I. GENERAL INSURANCE REQUIREMENTS –

- A. All policies shall name the City of Sherman, its officers, agents, representatives and employees as additional insureds as to all applicable coverages with the exception of workers compensation insurance.
- B. Such policies shall require the provision of written notice to City at least thirty (30) days prior to cancellation, non-renewal or material modification of any policies, evidenced by return receipt or United States Certified Mail.
- C. Such policies shall provide for a waiver of subrogation against City for injuries, including death, property damage or any other loss to the extent the same is covered by the proceeds of the insurance.

II. INSURANCE COMPANY QUALIFICATION – All insurance companies providing the required insurance shall be authorized to transact business in the State of Texas, and shall have a minimum rating of “A” by A.M. Best’s Key Rating Guide, or other equivalent rating service(s).

III. CERTIFICATE OF INSURANCE – A Certificate of Insurance and all applicable endorsement(s) evidencing the required insurance shall be submitted prior to commencing work under this Agreement. If the Agreement is renewed or extended by City, a Certificate of Insurance and all applicable endorsement(s) shall also be provided to City prior to the date the Agreement is renewed or extended.

IV. INSURANCE CHECKLIST – “X” means that the following coverage is required for this Agreement.

	Coverage Required	Limits
<u>X</u>	1. Worker’s Compensation & Employer’s Liability	▪ Statutory Limits of the State of Texas
<u>X</u>	2. General Liability	▪ Minimum \$1,000,000.00 each occurrence; ▪ Minimum \$2,000,000.00 in the aggregate.
—	3. XCU Coverage	▪ Minimum \$1,000,000.00 each occurrence; ▪ Minimum \$2,000,000.00 in the aggregate.
—	4. Professional Liability	▪ Minimum \$1,000,000.00 each claim; ▪ Minimum \$2,000,000.00 in the aggregate.
—	5. Umbrella Coverage or Excess Liability Coverage	▪ An amount of \$ 2,000,000.00.
<u>X</u>	6. City and its officers, agents, representatives and employees named as additional insured on General Liability Policy, as provided above. This coverage is primary to all other coverage City may possess.	
<u>X</u>	7. General Liability Insurance provides for a Waiver of Subrogation against City for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. All insurance policies that are required to name City as an additional	

insured must be endorsed to read as primary and non-contributory coverage regardless of the application of other insurance.

- X 8. Thirty (30) days' notice of cancellation, non-renewal, or material change required. The words "endeavor to" and "but failure" (to end of sentence) are to be eliminated from the Notice of Cancellation provision on standard ACORD certificates.
- X 9. Insurance company has a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s).
- X 10. The Certificate of Insurance must state the project title.
- 11. Other Insurance Requirements (State Below):

Exhibit D
Affidavit of No Prohibited Interest

THE STATE OF _____ §

THE COUNTY OF _____ §

I, _____, an authorized agent of Contractor, make this affidavit and hereby under oath state the following:

I, and/or a person or persons related to me, have the following interest in a business entity that would be affected by the work or decision under this Agreement (Check all that apply):

- _____ Ownership of ten percent (10%) or more of the voting shares of the business entity.
- _____ Ownership of Twenty-Five Thousand and 00/100 Dollars (\$25,000) or more of the fair market value of the business entity.
- _____ Funds received from the business entity exceed ten percent (10%) of my income for the previous year.
- _____ Real property is involved, and I have an equitable or legal ownership with a fair market value of at least Twenty-Five Thousand and 00/100 Dollars (\$25,000).
- _____ A relative of mine has a substantial interest in the business entity or property that would be affected by my business decision of the public body which I am a member.
- _____ Other: _____.
- _____ None of the Above.

Upon filing this affidavit with the City of Sherman, Texas, I further affirm that no relative of mine, in the first degree by consanguinity or affinity, as defined in Chapter 573, TEX. GOV'T CODE, as amended, is a member of a public body which took action on the agreement.

Signed this ____ day of _____, 2025.

Signature of Official/Title

BEFORE ME, the undersigned authority, this day personally appeared _____, and on oath stated that the facts hereinabove stated are true to the best of his/her knowledge or belief.

Sworn to and subscribed before me on this _____ day of _____, 2025.

Notary Public in and for the State of _____
My commission expires: _____

CONFLICT OF INTEREST QUESTIONNAIRE**FORM CIQ****For vendor doing business with local governmental entity****This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.**

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Signature of vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

- (a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

- (2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed;
or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

- (a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

- (a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

- (1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

- (2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

TEXAS ETHICS FORM 1295 & VERIFICATION FORM 2270

NOTE: TEC Form 1295 will not be required for all submitting contractors, but, will be required from the recommended contractor prior to award. Verification Form 2270 is required with all proposal submittals. See next page for forms.

INSTRUCTIONS for State Law Mandated Certificate of Interested Parties Form (Form 1295)

1. Pursuant to House Bill 1295 passed by the 84th Texas Legislature (Section 2252.908, Texas Government Code, as amended) and formal rules released by the Texas Ethics Commission (TEC), all contracts with private business entities requiring approval by the Sherman City Council must be accompanied by an original signature unsworn declaration, Certificate of Interested Parties, Form 1295.
2. Form 1295 must be completed in accordance with the TEC Rules: (<https://www.ethics.state.tx.us/legal/ch46.html>) and Section 2252.908 of the Texas Government Code, as amended: (<http://www.legis.state.tx.us/tlodocs/84R/billtext/html/HB01295F.htm>).
3. For questions or issues regarding the TEC rules and state law provisions and how Form 1295 should be completed, please consult with your own legal counsel.
4. In order to fill out and submit Form 1295, you will need to log in as directed on the TEC website: [https://www.ethics.state.tx.us/whatsnew/elf info form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf%20info%20form1295.htm)

Tutorials for creating an account and for creating and submitting Form 1295 may also be found on this web page.
5. Please provide the bolded information exactly as it appears below when creating your certificate:

Who is the contract with? Click the button for **Other**

Governmental Entity

Agency/Entity Name: **City of Sherman**

Contract ID Number: **2025-11**

Description of Goods and Services to be provided: **Park Restroom Cleaning Services**
6. All other fields as required or as applicable to the individual vendor must be completed as explained in the tutorial video.
7. Vendors must provide a signed, original signature copy of this form along with four signed, notarized, original signature copies of the contract no later than 14 days after Notice of Recommendation for Award is received. All documents shall be signed by an Officer, Director or other Authorized Agent of the company. If the individual signing as Authorized Agent is not an officer or director of the company, appropriate documentation must be included with these documents to confirm that the individual has the authority to bind the company contractually.

VERIFICATION REQUIRED BY TEXAS GOVERNMENT CODE CHAPTER 2270

By signing below, the signatory hereby verifies that the firm it represents:

1. Does not boycott Israel; and,
2. Will not boycott Israel during the term of the contract.

SIGNED BY: _____

Print Name & Title: _____

Firm Name: _____

Date Signed: _____

NOTARIZATION

THE STATE OF _____)

COUNTY OF _____)

BEFORE ME, the undersigned notary public on this day personally appeared _____, on behalf of _____ (Company), who, being duly sworn, stated under oath that he/she has read the foregoing verification required by Texas Government Code Section 2270.002 and said statements contained therein are true and correct.

SWORN TO AND SUBSCRIBED before me on the _____ day of _____, 202__.

NOTARY PUBLIC IN AND
FOR THE STATE OF _____

The following definitions apply to Texas Government Code Section 2270.001:

(1) "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and

(2) "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.

State law requires any firm entering into an agreement or contract with the Authority to complete the foregoing verification. TEX. GOV'T CODE § 2270.002.

BIDDERS INFORMATION

Bidder's Name: Melvin Dunlap
Bidder's Company DUN-AL Cleaning LLC
Bidder's Address 2508 Valley Ridge Ln.
Bidder's City/State Sherman, TX 75092
Bidder's Phone/Fax # 903-821-5248
Bidder's E-Mail dunalcleaning@gmail.com

BID FORM

Bidder accepts all of the terms and conditions set forth in the Advertisement for Bid and the Bid Specification Package. Bidder has visited the sites and become familiar with and is satisfied as to the general conditions that may affect cost, progress, and performance of specified work.

General Restroom Cleaning Services Bid:

\$ 4100.00

Restroom "call out" Services

\$ 0.00 per call out

Bidder must include current proof of insurance as specified and two (2) similar job references including address and contact phone number with this bid proposal.

Signature of Bidder

Melvin Dunlap

Bidder (print name)

Melvin Dunlap

Contractor References

Customer Name: Sean Hemperley - City of Sherman
Address: _____
Contact: 903-892-7344 Telephone #: 903-815-3457
Scope of work performed: Cleaning Restrooms
Length of Service: 9 year total

Customer Name: Tony Hernandez - First United Bank
Address: _____
Contact: _____ Telephone #: 903-870-8481
Scope of work performed: Cleaning Change Banks - 14
Length of Service: 8 years and counting

Customer Name: Brittany Fulton - Simmons Bank
Address: _____
Contact: _____ Telephone #: 903-821-7037
Scope of work performed: Cleaning Change Banks - 20
Length of Service: 21 years counting

Corey - Eaton Cooper B-Line
903-209-4509
Cleaning of factory
21 years and counting

Exhibit D
Affidavit of No Prohibited Interest

THE STATE OF Texas §

THE COUNTY OF Grayson §

I, Melvin Dunlap, an authorized agent of Contractor, make this affidavit and hereby under oath state the following:

I, and/or a person or persons related to me, have the following interest in a business entity that would be affected by the work or decision under this Agreement (Check all that apply):

- ☐ Ownership of ten percent (10%) or more of the voting shares of the business entity.
- ☐ Ownership of Twenty-Five Thousand and 00/100 Dollars (\$25,000) or more of the fair market value of the business entity.
- ☐ Funds received from the business entity exceed ten percent (10%) of my income for the previous year.
- ☐ Real property is involved, and I have an equitable or legal ownership with a fair market value of at least Twenty-Five Thousand and 00/100 Dollars (\$25,000).
- ☐ A relative of mine has a substantial interest in the business entity or property that would be affected by my business decision of the public body which I am a member.
- ☐ Other: _____.
- ☒ None of the Above.

Upon filing this affidavit with the City of Sherman, Texas, I further affirm that no relative of mine, in the first degree by consanguinity or affinity, as defined in Chapter 573, TEX. GOV'T CODE, as amended, is a member of a public body which took action on the agreement.

Signed this ____ day of _____, 2025.

Signature of Official/Title

BEFORE ME, the undersigned authority, this day personally appeared _____, and on oath stated that the facts hereinabove stated are true to the best of his/her knowledge or belief.

Sworn to and subscribed before me on this _____ day of _____, 2025.

Notary Public in and for the State of _____
My commission expires: _____

CONFLICT OF INTEREST QUESTIONNAIRE**FORM CIQ****For vendor doing business with local governmental entity****This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.**

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.*Melvin Dunlap - DBA DUN-AL Cleaning LLC*

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed._____
Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes☒ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes☒ No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 ☐ **Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).**

7 *Melvin Dunlap*
Signature of vendor doing business with the governmental entity

3-26-2025
Date

VERIFICATION REQUIRED BY TEXAS GOVERNMENT CODE CHAPTER 2270

By signing below, the signatory hereby verifies that the firm it represents:

1. Does not boycott Israel; and,
2. Will not boycott Israel during the term of the contract.

SIGNED BY:

Melvin Dunlap

Print Name & Title:

Melvin Dunlap - Owner of Dun-Al Cleaning LLC

Firm Name:

Date Signed:

NOTARIZATION

THE STATE OF _____)

COUNTY OF _____)

BEFORE ME, the undersigned notary public on this day personally appeared _____, on behalf of _____ (Company), who, being duly sworn, stated under oath that he/she has read the foregoing verification required by Texas Government Code Section 2270.002 and said statements contained therein are true and correct.

SWORN TO AND SUBSCRIBED before me on the _____ day of _____, 202__.

NOTARY PUBLIC IN AND
FOR THE STATE OF _____

The following definitions apply to Texas Government Code Section 2270.001:

(1) "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and

(2) "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.

State law requires any firm entering into an agreement or contract with the Authority to complete the foregoing verification. TEX. GOV'T CODE § 2270.002.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

03/26/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER		CONTACT NAME: Terry Jones	
Terry Jones Insurance Agency		PHONE (A/C, No, Ext): (903) 893-7200	FAX (A/C, No): (903) 893-7210
P.O. Box 2715		E-MAIL ADDRESS: terry@terryjonesagency.com	
		INSURER(S) AFFORDING COVERAGE	
Sherman	TX 75091	INSURER A: Hartford Underwriters Insurance Company	NAIC # 30104
INSURED		INSURER B:	
DUN-AL, LLC DBA: DUN-ALL CLEANING		INSURER C:	
2508 VALLEY RIDGE LN		INSURER D:	
SHERMAN		INSURER E:	
TX 75092-4704		INSURER F:	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	☒ COMMERCIAL GENERAL LIABILITY	X	X	61 SBM BG4H4F	05/29/2024	05/29/2025	EACH OCCURRENCE	\$ 1,000,000
	☐ CLAIMS-MADE ☒ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
							MED EXP (Any one person)	\$ 10,000
							PERSONAL & ADV INJURY	\$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$ 2,000,000
	☐ POLICY ☒ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	\$ 2,000,000
	OTHER:							\$
A	AUTOMOBILE LIABILITY			61 SBM BG4H4F	05/29/2024	05/29/2025	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	☐ ANY AUTO		BODILY INJURY (Per person)				\$	
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS NON-OWNED AUTOS ONLY		BODILY INJURY (Per accident)				\$	
	☒ HIRED AUTOS ONLY		PROPERTY DAMAGE (Per accident)				\$	
								\$
	UMBRELLA LIAB						EACH OCCURRENCE	\$
	EXCESS LIAB						AGGREGATE	\$
	DED ☐ RETENTION \$							\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE	OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	☐ Y ☒ N	N/A				E.I. EACH ACCIDENT	\$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.I. DISEASE - EA EMPLOYEE	\$
							E.I. DISEASE - POLICY LIMIT	\$
A	Employment Practices Liability Insurance			61 SBM BG4H4F	05/29/2024	05/29/2025	Each Claim Limit	\$25,000
							Annual Aggregate Lirr	\$25,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Business Liability Coverage Part includes a Blanket Additional Insured By Contract Endorsement, Form SL 30 32

CERTIFICATE HOLDER**CANCELLATION**

City of Sherman
PO Box 1106

Sherman

OK 75091

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Terry Jones

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AGREEMENT FOR PARK RESTROOM CLEANING SERVICES

The **City of Sherman, Texas**, a home-rule municipality ("City"), and **Dun-Al Cleaning, LLC**, a limited liability company ("Contractor"), hereby enter into this agreement for park restroom cleaning services ("Agreement"). City and Contractor are sometimes referred to collectively as the "parties" or individually as a "party."

WHEREAS, Sherman issued Request for Proposal No. 2025-11, attached hereto as Exhibit A and incorporated herein for all purposes ("Request for Proposal"), seeking competitive sealed proposals for park restroom cleaning services for the City; and

WHEREAS, Contractor timely submitted a response to the Request for Proposal, attached hereto as Exhibit B and incorporated herein for all purposes ("Submittal"), seeking to provide such services; and

WHEREAS, based on Contractor's representations in response to the Request for Proposals, including those representations set forth in the Submittal, Sherman has selected Contractor to provide the services sought in the Request for Proposal under the terms and conditions of this Agreement (the "Project")

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Scope of Services.
Contractor shall provide the services and deliverables that are described in the Agreement Documents (as defined below) and shall furnish all personnel, labor, equipment, supplies and all other items necessary to provide the services and deliverables as specified by the terms and conditions of the Agreement Documents (collectively, "Services").
2. Term.
The initial term of the Agreement shall be for a period of one (1) year, commencing on the Effective Date (hereinafter defined) of this Agreement. City shall have the option to extend this Agreement for four (4) additional terms of one (1) year each on the same terms and conditions of this Agreement by giving Contractor written notice of its intent to extend prior to the expiration of the then-current one (1) year term.
3. Compensation.
In exchange for Contractor's performance of the Services in accordance with the Agreement Documents, City agrees to pay Contractor on the basis defined by and in the amounts set forth in the Submittal ("Contractor's Fee").

City shall pay Contractor within thirty (30) days of receipt of each invoice, unless supporting receipts or other supporting documentation have been requested by City, in which case City shall pay the invoice as soon after receiving the supporting receipts or documentation as is reasonable; or unless a dispute arises as to any charge(s) contained in

the invoice, in which case City shall pay the undisputed amount of the invoice within thirty (30) days of receipt and shall pay the remaining amount, if any, of the invoice after resolution of the dispute as soon after resolution as is reasonable. Notwithstanding anything to the contrary in the Agreement Documents, City shall not be required to pay any invoice submitted by Contractor if Contractor is in breach of this Agreement.

The parties agree that the continuation of this Agreement after the close of any given fiscal year of City, which closes on September 30th of each calendar year, shall be subject to City Council approval. In the event that the City Council does not approve the appropriation of funds for this Agreement, the Agreement shall terminate at the end of the fiscal year for which funds were appropriated, and the parties shall have no further obligations hereunder, except that City shall be obligated to pay monies owed Contractor for services it has provided pursuant to this Agreement through the end of that fiscal year provided that Contractor is not in breach of this Agreement.

4. Agreement Documents.

The “Agreement Documents,” as that term is used herein, shall mean and include the following documents, and this Agreement expressly incorporates the same herein by reference for all purposes:

- A. This Agreement;
- B. The Bid Request, attached hereto as Exhibit A;
- C. The Submittal, attached hereto as Exhibit B;
- D. City’s Insurance Requirements, attached hereto as Exhibit C;
- E. Affidavit of No Prohibited Interest, attached hereto as Exhibit D; and
- F. Conflict of Interest Questionnaire, attached hereto as Exhibit E.

This Agreement shall incorporate the terms of the Agreement Documents in their entirety. To the extent that Exhibit A, Exhibit B, Exhibit C, Exhibit D or Exhibit E are in conflict with provisions of this Agreement or each other, the provisions of this Agreement, then the provisions of Exhibit A, Exhibit C, Exhibit D, Exhibit E and Exhibit B shall prevail in that order. Should disputes arise as to responsibilities and obligations set forth in the Agreement Documents, City’s interpretation and/or decision shall be final and binding.

5. Entire Agreement.

The Agreement Documents contain all representations, understandings, contracts and agreements between the parties regarding the subject matter of this Agreement. The Agreement Documents supersede all oral or written previous and contemporaneous agreements, writings, understandings, representations or contracts between the parties regarding the subject matter of this Agreement. This Agreement in no way modifies or supersedes any document executed by the parties prior to the Effective Date of this

Agreement which does not concern the subject matter of this Agreement. No amendment to the Agreement Documents shall be made except on the written agreement of the parties, which shall not be construed to release either party from any obligation of the Agreement Documents except as specifically provided for in such amendment.

6. Required Insurance.

Contractor shall not start work under this Agreement until Contractor has obtained, at Contractor's expense, all of the insurance specified in, and required by, the Agreement Documents. Contractor shall procure and keep in full force and effect the types and amounts of insurance specified in City's Insurance Requirements, attached hereto as Exhibit B and incorporated herein for all purposes, for and during all aspects and phases of Contractor's work throughout the term of this Agreement at no expense to City. Contractor also shall comply with all other requirements set forth in Exhibit B.

7. No Prohibited Interest; Vendor Disclosure.

Contractor acknowledges and agrees that it is aware of, and will abide by, the no prohibited interest requirement of the City Charter. Contractor shall execute and deliver to City the Affidavit of No Prohibited Interest, attached hereto as Exhibit D and incorporated herein for all purposes, no later than the Effective Date of this Agreement (hereinafter defined). Contractor acknowledges and agrees that the existence of a prohibited interest during the term of this Agreement will render this Agreement voidable. Contractor further acknowledges and agrees that it also is aware of, and will abide by, the vendor disclosure requirements set forth in Chapter 176 of the Texas Local Government Code, as amended. In this connection, Contractor shall execute and deliver to City the Conflict of Interest Questionnaire, Form CIQ, attached hereto as Exhibit E and incorporated herein for all purposes, no later than the Effective Date of this Agreement.

8. Indemnity.

CONTRACTOR HEREBY RELEASES AND SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ITS CITY COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES (COLLECTIVELY REFERRED TO AS "CITY" FOR PURPOSES OF THIS SECTION) FROM AND AGAINST ALL DAMAGES, INJURIES (WHETHER IN CONTRACT OR IN TORT, INCLUDING PERSONAL INJURY AND DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, ACTIONS, JUDGMENTS, LIENS, COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEY'S FEES AND EXPENSES INCURRED IN ENFORCING THIS SECTION), THAT IN WHOLE OR IN PART ARISE OUT OF OR ARE CONNECTED WITH GOODS AND/OR SERVICES PROVIDED BY CONTRACTOR, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FOR WHOM CONTRACTOR IS LEGALLY RESPONSIBLE (COLLECTIVELY REFERRED TO AS "CONTRACTOR" FOR PURPOSES OF THIS SECTION) PURSUANT TO THIS AGREEMENT AND/OR THE NEGLIGENT, GROSSLY NEGLIGENT AND/OR INTENTIONAL WRONGFUL ACT AND/OR OMISSION OF CONTRACTOR IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OF CITY (COLLECTIVELY, "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT IS NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST CITY BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL

CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CONTRACTOR AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH CONTRACTOR, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE.

IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY CONTRACTOR IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY CITY, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF CONTRACTOR'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF CONTRACTOR'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. CONTRACTOR SHALL RETAIN CITY-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO DEFENSE OR INDEMNIFICATION UNDER THIS AGREEMENT. IF CONTRACTOR FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND CONTRACTOR SHALL BE LIABLE FOR ALL COSTS INCURRED BY CITY.

THE RIGHTS AND OBLIGATIONS CREATED BY THIS SECTION SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

9. Liability.

To the fullest extent permitted by law, Contractor shall be fully and solely responsible and liable for its own acts and omissions, including those of its officers, agents, representatives, employees, subcontractors, licensees, invitees and all other parties performing services for or on behalf of Contractor under this Agreement, and for any and all damage to Contractor's equipment and other property. City assumes no such responsibility or liability. City shall have no such responsibility or liability to either Contractor or its officers, agents, representatives, employees, subcontractors, licensees, invitees or other persons.

10. Compliance with Laws; Standard of Care.

Contractor shall comply with all federal, state and local laws, statutes, ordinances, regulations and policies, as they exist, may be amended or in the future arising, applicable to Contractor and its work. Contractor shall ensure that its officers, agents, representatives, employees, subcontractors, licensees, invitees and other parties performing services for or on behalf of Contractor under this Agreement comply with all applicable laws, statutes, ordinances, regulations and policies. If Contractor observes or is notified that the work under this Agreement is at variance with applicable laws, statutes, ordinances, regulations and policies, Contractor shall immediately notify City in writing. Contractor shall perform

the Services in accordance with the prevailing standard of care by exercising the skill and care ordinarily utilized by professionals performing the same or similar services under the same or similar circumstances in the State of Texas.

11. Termination.

City is entitled to terminate this Agreement at any time for any reason or for no reason by giving Contractor at least thirty (30) days' prior written notice of the termination date.

City is entitled to terminate this Agreement immediately on breach of any term or provision of the Agreement Documents by Contractor. If at any time during the term of this Agreement, Contractor shall fail to commence the work in accordance with the provisions of the Agreement Documents or fail to diligently perform the Services in an efficient, timely and careful manner and in strict accordance with the provisions of the Agreement Documents, then City shall have the right to terminate this Agreement and complete the work in any manner it deems desirable, including engaging the services of other parties, if Contractor does not cure any such default after five (5) days written notice thereof. Any such act by City shall not be deemed a waiver of any other right or remedy of City.

If after exercising any remedy provided herein, the cost to City of the performance of the balance of the work under this Agreement is in excess of that part of the Contractor's Fee which has not yet been paid to Contractor hereunder, Contractor shall be liable for and shall reimburse City for such excess, without waiver of any other right or remedy of City.

The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its rights to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

12. Authority to Execute.

Each party represents and warrants to the other that it has the full power and authority to enter into and fulfill the obligations of this Agreement. The respective signatories to this Agreement, by affixing their signatures hereto, warrant and represent that they have the authority to bind their respective parties as duly authorized representatives thereof.

13. Assignment.

Contractor agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of City. Contractor further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve Contractor of its full obligations to City as provided by this Agreement. All such approved work performed by assignment or subletting shall be billed through Contractor, and there shall be no third-party billing.

14. No Waiver of Immunity.

The parties acknowledge and agree that, in executing and performing this Agreement, City

has not waived, nor shall be deemed to have waived, any defense or immunity, including governmental, sovereign and official immunity, that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein.

15. Savings/Severability.

In the event that a term, condition or provision of this Agreement is determined to be invalid, illegal, void, unenforceable or unlawful by a court of competent jurisdiction, then that term, condition or provision shall be deleted and the remainder of the Agreement shall remain in full force and effect as if such invalid, illegal, void, unenforceable or unlawful provision had never been included in this Agreement.

16. Consideration.

This Agreement is executed by the parties without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

17. Attorneys' Fees.

If either party files any action or brings any proceeding against the other arising from this Agreement, then as between City and Contractor, the prevailing party shall be entitled to recover as an element of its costs of suit, and not as damages, reasonable and necessary attorneys' fees and litigation expenses both at trial and on appeal, subject to the limitations set forth in the TEX. LOC. GOV'T CODE § 271.153, as it exists or may be amended, if applicable.

18. Governing Law; Venue.

The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Agreement, without regard to conflict of law principles. This Agreement is performable in Grayson County, Texas, and the exclusive venue for any action arising out of this Agreement shall be a court of appropriate jurisdiction in Grayson County, Texas.

19. Binding Effect.

This Agreement shall be binding on and inure to the benefit of the parties and their respective heirs, executors, administrators, legal representatives, successors and assigns when permitted by this Agreement.

20. No Waiver.

Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit, or waive such party's right thereafter to enforce and compel strict compliance.

21. Headings.

The headings of the various sections of this Agreement are included solely for convenience of reference and are not to be full or accurate descriptions of the content thereof.

22. Indemnity.

The parties agree that the indemnity provision set forth in Section 8 herein is conspicuous and the parties have read and understood the same.

23. Notice.

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing the same in the United States Mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt requested; by electronic mail, with documentation evidencing the addressee's receipt thereof; or by delivering the same in person to such party a via hand-delivery service, or to any courier service that provides a return receipt showing the date of actual delivery of the same to the addressee thereof. Notice given in accordance herewith shall be effective on receipt at the address of the addressee. For purposes of notification, the addresses of the parties shall be as follows:

If to Contractor, to:

DUN-AL Cleaning LLC
Attn: Melvin D. Lopez
Address: 2508 Valley Ridge
Sherman, Tx 75092
Telephone: 903-821-5248
Facsimile:
Email: dunalcleaning@gmail.com

If to City, to:

City of Sherman
Attn: Dr. Zachary Flores, City Manager
220 W. Mulberry Street
Sherman, Texas 75090
Telephone: (903) 892-7201
Facsimile: (903) 892-7355
Email: zacharyf@cityofsherman.com

With a copy to:

Abernathy, Roeder, Boyd & Hullett, P.C.
Attn.: Ryan D. Pittman
1700 Redbud Blvd., Suite 300
McKinney, Texas 75069
Telephone: (214) 544-4000
Facsimile: (214) 544-4054
Email: rpittman@abernathy-law.com

24. Representations.

Each party states that they have carefully read this Agreement, know the contents hereof, have consulted with an attorney of their choice regarding the meaning and effect hereof and is signing the same solely of their own judgment.

25. Independent Contractor.
Contractor covenants and agrees that Contractor is an independent contractor and not an officer, agent, servant or employee of City; that Contractor shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing the same; that the doctrine of respondent superior shall not apply as between City and Contractor, its officers, agents, employees, contractors, subcontractors and consultants; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Contractor.
26. Incorporation of Recitals.
The representations, covenants and recitations set forth in the foregoing recitals of this Agreement are true and correct and are hereby incorporated into the body of this Agreement and adopted as findings of City and the authorized representative of Contractor.
27. Reference to Contractor.
When referring to "Contractor" herein, this Agreement shall refer to and be binding upon Contractor, and its officers, directors, partners, employees, representatives, contractors, subcontractors, licensees, invitees, agents, successors, assignees (as authorized herein), vendors, grantees, trustees, legal representatives and/or any other third parties for whom Contractor is legally responsible.
28. Reference to City.
When referring to "City" herein, this Agreement shall refer to and be binding upon City, its Council Members, officers, agents, representatives, employees and/or any other authorized third parties for whom City is legally responsible.
29. Miscellaneous Drafting Provisions.
This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this document.
30. Multiple Counterparts.
This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. An electronic mail and/or facsimile signature will also be deemed to constitute an original if properly executed and delivered to the other party.

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective when all the parties have signed it. The date this Agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature below) will be deemed the effective date of this Agreement ("Effective Date").

CITY OF SHERMAN, TEXAS,
a home-rule municipality

By: _____
Dr. Zachary Flores, City Manager
Date: _____

ATTEST:

APPROVED AS TO FORM AND CONTENT:

Linda Ashby, City Secretary

Ryan D. Pittman, City Attorney

SELLER:

Dun-AL Cleaning LLC
a Texas limited liability company

By: Melvin Dunlap
Printed Name: Melvin Dunlap
Title: Owner - Dun-AL Cleaning LLC
Date: 4-22-2025

STATE OF TEXAS §
 §
COUNTY OF Grayson §

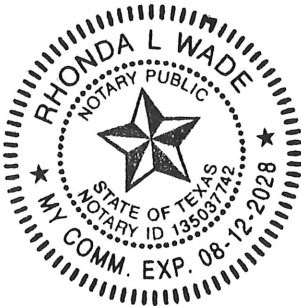
BEFORE ME, the undersigned authority, on this day personally appeared Melvin Dunlap known to me to be one of the persons whose names are subscribed to the foregoing instrument; he/she acknowledged to me he/she is the Owner (title) and duly authorized representative for Dun - AL LLC, a Texas corporation, and that he/she executed said instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 22 day of April, 2025.

Rhonda L Wade

Notary Public in and for the State of Texas

My Commission Expires: 8/12/25



RFP Evaluation - Parks Restroom Cleaning Services

Evaluation Criteria	Ecobrite Franchising	Global Building Maintenance	123 Clean Pros	Dun-Al Cleaning LLC	Trust the Process
Pricing (40%)	10.00	35.00	20.00	40.00	Non-responsive Bid (failed to attend mandatory Pre-Bid)
Commercial Cleaning Experience (40%)	40.00	30.00	30.00	35.00	Non-responsive Bid (failed to attend mandatory Pre-Bid)
Experience w/ City of Sherman or References (20%)	10.00	10.00	10.00	15.00	Non-responsive Bid (failed to attend mandatory Pre-Bid)
Evaluation Score	60.00	75.00	60.00	90.00	0.00

Exhibit C
City's Insurance Requirements

I. GENERAL INSURANCE REQUIREMENTS –

- A. All policies shall name the City of Sherman, its officers, agents, representatives and employees as additional insureds as to all applicable coverages with the exception of workers compensation insurance.
- B. Such policies shall require the provision of written notice to City at least thirty (30) days prior to cancellation, non-renewal or material modification of any policies, evidenced by return receipt or United States Certified Mail.
- C. Such policies shall provide for a waiver of subrogation against City for injuries, including death, property damage or any other loss to the extent the same is covered by the proceeds of the insurance.

II. INSURANCE COMPANY QUALIFICATION – All insurance companies providing the required insurance shall be authorized to transact business in the State of Texas, and shall have a minimum rating of “A” by A.M. Best’s Key Rating Guide, or other equivalent rating service(s).

III. CERTIFICATE OF INSURANCE – A Certificate of Insurance and all applicable endorsement(s) evidencing the required insurance shall be submitted prior to commencing work under this Agreement. If the Agreement is renewed or extended by City, a Certificate of Insurance and all applicable endorsement(s) shall also be provided to City prior to the date the Agreement is renewed or extended.

IV. INSURANCE CHECKLIST – “X” means that the following coverage is required for this Agreement.

	Coverage Required	Limits
--	-------------------	--------

<u> X </u>	1. Worker’s Compensation & Employer’s Liability	▪ Statutory Limits of the State of Texas
<u> X </u>	2. General Liability	▪ Minimum \$1,000,000.00 each occurrence; ▪ Minimum \$2,000,000.00 in the aggregate.
<u> </u>	3. XCU Coverage	▪ Minimum \$1,000,000.00 each occurrence; ▪ Minimum \$2,000,000.00 in the aggregate.
<u> </u>	4. Professional Liability	▪ Minimum \$1,000,000.00 each claim; ▪ Minimum \$2,000,000.00 in the aggregate.
<u> </u>	5. Umbrella Coverage or Excess Liability Coverage	▪ An amount of \$ 2,000,000.00.
<u> X </u>	6. City and its officers, agents, representatives and employees named as additional insured on General Liability Policy, as provided above. This coverage is primary to all other coverage City may possess.	
<u> X </u>	7. General Liability Insurance provides for a Waiver of Subrogation against City for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. All insurance policies that are required to name City as an additional insured must be endorsed to read as primary and non-contributory coverage regardless of the application of other insurance.	

- X 8. Thirty (30) days' notice of cancellation, non-renewal, or material change required. The words "endeavor to" and "but failure" (to end of sentence) are to be eliminated from the Notice of Cancellation provision on standard ACORD certificates.
- X 9. Insurance company has a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s).
- X 10. The Certificate of Insurance must state the project title.
- ___ 11. Other Insurance Requirements (State Below):



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

03/26/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Terry Jones Insurance Agency P.O. Box 2715 Sherman TX 75091		CONTACT NAME: Terry Jones PHONE (A/C, No, Ext): (903) 893-7200 E-MAIL ADDRESS: terry@terryjonesagency.com FAX (A/C, No): (903) 893-7210	
INSURED DUN-AL, LLC DBA: DUN-ALL CLEANING 2508 VALLEY RIDGE LN SHERMAN TX 75092-4704		INSURER(S) AFFORDING COVERAGE INSURER A: Hartford Underwriters Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 30104	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC ☐ OTHER:	X	X	61 SBM BG4H4F	05/29/2024	05/29/2025	EACH OCCURRENCE \$ 1,000,000
	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000						
	MED EXP (Any one person) \$ 10,000						
	PERSONAL & ADV INJURY \$ 1,000,000						
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			61 SBM BG4H4F	05/29/2024	05/29/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	BODILY INJURY (Per person) \$						
	BODILY INJURY (Per accident) \$						
	PROPERTY DAMAGE (Per accident) \$						
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$ ☐						EACH OCCURRENCE \$
	AGGREGATE \$						
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below ☐ Y ☒ N / A						PER STATUTE ☐ OTH-ER ☐
	E.I. EACH ACCIDENT \$						
	E.I. DISEASE - EA EMPLOYEE \$						
	E.I. DISEASE - POLICY LIMIT \$						
A	Employment Practices Liability Insurance			61 SBM BG4H4F	05/29/2024	05/29/2025	Each Claim Limit \$25,000 Annual Aggregate Lirr \$25,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Business Liability Coverage Part includes a Blanket Additional Insured By Contract Endorsement, Form SL 30 32

CERTIFICATE HOLDER**CANCELLATION**

City of Sherman
PO Box 1106

Sherman

OK 75091

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Terry Jones

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Exhibit D
Affidavit of No Prohibited Interest

THE STATE OF Texas §

THE COUNTY OF Grayson §

I, Melvin Dunlap, an authorized agent of Contractor, make this affidavit and hereby under oath state the following:

I, and/or a person or persons related to me, have the following interest in a business entity that would be affected by the work or decision under this Agreement (Check all that apply):

- ☐ Ownership of ten percent (10%) or more of the voting shares of the business entity.
- ☐ Ownership of Twenty-Five Thousand and 00/100 Dollars (\$25,000) or more of the fair market value of the business entity.
- ☐ Funds received from the business entity exceed ten percent (10%) of my income for the previous year.
- ☐ Real property is involved, and I have an equitable or legal ownership with a fair market value of at least Twenty-Five Thousand and 00/100 Dollars (\$25,000).
- ☐ A relative of mine has a substantial interest in the business entity or property that would be affected by my business decision of the public body which I am a member.
- ☒ Other: _____
- ☒ None of the Above.

Upon filing this affidavit with the City of Sherman, Texas, I further affirm that no relative of mine, in the first degree by consanguinity or affinity, as defined in Chapter 573, TEX. GOV'T CODE, as amended, is a member of a public body which took action on the agreement.

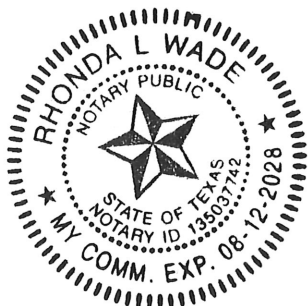
Signed this 22 day of April, 2025.

Melvin Dunlap
Signature of Official/Title

BEFORE ME, the undersigned authority, this day personally appeared Melvin Dunlap, and on oath stated that the facts hereinabove stated are true to the best of his/her knowledge or belief.

Sworn to and subscribed before me on this 22nd day of April, 2025.

Rhonda L Wade
Notary Public in and for the State of Texas
My commission expires: 8/12/28



CONFLICT OF INTEREST QUESTIONNAIRE**FORM CIQ****For vendor doing business with local governmental entity****This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.**

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.*Melvin Dunlap - DBA DUN-AL Cleaning LLC*

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed._____
Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes☒ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes☒ No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7 *Melvin Dunlap*
Signature of vendor doing business with the governmental entity

3-26-2025
Date



SHERMAN CITY COUNCIL Agenda Communication Form

City Council Regular Meeting

Agenda Item No. F.1.

Meeting Date: 5/5/2025

Prepared By: Eric Sandberg, Quality Services Manager

Approved By: Zachary Flores, Acting City Manager

Caption:

*** REQUEST TO ADVERTISE**

Annual Water and Sewer Maintenance Supplies and Parts

Issue:

Approve advertising for bids that will provide the City with water and sewer supplies and parts for annual maintenance work

Background:

Annually, the City requests bids, or renews the contract if possible, for our supply of water and sewer supplies and parts used in the maintenance of the City's water system and sewer system. The current contract is expiring and staff is requesting to advertise for a new annual supply contract.

Capital Improvement Program:

Origination:

Collection and Distribution Services

Financial Consideration:

Purchases are made with budgeted funds in the Utility Fund and are included in the approved fiscal year 2024-2025 budget. The cost of advertising for this contract is expected to be less than \$200.00.

Staff Recommendation:

It is requested that the City Council authorize the staff to advertise the annual contract for bids.

Alternatives:

As may be directed by the City Council.

Attachments:

None



City Council Regular Meeting

Agenda Item No. G.1.

Meeting Date: 5/5/2025

Prepared By: Clint Philpott, Assistant City Manager

Approved By: Zachary Flores, Acting City Manager

Caption:

Other Business

Receive Presentation on Program Updates from Pape-Dawson

Issue:

To receive update on programs

Background:

The purpose of Pape-Dawson is to provide for additional Program Management support for various time sensitive CIP projects. Among that additional program management services are scheduling, Program Management, Technical Management, Construction Liaison Coordination, Document Controls Management, continuation of Program Management Information System (PMIS), Document Management, conducting program progress meetings, preparation and issuance of monthly progress reports, maintenance program schedules. Today's presentation is to give Council an update on the projects Pape-Dawson is helping manage.

Capital Improvement Program:

N/A

Origination:

Pape-Dawson
City Manager's Office

Financial Consideration:

Informational purposes only, no associated cost.

Staff Recommendation:

None

Alternatives:

None

Attachments:

1. Presentation



City of Sherman - Program Update to City Council

Major Infrastructure Improvements Program

May 5, 2025

Toby Flinn, P.E., Pape-Dawson



Project Orientation: Provide Water to Sherman's Industrial Park

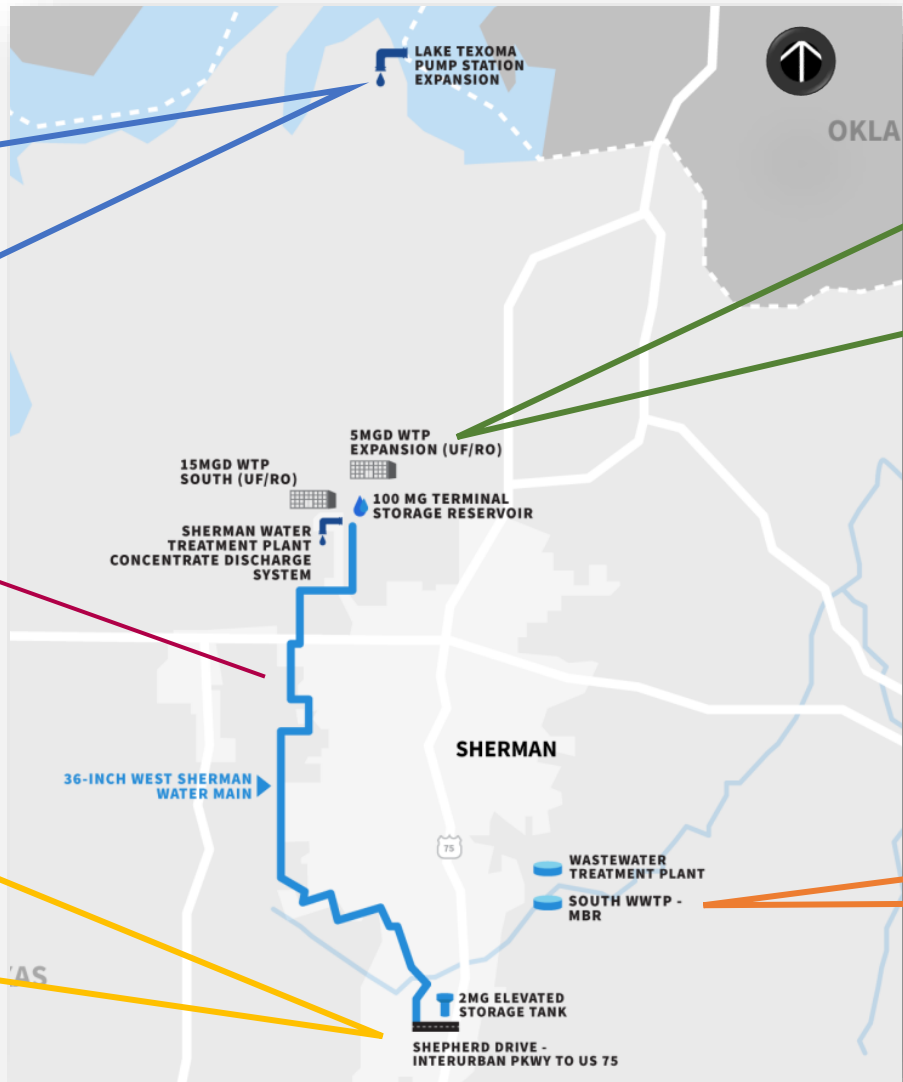
Produce-Treat-Transport-Store-Waste

Produce

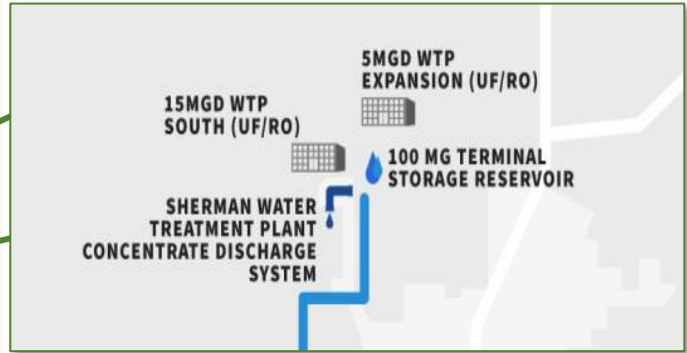


Transport - 36" Water Main

Storage/Reserve

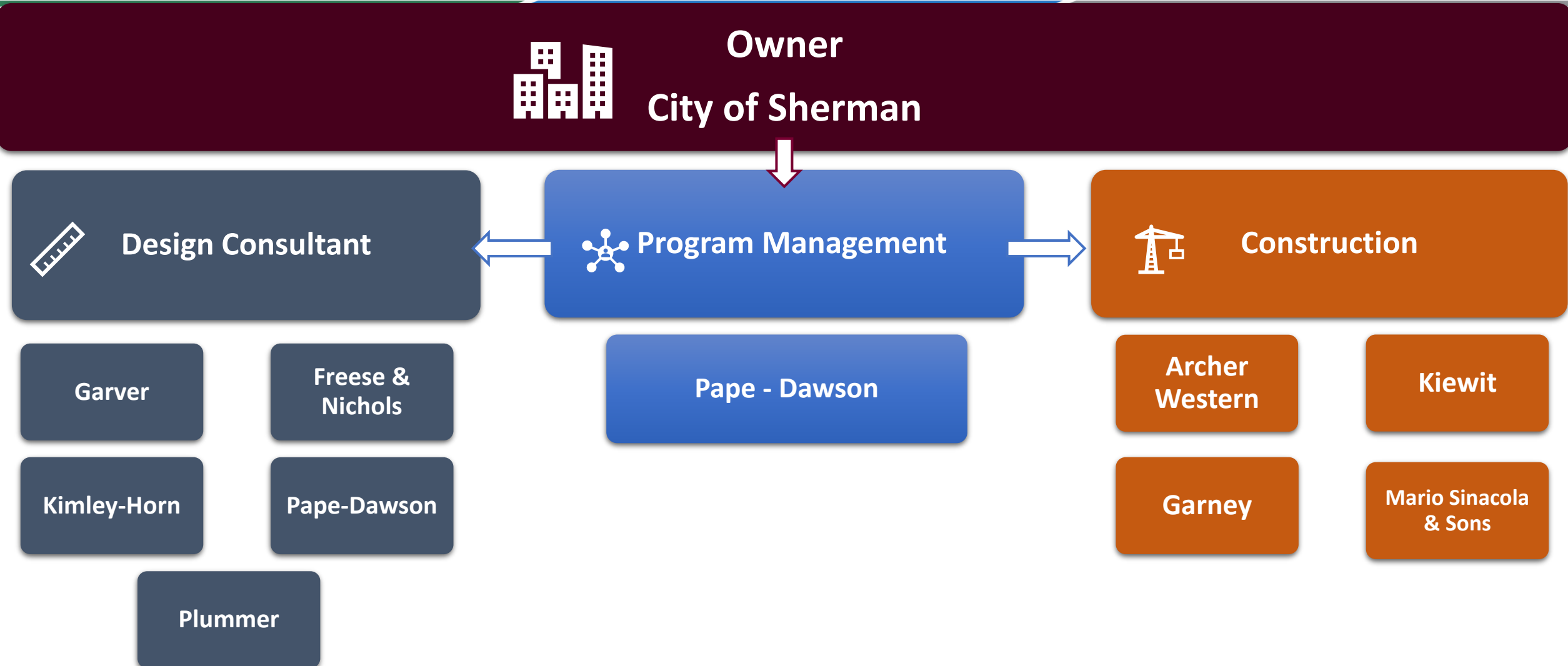


Treat



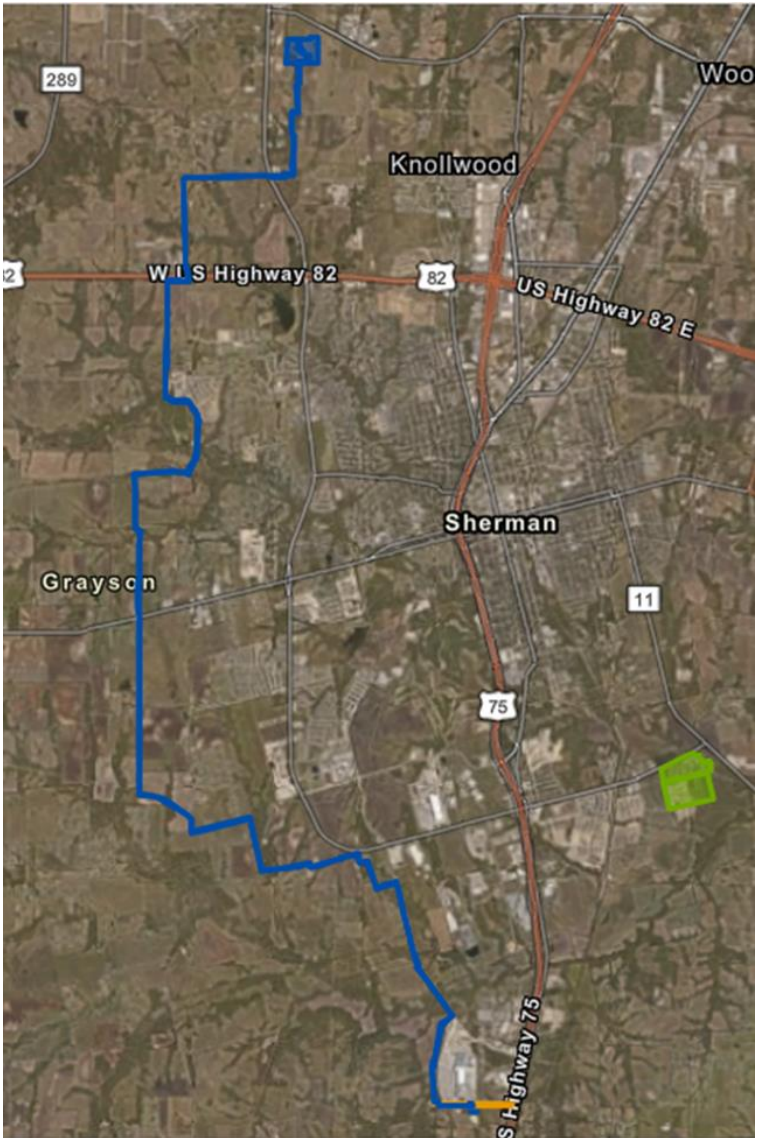
Waste





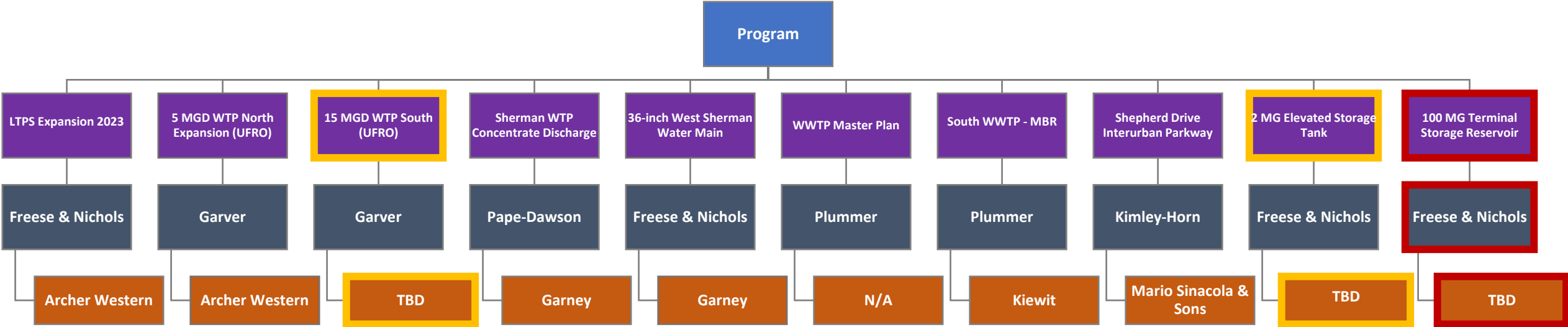
Projects Overview SharePoint Linked

-  Shepherd Drive from Interurban Parkway to U.S. Highway 75
-  South WWTP - MBR
-  Wastewater Treatment Plant Master Plan
-  100 MG Terminal Storage Reservoir
-  15 MGD WTP South (UF/RO)
-  2 MG Elevated Storage Tank
-  36 inch West Sherman Water Main
-  5 MGD WTP North Expansion (UF RO)
-  Lake Texoma Raw Water Pump Station Expansion 2023
-  Sherman Water Treatment Plant Concentrate Discharge System



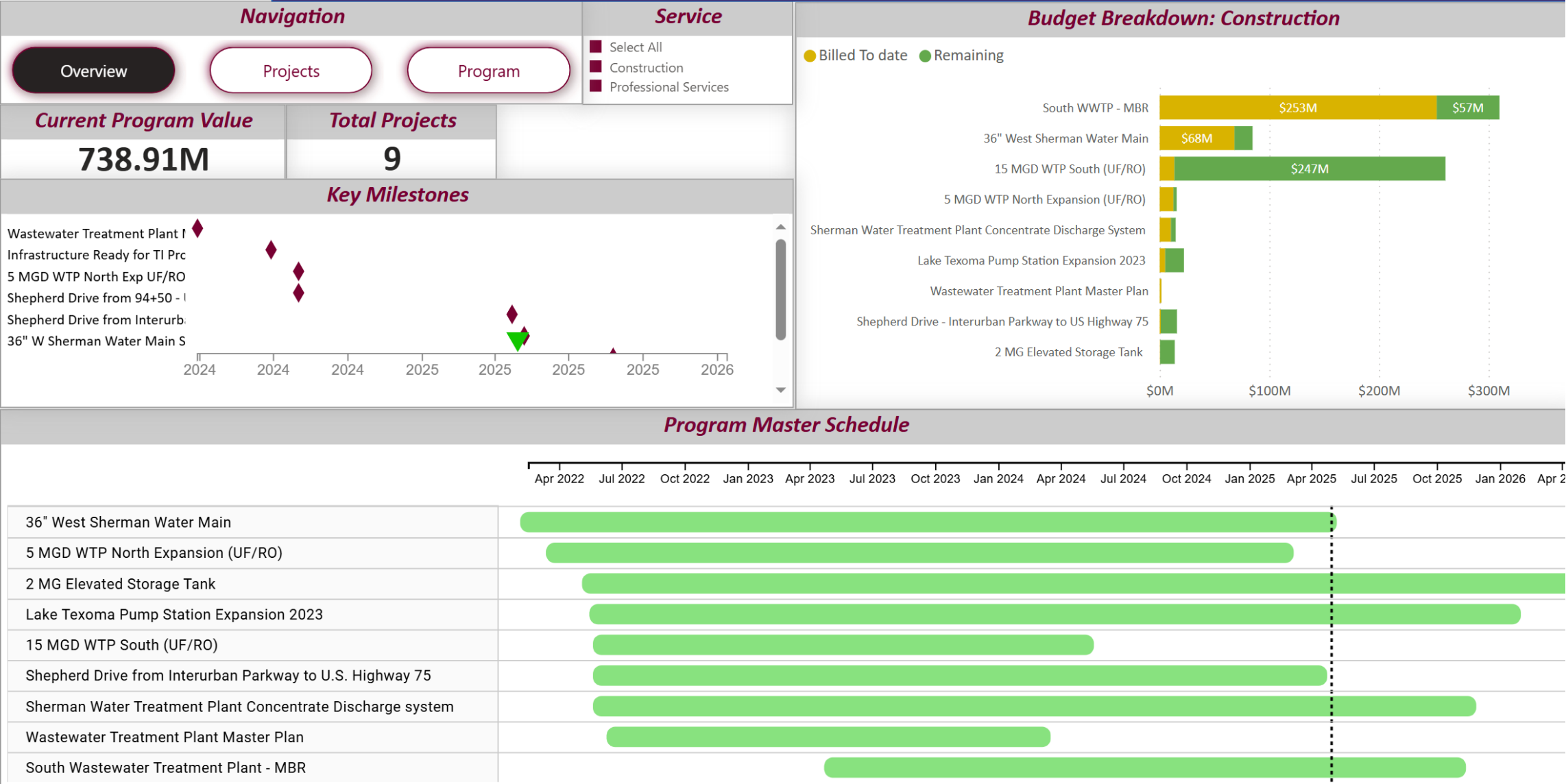
Lake
Texoma

Projects Overview



Project	Design Cost	Construction Estimate	Total Cost
Lake Texoma Pump Station Expansion	\$1,831,500.00	\$20,319,169.00	\$22,150,669.00
5 MGD WTP North Expansion (UFRO)	\$1,858,919.00	\$13,671,771.87	\$15,530,690.87
15 MGD WTP South (UFRO)	\$14,318,009.00	\$246,365,000.00	\$260,683,009.00
WTP Concentrate Discharge System	\$1,411,780.00	\$13,208,980.00	\$14,620,760.00
36" W Sherman Water Main	\$6,648,760.00	\$78,084,785.32	\$84,733,545.32
WWTP Master Plan	\$1,683,011.00	Not Applicable	\$1,683,011.00
South WWTP MBR	\$22,240,905.00	\$287,705,928.48	\$309,946,833.48
Shepherd Drive Interurban Parkway	\$1,176,800.00	\$14,611,695.00	\$15,788,495.00
2 MGD EST	\$743,780.00	\$13,029,660.00	\$13,773,440.00
TOTALS:	\$51,913,464.00	\$686,996,989.67	\$738,910,453.67

Program Dashboard



Program Schedule

Program Schedule	2022				2023				2024				2025				2026			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Lake Texoma Pump Station Expansion																				
5 MGD WTP North Expansion																				
15 MGD WTP South - Hold																				
WTP Concentrate Discharge System																				
36-inch West Sherman Water Main																				
WWTP Masterplan																				
South WWTP MBR																				
Shepherd Drive																				
2 MG EST – Pending City Approval for Procurement																				
100 MG TSR - Cancelled																				

Design

Procurement

Construction

Design Projects

15 MGD WTP South
(UFRO)
Garver

- Installation of a new 15-30 MGD treatment facility - improvements include a new building with initial treatment of 15 MGD and ultimate ability to treat 30 MGD.

Design Complete - Project Placed on Hold - May 2024



2 MG EST
Freese and Nichols

- Expected to increase storage capacity and water supply within the City's Southwest Zone in anticipation for growth and increased demands.

Final Design May 2024 - Project On Hold Pending Procurement



LTPS Expansion 2023
Freese and Nichols

- Preliminary study and analysis of the existing pump station to evaluate and determine additional pumping capacities to meet the growing City water demands.

Final Design - May 2024



WWTP Master Plan
Plummer

- Master planning services of the existing wastewater treatment and water reuse facilities to determine needs and requirements to support continued growth.

Final Design - November 2023



100 MG TSR
Freese and Nichols

- Design and Construction of a Terminal Storage Reservoir and associated pump station and piping.

Placed on Hold/Cancelled - Jan 2024



On Plan



Trending Off Plan



Off Plan

Awarded Construction Projects

5 MGD WTP North Expansion (UFRO) Archer Western

- Improvements to the water treatment plant include design and construction services intended to expand the current capacities by 5 million gallons per day. **Complete and in Service now.**

Substantial Completion – August 2024

Final Completion – March 2025



36-inch West Sherman Water Main Garney

- Improvements to the water transmission system include the design and construction of a 36-inch water transmission line from the Water Treatment Plant, located south of State Highway 691 along La Cima Road, to Shepherd Drive, approximately 73,000 linear feet. **Required re-work on one section led to a delay.**

Substantial Completion - May 2025

Final Completion – May 2025



Sherman WTP Concentrate Discharge Garney

- Design and construction services of a brine discharge outfall and related pump station necessary to convey the effluent from the final settling ponds to an identified TCEQ permitted outfall. **Discharge Channel complete, temporary pumps in place and flowing water.**

Substantial Completion – Nov 2025

Final Completion – Dec 2025



South WWTP MBR Kiewit

- Planning, design, and construction services associated with the expansion of the existing Post Oak Wastewater Facilities and construction of a new plant capable of treating high-volume Industrial Waste.

Substantial Completion – August 2025

Final Completion – November 2025



Shepherd Drive - Interurban Pkwy to US Highway 75

Mario Sinacola & Sons

- Design and construction of approximately 4,500 linear feet of a 4-lane divided (ultimate 6-lane divided) roadway west from US Highway 75.

Substantial Completion – April 2025

Final Completion – May 2025



Easement Acquisition Complete 52 of 52

32 inch pipeline

Tunneling and Clearing

-  Requires Tunneling
-  Tunneling and Clearing
-  Requires Clearing

Parcel Acquisition

-  Appraisal Ordered
-  Condemnation
-  M&B Recieved
-  Pending Closing
-  M&B Sent to Land Acq
-  Purchased/Closed
-  In Negotiations
-  Access and Use Agreement



36" Line Feeding Semiconductor & Wafer Fabrication Plant

TI Campus Feb 2025



36" Line Oct 2024



Shepherd Rd Feb 2025



South WWTP MBR Site Photos



Oct 19, 2023

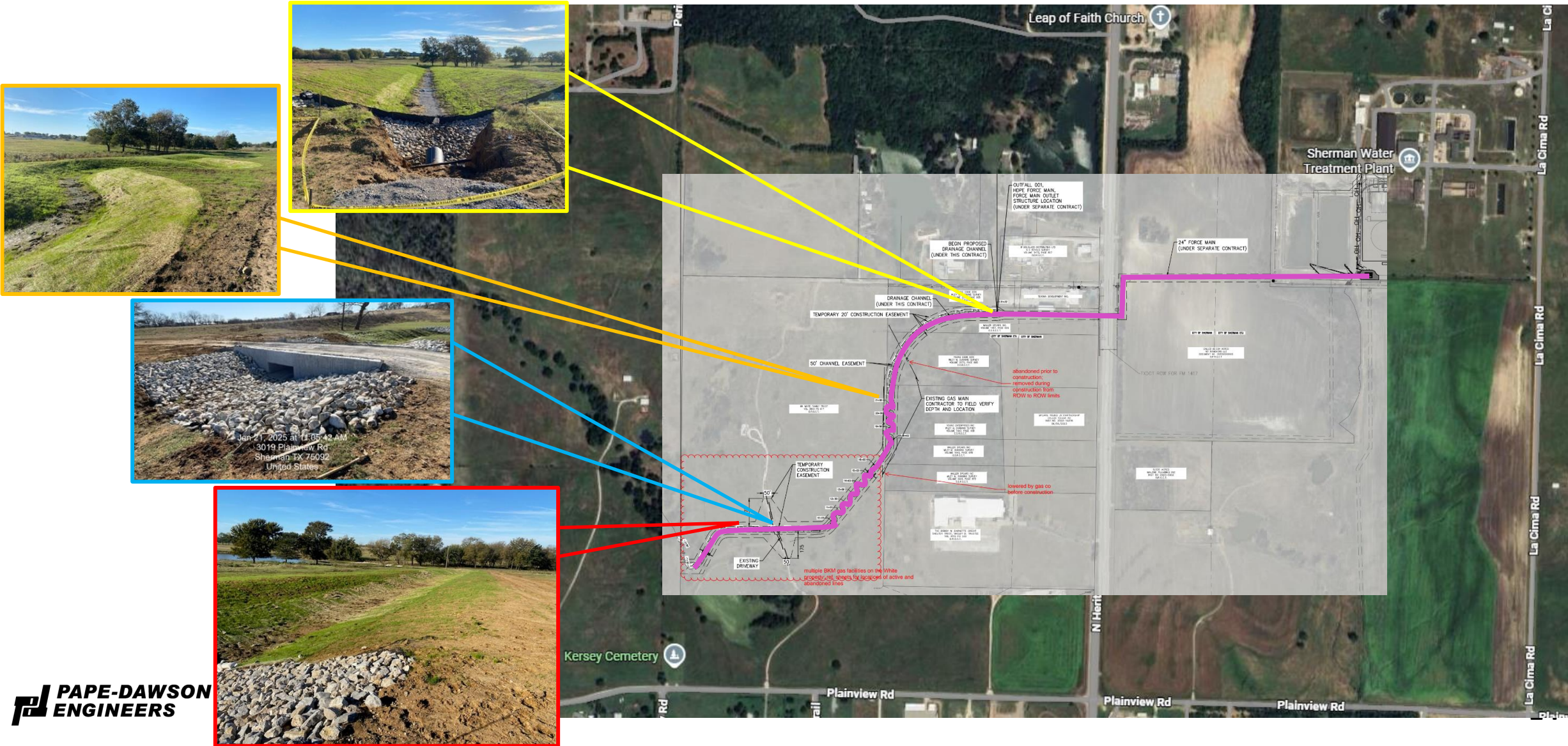


Oct 31, 2024

South WWTP MBR March 2025



Sherman WTP Concentrate Discharge System



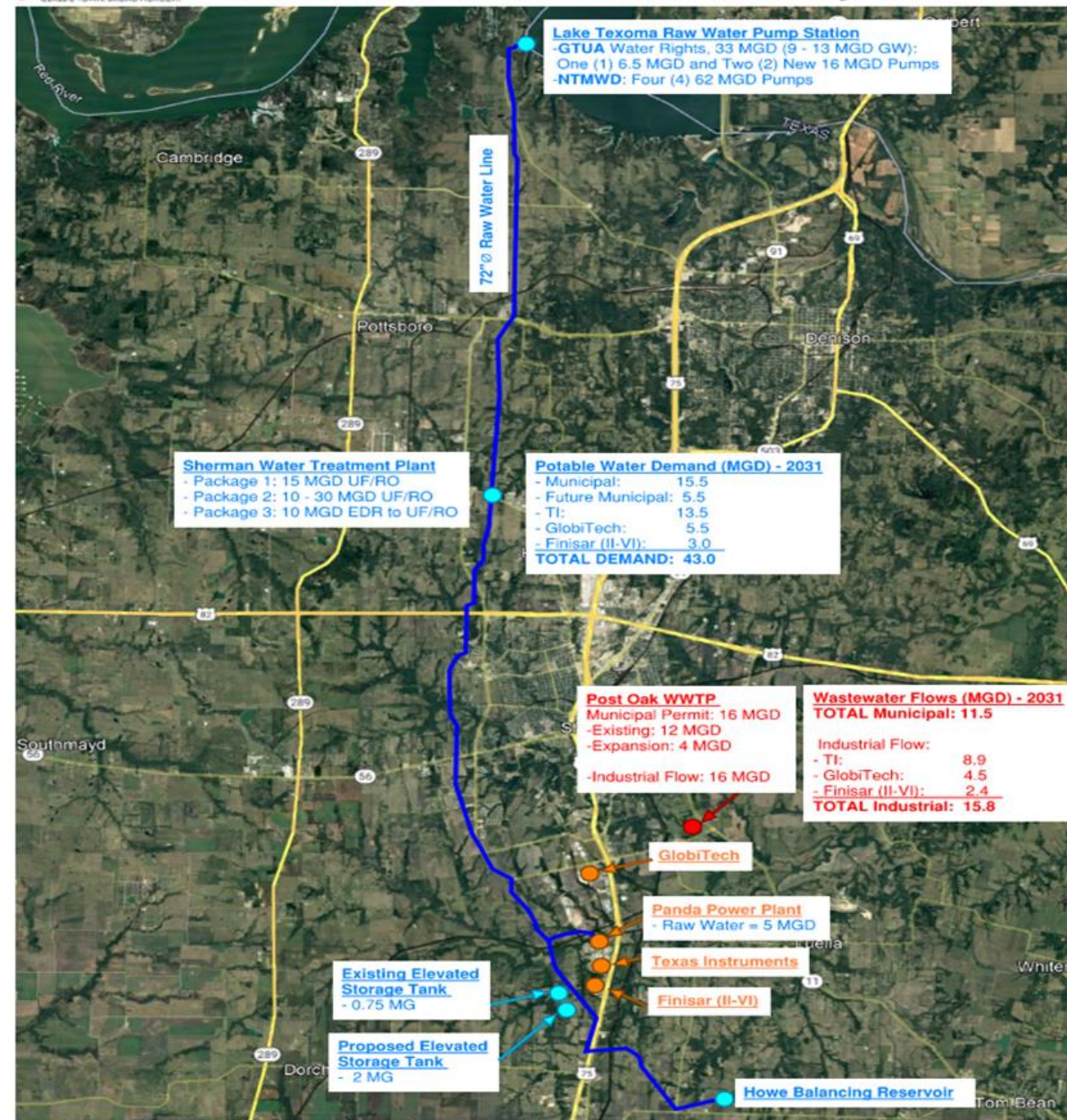
- The Construction Manager at Risk (CMAR) has been a success
 - Collaboration and earlier construction met tight milestones
- Returned money via positive (deductive) change orders
- Critical Water Delivery Milestone on track (no individual misses)
- Speed of Water Treatment via UF/RO allowed for Conventional WTP overhaul
- Water Delivery-ready for Summer 2025 high-use period
- Modified existing plan to treat Global Wafers Industrial Waste (online)
- Clean water storage is the final program element to meet current demands
- NTMWD and GTUA coordination needed for continued expansion (on track)

QUESTIONS?

THANK YOU



Drone Video Feb 2025:
<https://www.youtube.com/watch?v=XjLNG6zoxhk>





SHERMAN CITY COUNCIL Agenda Communication Form

City Council Regular Meeting

Agenda Item No. G.2.

Meeting Date: 5/5/2025

Prepared By: Mary Lawrence, Chief Financial Officer

Approved By: Zachary Flores, Acting City Manager

Caption:

***OTHER BUSINESS**

Approve the Investment Report for the Quarter Ended March 31, 2025

Issue:

To approve the Investment Report for the quarter ended March 31, 2025

Background:

The total operating portfolio book value of about \$62.3 million increased by a net amount of about \$22 million from the previous quarter due to deposits in the Local Government Investment Pools, purchases and maturities of U.S. Agency securities and maturities of State of Texas political subdivision obligations. A. The underlying investments were adequately diversified among five different types of securities. The portfolio's weighted-average maturity of 419 days increased from 339 days last quarter. The portfolio yield of 4.30% was 27 basis points above our benchmark 1-year Constant Maturity Treasury Index of 4.03%. Book value approximated market value.

The debt proceeds portfolio balance of \$70.5 million decreased by \$1.8 million withdrawals for payments on capital projects. The portfolio includes a Local Government Investment Pool. The portfolio's weighted-average maturity of 1 day decreased from 9 days last quarter. The portfolio yield of 4.36% was 2 basis points below the benchmark yield for this portfolio, the 4-week Constant Maturity Index of 4.38%. Book value approximated market value.

Capital Improvement Program:

Origination:

Finance Department

Financial Consideration:

None

Staff Recommendation:

Staff recommends the Council accept the Investment Report as presented.

Alternatives:

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

Attachments:

1. 2025-03-31 Investment Reports w_Memo



memorandum

DATE: April 15, 2025

TO: The City of Sherman Investment Committee
Councilman Juston Dobbs
Deputy Mayor Pam Howeth
Zachary Flores, City Manager

FROM: Mary Lawrence, Chief Financial Officer *ml*

SUBJECT: Investment Reports for the Quarter Ended March 31, 2025.

Enclosed is a copy of the quarterly investment reports for March 31, 2025. As of that date, the City followed all applicable state laws and internal policies for the portfolio.

The total operating portfolio book value of about \$62.3 million increased by a net amount of about \$22 million from the previous quarter due to deposits in the Local Government Investment Pools, purchases and maturities of U.S. Agency securities and maturities of State of Texas political subdivision obligations. A. The underlying investments were adequately diversified among five different types of securities. The portfolio's weighted-average maturity of 419 days increased from 339 days last quarter. The portfolio yield of 4.30% was 27 basis points above our benchmark 1-year Constant Maturity Treasury Index of 4.03%. Book value approximated market value.

The debt proceeds portfolio balance of \$70.5 million decreased by \$1.8 million withdrawals for payments on capital projects. The portfolio includes a Local Government Investment Pool. The portfolio's weighted-average maturity of 1 day decreased from 9 days last quarter. The portfolio yield of 4.36% was 2 basis points below the benchmark yield for this portfolio, the 4-week Constant Maturity Index of 4.38%. Book value approximated market value.

The investment reports will be on the May 5, 2025, City Council agenda for their review and approval. Please call me if you have any questions about this item.

attachment (as stated above)



CITY OF SHERMAN, TEXAS
INVESTMENT PORTFOLIO SUMMARY
For the Quarter Ending March 31, 2025

Total Portfolio Summary			
	Current Quarter 3/31/2025	Prior Quarter 12/31/2024	Change From Prior Quarter
Book Value	\$ 62,342,694	\$ 40,352,448	\$ 21,990,246
Market Value	\$ 62,359,217	\$ 40,251,741	\$ 22,107,476
Weighted Average Maturity - Days	419	339	79
Weighted Average Yield	4.30%	4.28%	0.02%
Earned Income	\$ 548,371	\$ 369,857	\$ 178,513
Earned Income - Year-to-Date	\$ 918,228	\$ 369,857	\$ 548,371

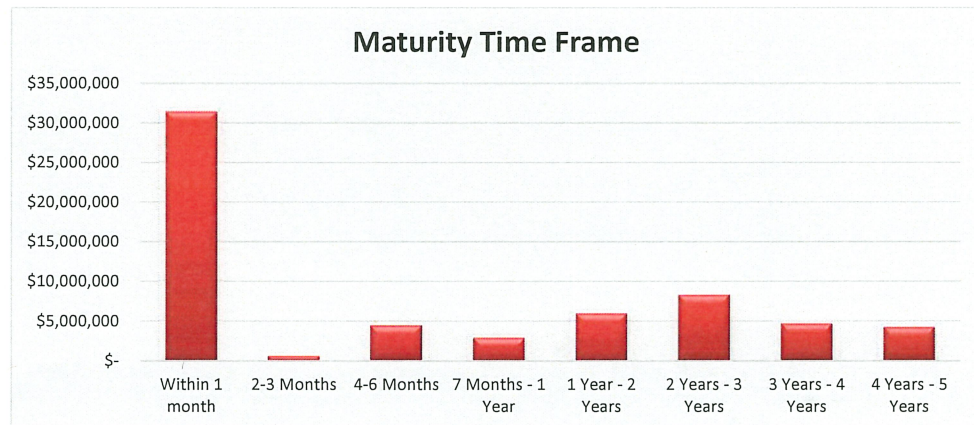
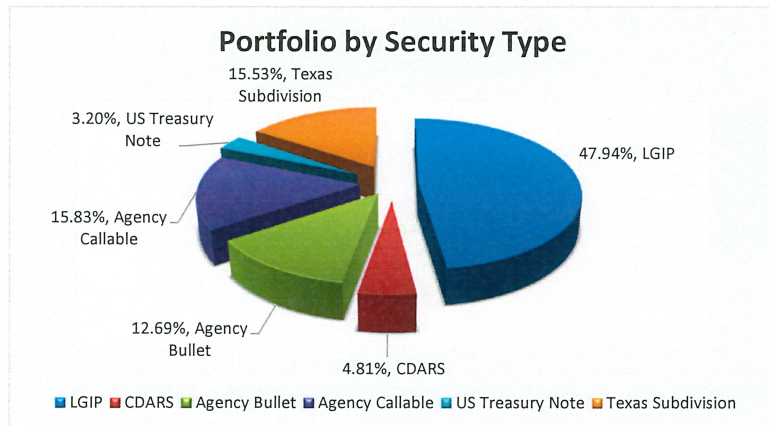
This report complies with the requirements of the public funds investment law and covers all the funds of the City of Sherman that are subject to that law.

As of March 31, 2025, the City's portfolio had a book value of \$62.3 million and a market value of \$62.4 million. Of this amount, approximately \$29.8 million was held in Local Government Investment Pools (LGIP), \$3 million was held in Certificates of Deposit (CD), \$17.8 million was held in U.S. Agency Securities, \$2.0 million was held in U.S. Treasury Notes and \$9.7 million was held in State of Texas political subdivision obligations.

The portfolio value increased by \$22 million from the previous quarter due to deposits in Local Government Investment Pools of \$15 million, purchases of \$8.3 million of U.S. Agency Securities offset by calls and maturities of \$3.5 million and purchases of \$3.3 million of State of Texas political subdivision obligations offset by maturities of \$1.4 million.

The weighted average yield of the portfolio was 4.30%, which is 27 basis points more than the 1-year Constant Maturity Treasury Index of 4.03%, and 2 basis points more than the previous quarter.

The weighted average maturity of the portfolio increased from 339 days at December 31, 2024, to 419 days at March 31, 2025.



Mary Lawrence

Mary Lawrence, Chief Financial Officer and City of Sherman Investment Officer

Jana Walker

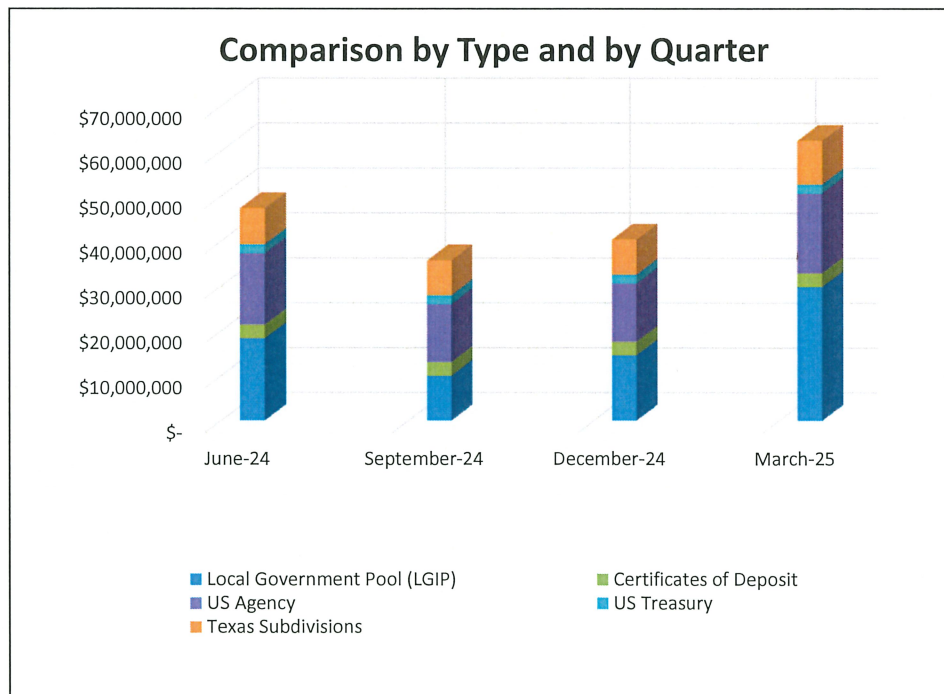
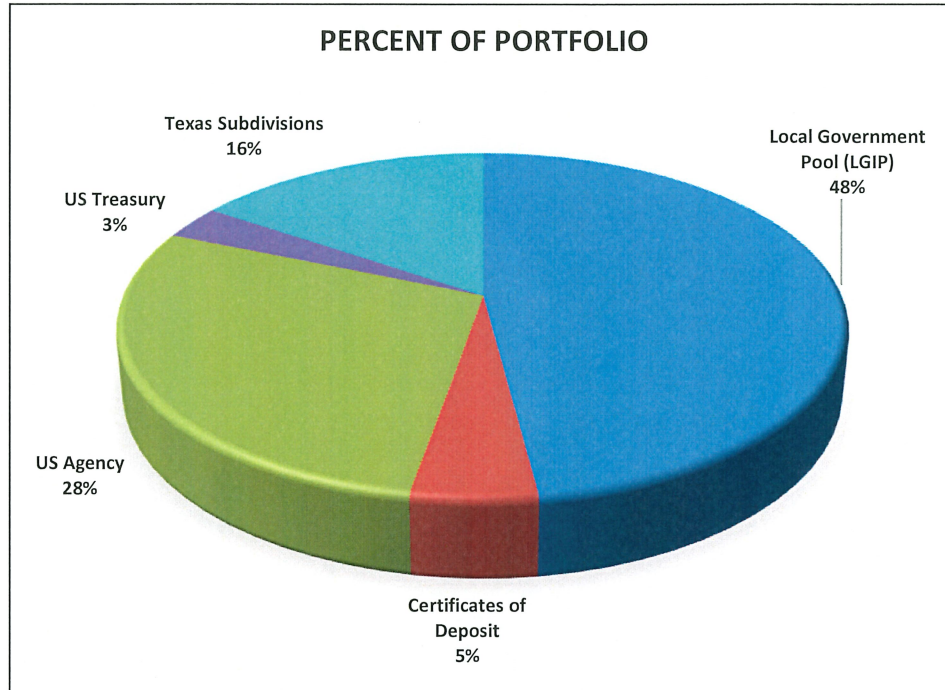
Jana Walker, Controller and City of Sherman Investment Officer

CUSIP	Settlement Date	Security Type	Security Description	CPN Rate	Maturity Date	Credit Rating	Par Value	Purchase Price	Original Cost	Book Value	Market Price	Market Value	Days to Maturity	YTM	
TexPool		LGIP	TexPool		4/1/2025	AAAm	\$ 17,475,684	100.00	\$ 17,475,684	\$ 17,475,684	100.00	17,475,684	1	4.36%	
TexStar		LGIP	TexSTAR		4/1/2025	AAAm	10,473,270	100.00	10,473,270	10,473,270	100.00	10,473,270	1	4.36%	
TexPool ARPA		LGIP	TexPool ARPA		4/1/2025	AAAm	1,936,642	100.00	1,936,642	1,936,642	100.00	1,936,642	1	4.36%	
CDARS 1028340563	01/04/24	CDARS	Bank of Texas	4.40%	1/2/2026		1,000,000	100.00	1,000,000	1,000,000	100.00	1,000,000	277	4.50%	
CDARS 1029294042	07/05/24	CDARS	Bank of Texas	5.21%	7/3/2025		2,000,000	100.00	2,000,000	2,000,000	100.00	2,000,000	94	5.34%	
3130AJHU6	JHU6	04/30/24	Agency Bullet	FHLB	0.50%	4/14/2025	AA+	1,500,000	95.642	1,434,943	1,497,340	99.87	1,497,990	14	5.22%
88213AKC8	AKC8	01/24/23	Texas Subdivision	Texas St. A&M Univ R	2.69%	5/15/2025	AA	510,000	96.496	492,130	509,054	99.81	509,011	45	4.30%
88213ABW4	ABW4	03/24/23	Texas Subdivision	Texas St A&M Univ R	2.88%	5/15/2025	AA	115,000	97.770	113,668	114,851	99.83	114,803	45	3.98%
91282CEY3	CEY3	01/23/23	US Treasury Note	US Treasury	3.00%	7/15/2025	AA	1,000,000	97.740	977,431	997,723	99.62	996,220	106	3.97%
2487757W2	57W2	02/07/23	Texas Subdivision	Denton Cnty TX	0.77%	7/15/2025	AA	1,335,000	92.332	1,233,264	1,323,108	99.02	1,321,850	106	4.11%
87638QQW2	QQW2	03/24/23	Texas Subdivision	Tarrant Cnty TX Cult Hosp Rev	1.39%	9/1/2025	AA	100,000	93.750	93,854	98,895	98.73	98,731	154	4.12%
3130ARCNI	RCNI	03/29/22	Agency Bullet	FHLB	2.00%	9/29/2025	AA+	1,000,000	100.000	1,000,000	1,000,000	98.89	988,940	182	2.00%
79625GFC2	GFC2	04/13/22	Texas Subdivision	San Antonio Tx Elec & Gas TXBI	3.15%	2/1/2026	AA+	350,000	100.000	350,000	350,000	99.14	346,994	307	3.15%
232769JW0	9JW0	09/02/22	Texas Subdivision	Cypress-Fairbanks TX Ind Sch	5.00%	2/15/2026	AA+	500,000	104.770	523,031	506,044	100.72	503,580	321	3.52%
3130AMMJ8	MMJ8	06/06/21	Agency Callable	FHLB	1.50%	6/9/2026	AA+	1,000,000	100.000	1,000,000	1,000,000	97.05	970,500	435	0.40%
537096Z21	6Z21	01/19/24	Texas Subdivision	Little Elm TX ISD	0.00%	8/15/2026	AA+	480,000	89.228	428,294	452,360	94.11	451,728	502	4.50%
876448DY4	8DY4	01/24/23	Texas Subdivision	Tarrant Tx Regl Water Dist	0.75%	9/1/2026	AA	400,000	89.195	356,780	383,039	95.45	381,808	519	4.00%
4637778E5	78E5	02/07/23	Texas Subdivision	Irving Tx Table	1.47%	9/15/2026	AA	600,000	91.000	549,467	578,034	96.40	578,424	533	4.18%
3133ERP96	RP96	12/24/24	Agency Bullet	FFCB	4.25%	9/24/2026	AA+	1,000,000	99.954	999,540	999,610	100.37	1,003,700	542	4.28%
3130B4AN1	4AN1	12/23/24	Agency Callable	FHLB	4.35%	12/18/2026	AA+	1,500,000	100.000	1,500,000	1,500,000	99.99	1,499,850	627	4.35%
91282CJT9	CJT9	02/02/24	US Treasury Note	US Treasury	4.00%	1/15/2027	AA+	1,000,000	99.585	995,703	997,385	100.11	1,001,060	655	4.16%
798765MK6	5MK6	03/26/25	Texas Subdivision	San Marcos TX	1.24%	8/15/2027	AA	500,000	93.580	467,910	468,059	93.60	468,010	867	4.09%
1164753A0	53A0	01/24/24	Texas Subdivision	Brownsville TXD USR	1.48%	9/1/2027	AA+	1,210,000	90.040	1,089,484	1,129,068	93.78	1,134,762	884	4.50%
3130ANUM0	NUM0	03/26/25	Agency Bullet	FHLB	1.55%	9/15/2027	AA+	1,500,000	94.250	1,413,717	1,414,105	94.52	1,417,815	898	4.02%
3130B4B42	4B42	12/23/24	Agency Callable	FHLB	4.63%	12/23/2027	AA+	1,500,000	100.000	1,500,000	1,500,000	100.13	1,501,965	997	4.63%
052404QJ2	4QJ2	02/06/25	Texas Subdivision	Austin Texas Community College Dist	1.58%	2/1/2028	AA+	800,000	92.453	739,624	742,657	92.81	742,512	1,037	4.30%
31424WSY9	WSY9	01/03/25	Agency Bullet	FAMCA	4.36%	3/3/2028	AA+	1,000,000	100.000	1,000,000	1,000,000	101.10	1,010,960	1,068	4.36%
3136GADV8	ADV8	03/25/25	Agency Callable	FNMA	4.55%	3/24/2028	AA+	1,000,000	100.000	1,000,000	1,000,000	100.06	1,000,620	1,089	4.55%
3133ETBA4	TBA4	03/27/25	Agency Bullet	FFCB	3.88%	3/27/2028	AA+	1,000,000	99.870	998,738	998,741	99.88	998,770	1,092	3.92%
248415XT3	5XT3	07/10/24	Texas Subdivision	Denison TX ISD	2.02%	8/1/2028	AA+	975,000	91.204	889,239	904,618	93.36	910,250	1,219	4.41%
3134HBDW8	BDW8	03/27/25	Agency Callable	FHLMC	4.30%	9/27/2028	AA+	1,370,000	99.900	1,368,630	1,368,633	99.83	1,367,657	1,276	4.33%
2350368C7	68C7	02/06/25	Texas Subdivision	DFW TX Intl Arpt Rev	1.93%	11/1/2028	A1	430,000	91.660	394,138	395,578	92.43	397,428	1,311	4.48%
31424WFF4	WFF4	01/24/24	Agency Callable	FAMCA	5.17%	1/29/2029	AA+	1,000,000	100.000	1,000,000	1,000,000	99.94	999,360	1,400	5.17%
3130B04R7	04R7	02/22/24	Agency Callable	FHLB	4.65%	2/16/2029	AA+	1,000,000	100.000	1,000,000	1,000,000	100.67	1,006,670	1,418	4.65%
261149AV0	9AV0	02/06/25	Texas Subdivision	Downtown Dallas TA	0.00%	8/15/2029	A+	2,100,000	81.690	1,715,448	1,728,196	82.17	1,725,528	1,598	4.52%
3133ERR29	RR29	01/02/25	Agency Bullet	FFCB	4.38%	1/2/2030	AA+	1,000,000	100.000	1,000,000	1,000,000	101.31	1,013,060	1,738	4.38%
3130B4WP2	4WP2	02/07/25	Agency Callable	FHLB	4.50%	2/7/2030	AA+	1,500,000	100.000	1,500,000	1,500,000	100.87	1,513,065	1,774	4.50%
Total							\$ 63,160,596		\$ 62,010,629	\$ 62,342,694		\$ 62,359,217			

CUSIP	Settle Date	Security Description	Maturity Date	Market Value 12/31/2024	Change in Market Value	Market Value 3/31/2025
TexPool		TexPool		\$ 7,327,196	\$ 10,148,488	\$ 17,475,684
TexStar		TexStar		5,379,950	5,093,320	10,473,270
TexPool ARPA		TexPool ARPA		1,915,966	20,676	1,936,642
CDARS 1028340563		Bank of Texas	1/2/2026	1,000,000	-	1,000,000
CDARS 1029294042		CDARS	7/3/2025	2,000,000	-	2,000,000
386166JC7	2/24/2022	Grand Praire TX TXbl Ref	1/1/2025	310,000	(310,000)	-
983064YX8	3/11/2021	City of Wylie, TX GO	2/15/2025	249,823	(249,823)	-
882806ES7	3/24/2023	Texas St. Tech Univ Rev	2/15/2025	883,507	(883,507)	-
3133ENPY0-A	2/25/2022	FFCB	2/25/2025	995,999	(995,999)	-
3133ENPY0-B	3/11/2022	FFCB	2/25/2025	996,000	(996,000)	-
3130AJHU6	4/14/2024	FHLB	4/14/2025	1,483,786	14,204	1,497,990
88213AKC8	1/24/2023	Texas St. A&M Univ R	5/15/2025	506,975	2,036	509,011
88213ABW4	3/24/2023	Texas St A&M Univ R	5/15/2025	114,400	403	114,803
91282CEY3	1/23/2023	US Treasury	7/15/2025	993,547	2,673	996,220
2487757W2	2/7/2023	Denton Cnty TX	7/15/2025	1,310,296	11,554	1,321,850
87638QQW2	3/24/2023	Tarrant Cnty TX Cult Hosp Rev	9/1/2025	97,981	750	98,731
3130ARCN9	3/29/2022	FHLB	9/29/2025	982,825	6,115	988,940
79625GFC2	4/13/2022	San Antonio Tx Elec & Gas TXBI	2/1/2026	345,906	1,088	346,994
232769JW0	9/2/2022	Cypress-Fairbanks TX Ind Sch	2/15/2026	503,964	(384)	503,580
3130B13E5	4/23/2024	FHLB	4/23/2026	1,499,277	(1,499,277)	-
3130AMMJ8	6/6/2021	FHLB	6/9/2026	961,459	9,041	970,500
876448DY4	1/24/2023	Tarrant Tx Regl Water Dist	9/1/2026	377,448	4,360	381,808
4637778E5	2/7/2023	Irving Tx Table	9/15/2026	572,332	6,092	578,424
5370962Z1	1/19/2024	Little Elm TX ISD	8/15/2026	445,550	6,178	451,728
3133ERP96	12/24/2024	FFCB	9/24/2026	1,000,213	3,487	1,003,700
3130B4AN1	12/23/2024	FHLB	12/18/2026	1,493,416	6,434	1,499,850
91282CJT9	2/2/2024	US Treasury	1/15/2027	995,000	6,060	1,001,060
798765MK6	3/26/2025	San Marcos TX	8/15/2027	-	468,010	468,010
1164753A0	1/24/2024	Brownsville TXD USR	9/1/2027	1,117,727	17,035	1,134,762
3130ANUM0	3/26/2025	FHLB	9/15/2027	-	1,417,815	1,417,815
3130B4B42	12/23/2024	FHLB	12/23/2027	1,498,504	3,461	1,501,965
052404QJ2	2/6/2025	Austin Texas Community College Dist	2/1/2028	-	742,512	742,512
31424WSY9	1/3/2025	FAMCA	3/3/2028	-	1,010,960	1,010,960
3136GADV8	3/25/2025	FNMA	3/24/2028	-	1,000,620	1,000,620
3133ETBA4	3/27/2025	FFCB	3/27/2028	-	998,770	998,770
248415XT3	7/10/2024	Denison TX ISD	8/1/2028	895,847	14,403	910,250
3134HBDW8	3/27/2025	FHLMC	9/27/2028	-	1,367,657	1,367,657
2350368C7	2/6/2025	DFW TX Intl Arpt Rev	11/1/2028	-	397,428	397,428
31424WFF4	1/24/2024	FAMCA	1/29/2029	999,411	(51)	999,360
3130B04R7	2/22/2024	FHLB	2/16/2029	997,436	9,234	1,006,670
261149AV0	2/6/2025	Downtown Dallas TA	8/15/2029	-	1,725,528	1,725,528
3133ERR29	1/2/2025	FFCB	1/2/2030	-	1,013,060	1,013,060
3130B4WP2	2/7/2025	FHLB	2/7/2030	-	1,513,065	1,513,065
Total				\$ 40,251,741	\$ 22,107,476	\$ 62,359,217

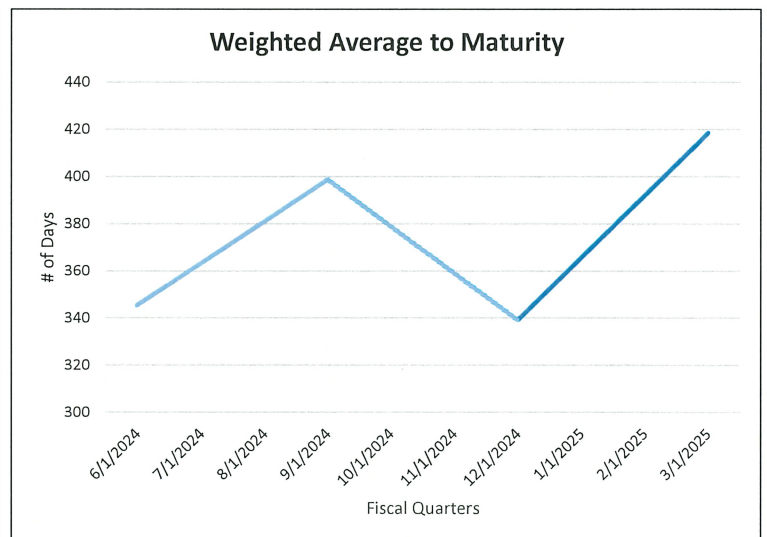
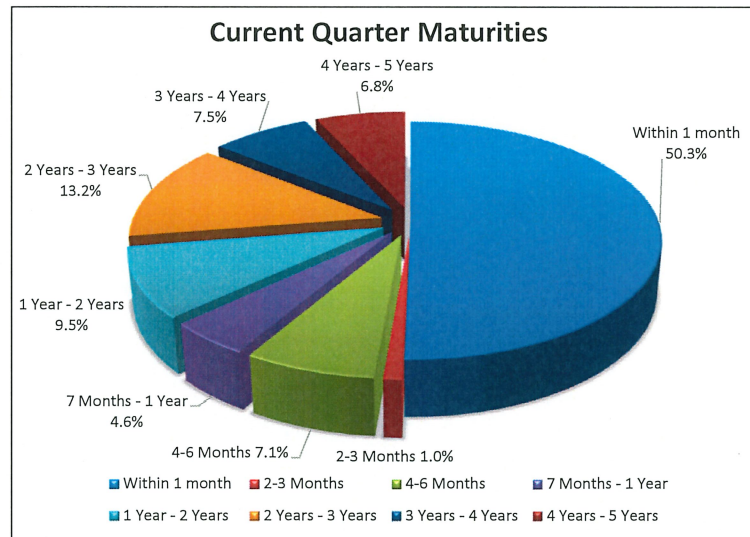
Trade Date	Settle Date	CUSIP	Security Description	Coupon	Maturity Date	Call Date	Par Value	Principal Amount	Interest Purchased/Received	Total Amount	YTM
<u>Maturities, Calls and Withdrawals</u>											
	1/1/2025	386166JC7	Grand Praire TX TXbl Ref	3.00%	1/1/2025		310,000	310,000	4,650	314,650	1.60%
	2/15/2025	882806ES7	Texas St. Tech Univ Rev	2.96%	2/15/2025		885,000	885,000	13,102	898,102	3.86%
	2/15/2025	983064YX8	City of Wylie, TX GO	3.00%	2/15/2025		250,000	250,000	3,750	253,750	0.25%
	2/25/2025	3133ENPY0-A	FFCB	1.75%	2/25/2025		1,000,000	1,000,000	8,750	1,008,750	1.76%
	2/25/2025	3133ENPY0-B	FFCB	1.75%	2/25/2025		1,000,000	1,000,000	8,750	1,008,750	1.92%
	1/23/2025	3130B13E5	FHLB	5.38%	4/23/2026	1/23/2025	1,500,000	1,500,000	20,156	1,520,156	5.38%
<u>Purchases</u>											
	1/23/2025	TexPool	TexPool				3,000,000	3,000,000		3,000,000	4.36%
	1/23/2025	TexSTAR	TexSTAR				2,000,000	2,000,000		2,000,000	4.36%
	2/7/2025	TexSTAR	TexSTAR				3,000,000	3,000,000		3,000,000	4.36%
	2/5/2025	TexPool	TexPool				7,000,000	7,000,000		7,000,000	4.36%
	3/26/2025	798765MK6	San Marcos TX	1.24%			500,000	467,910	706	468,616	4.09%
	3/26/2025	3130ANUM0	FHLB	1.55%			1,500,000	1,413,717	710	1,414,427	4.02%
	2/6/2025	052404QJ2	Austin Texas Community College Dist	1.58%			800,000	739,624	175	739,799	4.30%
	1/3/2025	31424WSY9	FAMCA	4.36%			1,000,000	1,000,000	-	1,000,000	4.36%
	3/25/2025	3136GADV8	FNMA	4.55%			1,000,000	1,000,000	-	1,000,000	4.55%
	3/27/2025	3133ETBA4	FFCB	3.88%			1,000,000	998,738	-	998,738	3.92%
	3/27/2025	3134HBDW8	FHLMC	4.30%			1,370,000	1,368,630	-	1,368,630	4.33%
	2/6/2025	2350368C7	DFW TX Intl Arpt Rev	1.93%			430,000	394,138	2,192	396,330	4.48%
	2/6/2025	261149AV0	Downtown Dallas TA	0.00%			2,100,000	1,715,448	-	1,715,448	4.52%
	1/2/2025	3133ERR29	FFCB	4.38%			1,000,000	1,000,000	-	1,000,000	4.38%
	2/7/2025	3130B4WP2	FHLB	4.50%			1,500,000	1,500,000	-	1,500,000	4.50%
<u>Income Payments</u>											
	3/31/2025	TexPool	TexPool		4/1/2025				148,489	148,489	4.36%
	3/31/2025	TexStar	TexSTAR		4/1/2025				93,320	93,320	4.36%
	3/31/2025	TexPool ARPA	TexPool ARPA		4/1/2025				20,675	20,675	4.36%
	3/31/2025	CDARS 1028340563	Bank of Texas	4.40%	1/2/2026				10,913	10,913	4.50%
	3/31/2025	CDARS 1029294042	Bank of Texas	5.21%	7/3/2025				25,710	25,710	5.34%
	12/31/2024	3130B04R7	FHLB	4.65%	2/16/2029				23,250	23,250	4.65%
	1/15/2025	91282CEY3	US Treasury	3.00%	7/15/2025				15,000	15,000	3.97%
	1/15/2025	2487757W2	Denton Cnty TX	0.77%	7/15/2025				5,116	5,116	4.11%
	1/15/2025	91282CJT9	US Treasury	4.00%	1/15/2027				20,000	20,000	4.16%
	1/29/2025	31424WFF4	FAMCA	5.17%	1/29/2029				25,850	25,850	5.17%
	2/1/2025	79625GFC2	San Antonio Tx Elec & Gas TXBI	3.15%	2/1/2026				5,505	5,505	3.15%
	2/1/2025	248415XT3	Denison TX ISD	2.02%	8/1/2028				9,838	9,838	4.41%
	2/15/2025	232769JW0	Cypress-Fairbanks TX Ind Sch	5.00%	2/15/2026				12,500	12,500	3.52%
	3/1/2025	87638QQW2	Tarrant Cnty TX Cult Hosp Rev	1.39%	9/1/2025				693	693	4.12%
	3/1/2025	876448DY4	Tarrant Tx Regl Water Dist	0.75%	9/1/2026				1,500	1,500	4.00%
	3/1/2025	1164753A0	Brownsville TXD USR	1.48%	9/1/2027				8,936	8,936	4.50%
	3/3/2025	31424WSY9	FAMCA	4.36%	3/3/2028				7,267	7,267	4.36%
	3/15/2025	4637778E5	Irving Tx Table	1.47%	9/15/2026				4,395	4,395	4.18%
	3/24/2025	3133ERP96	FFCB	4.25%	9/24/2026				10,625	10,625	4.28%
	3/29/2025	3130ARCN9	FHLB	2.00%	9/29/2025				10,000	10,000	2.00%
Total								\$ 522,523			

Cash/Investment Type	Balance 6/30/2024	Balance 9/30/2024	Balance 12/31/2024	Balance 3/31/2025	Percent of Portfolio	Portfolio Cap
Local Government Pool (LGIP)	\$ 18,378,702	\$ 10,054,824	\$ 14,623,112	\$ 29,885,596	48%	50.00%
Certificates of Deposit	3,000,000	3,000,000	3,000,000	3,000,000	5%	50.00%
US Agency	15,951,159	12,964,646	12,980,290	17,778,429	29%	50.00%
US Treasury	1,987,185	1,989,826	1,992,467	1,995,108	3%	50.00%
Texas Subdivisions	8,001,020	7,720,336	7,756,579	9,683,561	16%	50.00%
Total	\$ 47,318,066	\$ 35,729,632	\$ 40,352,448	\$ 62,342,694	100.00%	



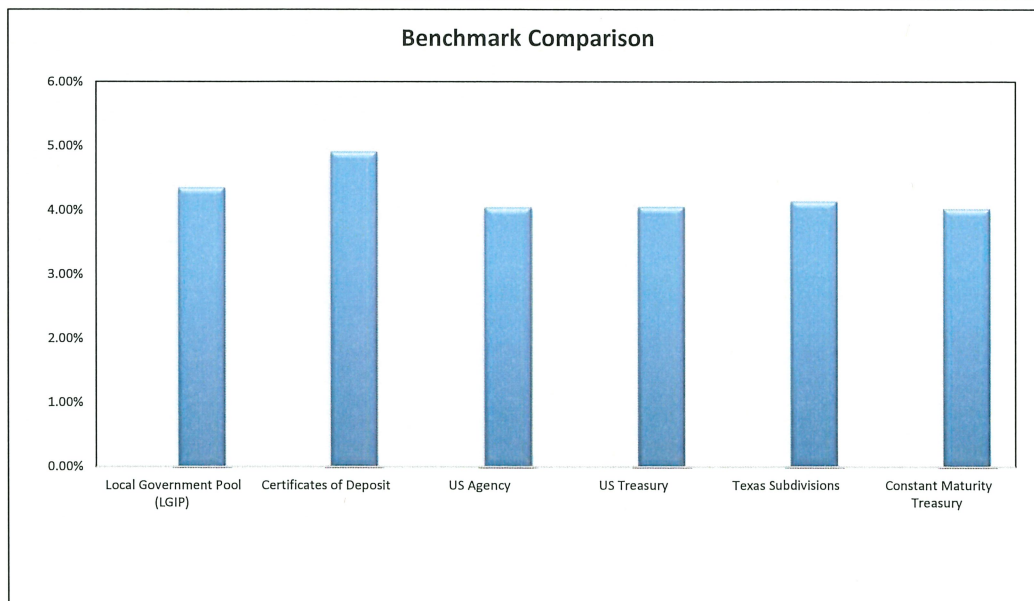
Maturity Time Frame	Balance 6/30/2024	Balance 9/30/2024	Balance 12/31/2024	Balance 3/31/2025	Percent of Portfolio
Within 1 month	\$ 21,378,627	\$ 10,054,824	\$ 14,933,112	\$ 31,382,936	50.3%
2-3 Months	1,205,557	1,000,000	3,135,417	623,905	1.0%
4-6 Months	1,000,000	3,445,849	2,101,907	4,419,726	7.1%
7 Months - 1 Year	5,509,516	7,475,131	5,405,972	2,856,044	4.6%
1 Year - 2 Years	10,740,379	7,749,393	8,258,979	5,910,428	9.5%
2 Years - 3 Years	3,375,994	3,110,441	3,617,726	8,252,630	13.2%
3 Years - 4 Years	2,107,993	893,994	899,335	4,668,829	7.5%
4 Years - 5 Years	2,000,000	2,000,000	2,000,000	4,228,196	6.8%
	\$ 47,318,066	\$ 35,729,632	\$ 40,352,448	\$ 62,342,694	100.00%

Liquidity Indicator					Maximum Allowable
Weighted Average Maturity	345.53	398.88	339.29	418.57	500.00



Date Received/ Purchased	CUSIP	Security Description	Coupon	YTM	Interest Purchased/ Received	Accrued Interest/ Amortization	Income Earned
3/31/2025	TexPool	TexPool		4.36%	\$ 148,489	\$ -	\$ 148,489
3/31/2025	TexStar	TexSTAR		4.36%	93,320	-	93,320
3/31/2025	TexPool ARPA	TexPool ARPA		4.36%	20,675	-	20,675
3/31/2025	CDARS 1028340563	Bank of Texas	4.40%	4.50%	10,913	-	10,913
3/31/2025	CDARS 1029294042	Bank of Texas	5.21%	5.34%	25,710	-	25,710
12/31/2024	31424WSY9	FAMCA	4.36%	4.36%	7,267	3,270	10,537
12/31/2024	3130B04R7	FHLB	4.65%	4.65%	23,250	(11,625)	11,625
1/1/2025	386166JC7	Grand Prairie TX TxbI Ref	3.00%	1.60%	4,650	(4,650)	-
1/15/2025	91282CEY3	US Treasury	3.00%	3.97%	15,000	(5,223)	9,777
1/15/2025	2487757W2	Denton Cnty TX	0.77%	4.11%	5,116	8,310	13,426
1/15/2025	91282CJT9	US Treasury	4.00%	4.16%	20,000	(9,636)	10,364
1/23/2025	3130B13E5	FHLB	5.38%	5.38%	20,156	(16,573)	3,583
1/29/2025	31424WFF4	FAMCA	5.17%	5.17%	25,850	(12,925)	12,925
2/1/2025	79625GFC2	San Antonio Tx Elec & Gas TXBI	3.15%	3.15%	5,505	(2,751)	2,754
2/1/2025	248415XT3	Denison TX ISD	2.02%	4.41%	9,838	364	10,202
2/15/2025	232769JW0	Cypress-Fairbanks TX Ind Sch	5.00%	3.52%	12,500	(7,977)	4,523
2/15/2025	883064YX8	City of Wylie GO	3.00%	0.25%	3,750	(3,667)	83
2/15/2025	882806ES7	Texas St Tech Univ Rev	2.96%	3.86%	13,102	(8,880)	4,222
2/25/2025	3133ENPY0-A	FFCB	1.75%	1.76%	8,750	(6,059)	2,691
2/25/2025	3133ENPY0-B	FFCB	1.75%	1.76%	8,750	(6,603)	2,147
3/1/2025	87638QQW2	Tarrant Cnty TX Cult Hosp Rev	1.39%	4.12%	693	295	988
3/1/2025	876448DY4	Tarrant Tx Regl Water Dist	0.75%	4.00%	1,500	2,249	3,749
3/1/2025	1164753A0	Brownsville TXD USR	1.48%	4.50%	8,936	3,895	12,831
3/15/2025	4637778E5	Irving Tx Table	1.47%	4.18%	4,395	1,547	5,942
3/24/2025	3133ERP96	FFCB	4.25%	4.28%	10,625	65	10,690
3/29/2025	3130ARCN9	FHLB	2.00%	2.00%	10,000	(5,000)	5,000
3/31/2025	3130AJHU6	FHLB	0.50%	5.22%	-	18,978	18,978
3/31/2025	88213AKC8	Texas St. A&M Univ R	2.69%	4.30%	-	5,360	5,360
3/31/2025	88213ABW4	Texas St A&M Univ R	2.88%	3.98%	-	1,127	1,127
3/31/2025	3130AMMJ8	FHLB	1.50%	0.40%	-	3,750	3,750
3/31/2025	537096Z1	Little Elm TX ISD	0.00%	4.50%	-	5,025	5,025
3/31/2025	3130B4AN1	FHLB	4.35%	4.35%	-	16,312	16,312
3/31/2025	798765MK6	San Marcos TX	1.24%	4.09%	706	(488)	218
3/31/2025	3130ANUM0	FHLB	1.55%	4.02%	710	(63)	647
3/31/2025	3130B4B42	FHLB	4.63%	4.63%	-	17,344	17,344
3/31/2025	052404QJ2	Austin Texas Community College C	1.58%	4.30%	175	4,754	4,929
3/31/2025	3136GADV8	FNMA	4.55%	4.55%	-	632	632
3/31/2025	3133ETBA4	FFCB	3.88%	3.92%	-	323	323
3/31/2025	3134HBDW8	FHLMC	4.30%	4.33%	-	494	494
3/31/2025	2350368C7	DFW TX Intl Arpt Rev	1.93%	4.48%	2,192	494	2,686
3/31/2025	261149AV0	Downtown Dallas TA	0.00%	4.52%	-	12,748	12,748
3/31/2025	3133ERR29	FFCB	4.38%	4.38%	-	10,694	10,694
3/31/2025	3130B4WP2	FHLB	4.50%	4.50%	-	9,938	9,938

\$ 522,523 \$ 25,848 \$ 548,371





CITY OF SHERMAN, TEXAS
DEBT PROCEEDS PORTFOLIO SUMMARY
For the Quarter Ending March 31, 2025

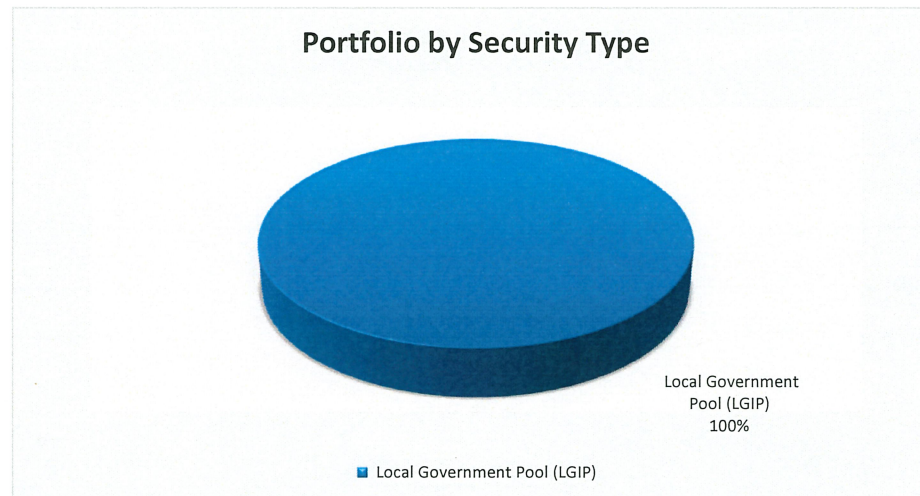
Total Portfolio Summary			
	Current Quarter 3/31/2025	Prior Quarter 12/31/2024	Change From Prior Quarter
Book Value	\$ 70,555,608	\$ 72,320,808	\$ (1,765,200)
Market Value	\$ 70,555,608	\$ 72,337,039	\$ (1,781,431)
Weighted Average Maturity - Days	1	9	(8)
Weighted Average Yield	4.36%	4.83%	-0.47%
Earned Income	\$ 816,973	\$ 858,039	\$ (41,066)
Earned Income - Year-to-Date	\$ 1,675,012	\$ 858,039	\$ 816,973

This report complies with the requirements of the public funds investment law and covers all the funds of the City of Sherman that are subject to that law.

As of March 31, 2025, the City of Sherman's debt proceeds portfolio had a book value of about \$70.5 million, which approximates the market value. This amount was held in Local Government Investment Pools (LGIP).

The portfolio value decreased by \$1.7 million from the previous quarter due to a deposit of \$7.1 million in 2025 Tax Note proceeds, offset by draws for project payments.

The weighted average yield on the portfolio was 4.36%, 2 basis points below the 4-week Constant Maturity Treasury Index of 4.38%, and 47 basis points below the previous quarter.



Mary Lawrence

Mary Lawrence, Chief Financial Officer and City of Sherman Investment Officer

Jana Walker

Jana Walker, Controller and City of Sherman Investment Officer

Name/CUSIP	Debt Issuance	Settlement Date	Security Type	Security Description	Maturity Date	Par Value	Purchase Price	Original Cost	Book Value	Market Price	Market Value	Days to Maturity	YTM
TexPool	2023 Certificates of Obligation		LGIP	TexPool	4/1/2025	\$ 43,708,792	100.00	\$ 43,708,792	\$ 43,708,792	100.00	\$ 43,708,792	1	4.36%
TexPool	2024 Tax Notes		LGIP	TexPool	4/1/2025	770,929	100.00	770,929	770,929	100.00	770,929	1	4.36%
TexPool	2024 Certificates of Obligation		LGIP	TexPool	4/1/2025	20,375,293	100.00	20,375,293	20,375,293	100.00	20,375,293	1	4.36%
TexPool	2025 Tax Notes		LGIP	TexPool	4/1/2025	5,700,594	100.00	5,700,594	5,700,594	101.00	5,700,594	1	4.36%
Total						\$ 70,555,608		\$ 70,555,608	\$ 70,555,608		\$ 70,555,608		



CITY OF SHERMAN, TX
Market Value Summary
As of 3/31/2025

CUSIP	Security Type / Description	Maturity Date	Market Value 12/31/2024	Change in Market Value	Market Value 3/31/2025
TexPool 2023 CO	LGIP		\$ 33,758,881	\$ 9,949,911	\$ 43,708,792
TexPool 2024 Tax Notes	LGIP		762,699	8,230	770,929
TexPool 2024 CO	LGIP		20,157,768	217,525	20,375,293
TexPool 2025 Tax notes	LGIP		-	5,700,594	5,700,594
313385ACO-FHLB 2023 CO	US Agency	1/3/2025	9,996,492	(9,996,492)	-
91282CED9-US Treasury 2023 CO	US Treasury	3/15/2025	7,661,199	(7,661,199)	-
Total			\$ 72,337,039	\$ (1,781,431)	\$ 70,555,608

Settle Date	Name	Security Description	Coupon	Maturity Date	Call Date	Par Value	Price	Principal Amount	Interest Purchased/Received	Total Amount	YTM
<u>Project Payments/Draws</u>											
1/28/2025	TexPool 2023 CO	LGIP				\$ 1,878,528		\$ 1,878,528	\$ -	\$ 1,878,528	
3/3/2025	TexPool 2023 CO	LGIP				3,627,973		3,627,973	-	3,627,973	
3/27/2025	TexPool 2023 CO	LGIP				2,756,244		2,756,244	-	2,756,244	
3/5/2025	TexPool 2025 Tax Notes	LGIP				1,482,986		1,482,986	-	1,482,986	
<u>Maturities and Calls</u>											
1/3/2025	313385ACO-FHLB 2023 CO	US Agency		1/3/2025		1,000,000		10,000,000	-	10,000,000	5.12%
3/15/2025	91282CED9-US Treasury 2023 CO	US Treasury		3/15/2025		7,700,000		7,700,000	67,375	7,767,375	5.16%
<u>Deposits/Purchases</u>											
1/3/2025	TexPool 2023 CO	LGIP				10,000,000		10,000,000	-	10,000,000	
3/28/2025	TexPool 2023 CO	LGIP				7,767,375		7,767,375	-	7,767,375	
1/16/2025	TexPool 2025 Tax Notes	LGIP				7,124,257		7,124,257	-	7,124,257	
<u>Income Payments</u>											
1/31/2025	Texpool 2023 CO	LGIP							156,454	156,454	4.39%
1/31/2025	TexPool 2024 Tax Notes	LGIP							2,845	2,845	4.39%
1/31/2025	Texpool 2024 CO	LGIP							75,190	75,190	4.39%
1/31/2025	TexPool 2025 Tax Notes	LGIP							13,685	13,685	4.36%
2/28/2025	Texpool 2023 CO	LGIP							140,452	140,452	4.36%
2/28/2025	TexPool 2024 Tax Notes	LGIP							2,558	2,558	4.36%
2/28/2025	Texpool 2024 CO	LGIP							67,602	67,602	4.33%
2/28/2025	TexPool 2025 Tax Notes	LGIP							23,849	23,849	4.33%
3/31/2025	Texpool 2023 CO	LGIP							148,373	148,373	4.33%
3/31/2025	TexPool 2024 Tax Notes	LGIP							2,828	2,828	
3/31/2025	Texpool 2024 CO	LGIP							74,734	74,734	
3/31/2025	TexPool 2025 Tax Notes	LGIP							21,790	21,790	
Total								\$	797,735		



CITY OF SHERMAN, TX
Comparison by Type
As of 3/31/2025

Cash / Investment Type	Balance 6/30/2024	Balance 9/30/2024	Balance 12/31/2024	Balance 12/31/2024	Percent of Portfolio	Portfolio Cap
Local Government Pool (LGIP)	\$ 40,172,836	\$ 43,466,351	\$ 54,679,348	\$ 70,555,608	100.00%	100.00%
US Agency	29,119,952	10,870,655	9,994,496	-	0.00%	100.00%
US Treasury	-	7,583,321	7,646,964	-	0.00%	100.00%
Total	\$ 69,292,788	\$ 61,920,328	\$ 72,320,808	\$ 70,555,608	100.00%	



CITY OF SHERMAN, TX
Portfolio by Maturity
As of 3/31/2025

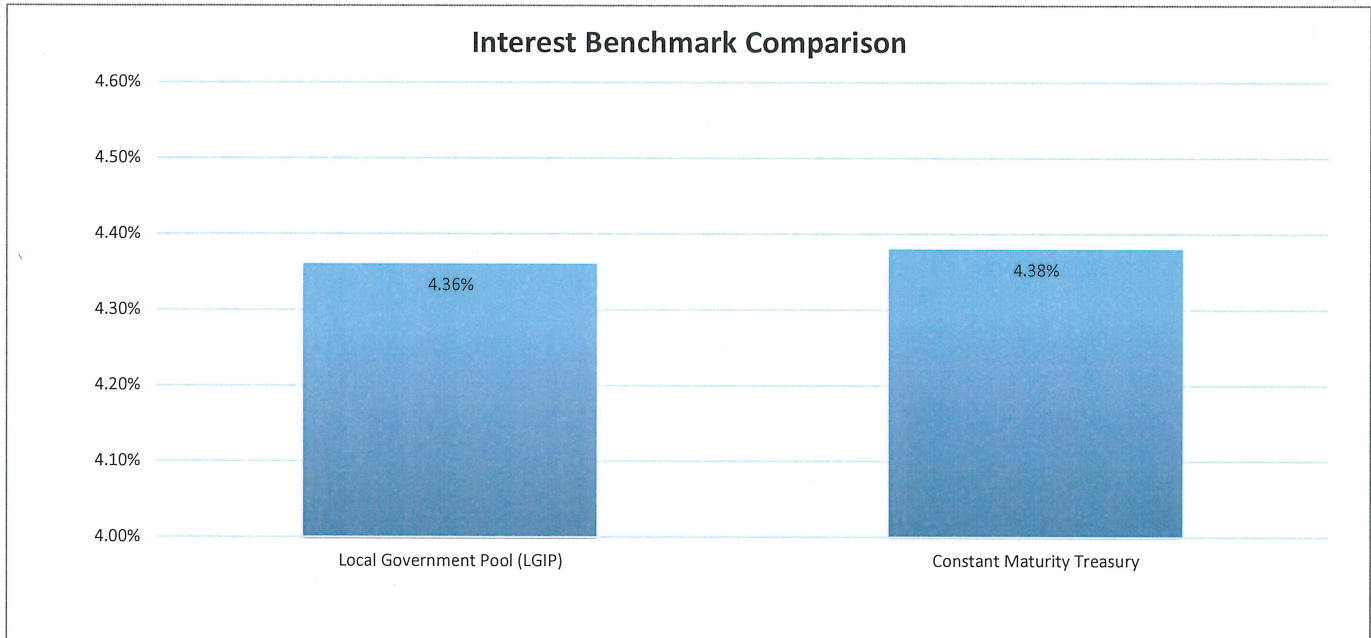
Maturity Time Frame	Balance 6/30/2024	Balance 9/30/2024	Balance 12/31/2024	Balance 12/31/2024	Percent of Portfolio	Maximum Allowable
Within 1 month	\$ 40,172,836	\$ 43,466,351	\$ 64,673,844	\$ 70,555,608	100.0%	100%
2 months - 1 year	29,119,952	18,453,977	7,646,964	-	0.0%	
1 year - 2 years	-	-	-	-	0.0%	
2 years - 3 years	-	-	-	-	0.0%	
3 years - 4 years	-	-	-	-	0.0%	
	\$ 69,292,788	\$ 61,920,328	\$ 72,320,808	\$ 70,555,608		

Liquidity Indicator

Weighted Average Maturity	99.45	39.84	16.77	1.00
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Date Received/ Purchased	Name	Security Description	Coupon	YTM	Interest Purchased/ Received	Accrued Interest/ Amortization	Income Earned
1/31/2025	Texpool 2023 CO	LGIP		4.39%	\$ 156,454	\$ -	\$ 156,454
1/31/2025	TexPool 2024 Tax Notes	LGIP		4.39%	2,845	-	2,845
1/31/2025	Texpool 2024 CO	LGIP		4.39%	75,190	-	75,190
1/31/2025	TexPool 2025 Tax Notes	LGIP		4.39%	13,685	-	13,685
2/28/2025	Texpool 2023 CO	LGIP		4.36%	140,452	-	140,452
2/28/2025	TexPool 2024 Tax Notes	LGIP		4.36%	2,558	-	2,558
2/28/2025	Texpool 2024 CO	LGIP		4.36%	67,602	-	67,602
2/28/2025	TexPool 2025 Tax Notes	LGIP		4.36%	23,849	-	23,849
3/31/2025	Texpool 2023 CO	LGIP		4.33%	148,373	-	148,373
3/31/2025	TexPool 2024 Tax Notes	LGIP		4.33%	2,828	-	2,828
3/31/2025	Texpool 2024 CO	LGIP		4.33%	74,734	-	74,734
3/31/2025	TexPool 2025 Tax Notes	LGIP		4.33%	21,790	-	21,790
3/31/2025	313385ACO-FHLB 2023 CO	US Agency		5.12%	-	5,504	5,504
3/31/2025	91282CED9-US Treasury 2023 CO	US Treasury		5.16%	67,375	13,734	81,109

\$ 797,735 \$ 19,238 \$ 816,973





City Council Regular Meeting

Agenda Item No. G.3.

Meeting Date: 5/5/2025

Prepared By: Jim Cross, Water Systems Manager

Approved By: Zachary Flores, Acting City Manager

Caption:

*** OTHER BUSINESS**

Emergency Repair of the Dorchester #10 Woodbine Well under Emergency Designation

Issue:

To allow the repair of the Dorchester #10 Woodbine Well under Emergency Designation

Background:

The Dorchester 10 Woodbine groundwater well suffered a pump failure and needed emergency repair to meet upcoming demand.

Weisinger Inc. removed the equipment and performed an inspection and confirmed the pump failure.

Capital Improvement Program:

N/A

Origination:

Water Production

Financial Consideration:

The City staff's estimated cost to repair the well is approximately \$228,285.00.

Staff Recommendation:

It is recommended that the emergency repair to the Dorchester #10 Woodbine Well under Emergency Designation be approved and that the City Manager be authorized to execute any required contract documents.

Alternatives:

As may be directed by the City Council

Attachments:

1. Contract_Sherman Dorchester 10 Woodbine_Weisinger Executed
2. Proposal
3. Location Map

AGREEMENT

THIS AGREEMENT is by and between the CITY OF SHERMAN, TEXAS, a home-rule municipality (the "CITY"), and WEISINGER, INCORPORATED, a corporation (the "CONTRACTOR"). CITY and CONTRACTOR are sometimes referred to collectively as the "parties" or individually as a "party."

CITY and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

Article 1. WORK

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents and shall furnish all personnel, labor, equipment, supplies and all other items necessary to provide the services and deliverables as specified by the terms and conditions of the Contract Documents. The Work project is generally described as follows:

Dorchester #10 Woodbine Well Emergency Repair – Emergency Designation

Article 2. ENGINEER

The Project has been designed by City of Sherman Engineering Department, Sherman, Texas, who is hereinafter called ENGINEER and who is to act as CITY'S representative, assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Article 3. CONTRACT TIME

- 3.1 The Work will be substantially completed and ready for final payment within 90 calendar days from the date when the Contract Time commences to run, as provided in the Special Conditions.
- 3.2 Liquidated Damages. CITY and CONTRACTOR recognize that time is of the essence of this Agreement and that CITY will suffer financial loss and actual damages if the Work is not completed within the time specified above, plus any extensions thereof allowed in accordance with the Special Conditions. The parties also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss and damages suffered by CITY if the Work is not completed on time. The exact amount of such loss and damages will be difficult to ascertain. Accordingly, instead of requiring any such proof, CITY and CONTRACTOR agree that CONTRACTOR shall pay CITY \$ 20.00 for each calendar day in which the Work is not completed, not as a penalty but as liquidated damages for the loss and damages that would be suffered by CITY as a result of delay for each and every calendar day that the CONTRACTOR shall have failed to have completed the Work as required herein

Article 4. CONTRACT PRICE

CITY shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents in current funds as follows:

At the unit prices shown on the Quote included in the Contract Documents.

Article 5. PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with the Special Conditions. Applications for Payment will be processed by ENGINEER, as provided in the Special Conditions.

CONTRACTOR and CITY acknowledge and agree that the continuation of this Agreement after the close of any given fiscal year of CITY, which fiscal year ends on September 30th of each year, shall be subject to Sherman City Council approval. In the event that the Sherman City Council does not approve the appropriation of funds for this Agreement, the Agreement shall terminate at the end of the fiscal year for which funds were appropriated, and the parties shall have no further obligations hereunder, except that CITY shall be obligated to pay monies owed CONTRACTOR for Services it has provided pursuant to this Agreement through the end of that fiscal year provided that CONTRACTOR is not in breach of this Agreement.

The CITY shall retain 5% of the amount of each payment until final completion and acceptance of all Work covered by the Contract Documents. When the Work is substantially complete, the retained amount may be reduced to 2%, at the CITY'S discretion.

Article 6. INTEREST

If the contract amount of this contract is less than \$5,000,000, no interest will be paid to the CONTRACTOR on retained money. When the contract amount exceeds \$5,000,000, no interest will be paid unless required by law.

Article 7. CONTRACTOR'S REPRESENTATIONS

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

- 7.1 CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that, in any manner, may affect cost, progress, performance or furnishing of the Work.
- 7.2 CONTRACTOR has carefully studied all reports of explorations and tests of subsurface conditions and drawings of physical conditions, if any, which are contained or identified in the Contract Documents, and accepts the determination set forth in the Contract Documents of the extent of the technical data contained in such reports and drawings upon which CONTRACTOR is entitled to rely.
- 7.3 CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports and studies in addition to, or to supplement, those referred to above, which pertain to the subsurface or physical conditions at or contiguous to the site, or otherwise may affect the cost, progress, performance or furnishing of the Work as CONTRACTOR considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are, or will be, required by CONTRACTOR for such purposes.
- 7.4 CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and

assumes responsibility for the accurate location of all Underground Facilities, whether indicated in the Contract Documents, or not. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are, or will be, required by CONTRACTOR in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents.

- 7.5 CONTRACTOR has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.
- 7.6 CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.
- 7.7 CONTRACTOR has reviewed and fully agrees to the limitation of liability provisions included in the Special Conditions.
- 7.8 CONTRACTOR certifies that they are eligible to be awarded government contracts. CONTRACTOR also certifies that any agreement entered into with a subcontractor will contain a clause stating that the subcontractor is eligible to be awarded government contracts.

Article 8. **CONTRACT DOCUMENTS**

The "Contract Documents," which comprise the entire agreement between CITY and CONTRACTOR concerning the Work, consist of the following:

- 8.1 This Agreement
- 8.2 Certifications Required by Texas Law
- 8.3 Suspension and Debarment Certification
- 8.4 Agenda Item
- 8.5 Request for Quotation
- 8.6 Quotation
- 8.7 Form 1295, Certificate of Interested Parties
- 8.8 Certificate of Insurance
- 8.9 Performance Bond and POA
- 8.10 Payment Bond and POA
- 8.11 Notice to Proceed
- 8.12 Maintenance Bond and POA
- 8.13 Closeout Documents
- 8.14 Davis-Bacon Wage Determinations
- 8.15 Special Conditions
- 8.16 General Conditions of Agreement
- Technical Specification prepared or issued by City of Sherman __/__/__
- 8.17 The following, which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:

All written Amendments, change orders, and other documents amending, modifying, or supplementing the Contract Documents pursuant to the Special Provisions. The parties understand and agree that deviations or modifications to the scope of Work described in the

Contract Documents, in the form of one or more written Contingency Change Allowance or also change orders, may be authorized from time to time by CITY ("Change Orders"). "Extra" work, "claims" invoiced as "extra" work or "claims" which have not been issued as a duly executed, written Change Orders by the Sherman City Manager or his designee will not be authorized for payment and/or shall not become part of this Agreement. A duly executed, written Change Order shall be preceded by the City Council's authorization for the City Manager to execute said Change Order. CONTRACTOR agrees that CITY'S project managers are authorized to issue Contingency Allowance Authorization but CITY'S project managers, superintendents and/or inspectors not authorized to issue verbal or written Change Orders.

There are no contract Documents other than those listed above in this Agreement. The Contract Documents may only be amended, modified or supplemented, as outlined in this Contract.

Article 9. INDEMNITY

CONTRACTOR HEREBY RELEASES AND SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ITS CITY COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES (COLLECTIVELY REFERRED TO AS "CITY" FOR PURPOSES OF THIS SECTION) FROM AND AGAINST ALL DAMAGES, INJURIES (WHETHER IN CONTRACT OR IN TORT, INCLUDING PERSONAL INJURY AND DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, ACTIONS, JUDGMENTS, LIENS, COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEY'S FEES AND EXPENSES INCURRED IN ENFORCING THIS SECTION), THAT IN WHOLE OR IN PART ARISE OUT OF OR ARE CONNECTED WITH GOODS AND/OR SERVICES PROVIDED BY CONTRACTOR, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FOR WHOM CONTRACTOR IS LEGALLY RESPONSIBLE (COLLECTIVELY REFERRED TO AS "CONTRACTOR" FOR PURPOSES OF THIS SECTION) PURSUANT TO THIS AGREEMENT AND/OR THE NEGLIGENCE, GROSSLY NEGLIGENCE AND/OR INTENTIONAL WRONGFUL ACT AND/OR OMISSION OF CONTRACTOR IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OF CITY (COLLECTIVELY, "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT IS NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST CITY BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CONTRACTOR AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH CONTRACTOR, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE.

IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY CONTRACTOR IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY CITY, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION

TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF CONTRACTOR'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF CONTRACTOR'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. CONTRACTOR SHALL RETAIN CITY-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO DEFENSE OR INDEMNIFICATION UNDER THIS AGREEMENT. If CONTRACTOR FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND CONTRACTOR SHALL BE LIABLE FOR ALL COSTS INCURRED BY CITY.

THE RIGHTS AND OBLIGATIONS CREATED BY THIS SECTION SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

Article 10. LIABILITY

To the fullest extent permitted by law, CONTRACTOR shall be fully and solely responsible and liable for its own acts and omissions, including those of its officers, agents, representatives, employees, subcontractors, licensees, invitees and all other parties performing services for or on behalf of CONTRACTOR under this Agreement, and for any and all damage to CONTRACTOR's equipment and other property. CITY assumes no such responsibility or liability. CITY shall have no such responsibility or liability to either CONTRACTOR or its officers, agents, representatives, employees, subcontractors, licensees, invitees or other persons.

Article 11. TERMINATION

CITY is entitled to terminate this Agreement at any time for any reason or for no reason by giving CONTRACTOR at least thirty (30) days' prior written notice of the termination date.

CITY is entitled to terminate this Agreement immediately on breach of any term or provision of the Contract Documents by CONTRACTOR. If at any time during the term of this Agreement, CONTRACTOR shall fail to commence the work in accordance with the provisions of the Contract Documents or fail to diligently perform the work in an efficient, timely and careful manner and in strict accordance with the provisions of the Contract Documents, then CITY shall have the right to terminate this Agreement. Any such act by CITY shall not be deemed a waiver of any other right or remedy of CITY.

The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its rights to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

Article 12. MISCELLANEOUS

12.1 Terms used in the Agreement will have the meanings indicated in the Special Conditions.

12.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically, but without limitation, monies that may become due and monies that are due, may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

- 12.3 CONTRACTOR acknowledges and agrees that the existence of a prohibited interest during the term of this Agreement will render this Agreement voidable. CONTRACTOR further acknowledges and agrees that it also is aware of, and will abide by, the vendor disclosure requirements set forth in Chapter 176 of the Texas Local Government Code, as amended.
- 12.4 Each party represents and warrants to the other that it has the full power and authority to enter into and fulfill the obligations of this Agreement. The respective signatories to this Agreement, by affixing their signatures hereto, warrant and represent that they have the authority to bind their respective parties as duly authorized representatives thereof.
- 12.5 The parties acknowledge and agree that, in executing and performing this Agreement, CITY has not waived, nor shall be deemed to have waived, any defense or immunity, including governmental, sovereign and official immunity, that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein.
- 12.6 In the event that a term, condition or provision of this Agreement is determined to be invalid, illegal, void, unenforceable or unlawful by a court of competent jurisdiction, then that term, condition or provision shall be deleted and the remainder of the Agreement shall remain in full force and effect as if such invalid, illegal, void, unenforceable or unlawful provision had never been included in this Agreement.
- 12.7 If either party files any action or brings any proceeding against the other arising from this Agreement, then as between CITY and CONTRACTOR, the prevailing party shall be entitled to recover as an element of its costs of suit, and not as damages, reasonable and necessary attorneys' fees and litigation expenses both at trial and on appeal, subject to the limitations set forth in TEX. LOC. GOV'T CODE § 271.153, as it exists or may be amended, if applicable.
- 12.8 The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Agreement, without regard to conflict of law principles. This Agreement is performable in Grayson County, Texas, and the exclusive venue for any action arising out of this Agreement shall be a court of appropriate jurisdiction in Grayson County, Texas.
- 12.9 Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit, or waive such party's right thereafter to enforce and compel strict compliance.
- 12.10 CONTRACTOR covenants and agrees that CONTRACTOR is an independent contractor and not an officer, agent, servant or employee of CITY; that CONTRACTOR shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing the same; that the doctrine of respondent superior shall not apply as between CITY and CONTRACTOR, its officers, agents, employees, contractors, subcontractors and consultants; and that nothing herein shall be construed as creating a partnership or joint enterprise between CITY and CONTRACTOR.
- 12.11 This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in

this Agreement are for the convenience of the parties and are not intended to be used in construing this document.

- 12.12 This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. An electronic mail and/or facsimile signature will also be deemed to constitute an original if properly executed and delivered to the other party.
- 12.13 CITY and CONTRACTOR each binds itself, its partners, successors, assign, and legal representatives to the other party hereto, its partners, successors, assign and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

Article 13. **OTHER PROVISIONS**

None.

IN WITNESS WHEREOF, CITY and CONTRACTOR have signed this Agreement in multiple copies. One counterpart each has been delivered to CITY, CONTRACTOR and ENGINEER. All portions of the Contract Documents have been signed or identified by CITY and CONTRACTOR or by ENGINEER on their behalf. The date this Agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature below) will be deemed the effective date of this Agreement (the "Effective Date").

CITY: CITY OF SHERMAN, TEXAS

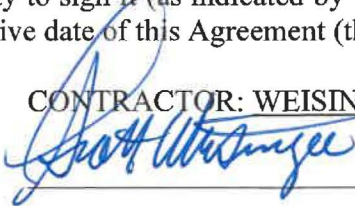
By: _____

Date: _____

Attest: _____

Address for giving notices:

CONTRACTOR: WEISINGER, INCORPORATED



By: Scott Weisinger

Date: 04/22/2025

Attest: _____

Address for giving notices:

P.O. Box 909

Willis, Texas 77378



November 20, 2024

City of Sherman
243 La Cima Dr.
Sherman, TX 75090

Attn: Oscar Canales

Ref: Dorchester 10 Woodbine Water Well

Mr. Canales:

As requested, we are pleased to provide the following quotation which is in accordance with our understanding of your requirements.

Scope of Services

- Mobilize rig and crew to pull existing pumping equipment
- Remove the pumping equipment from the well under normal removal procedures
- Haul the submersible pumping equipment to our facility, perform disassembly, inspection, and present a report of our findings.
- Perform a field inspection of the column pipe
- Perform a TV survey and present a report of findings

Estimated Subtotal for Scope of Services outlined\$25,885.00

Thank you for the opportunity to offer you our services as we await your response.

Sincerely,



Francisco Ochoa
Weisinger Incorporated



PO Box 909 • Willis, TX 77378
936-756-7721 • 281-353-8484 • 936-756-7723 fax
www.weisingerinc.com

December 16, 2024

City of Sherman
243 La Cima Dr.
Sherman, TX 75090

Attn: Oscar Canales

Ref: *Dorchester 10 Woodbine Water Well*

Mr. Canales:

Inspections of the pumping equipment found that the pumps intermediate bowl bearings and their respective shaft surfaces are worn above acceptable tolerances. The impeller skirts and bowl wear rings were also worn above tolerance. It was noted that a small amount of sand or grit was found inside the pump. The 100 HP motor megged to ground on all three legs and the thrust bearing is bad. The existing motor cable megged good dry but the spool is too big to perform the water immersion testing. All 850" of the 5" column pipes are very rusty on the OD and contain deep rust pits and some thread damage.

Scope of Services and Materials

Pumping Equipment

- New 400 GPM submersible pump end with lift nipple
- New 100 HP, 8", 460-volt, 3600 rpm submersible motor
- 875' of new 2/0 3C WG submersible motor cable with splice kits
- 850' of new 5" T&C 8RD tapered pump column
- 3 new 5" 8RD check valves
- New 10" PVC flow sleeve
- Miscellaneous items to make operational

Subtotal for Scope of Services outlined\$163,180.00

Labor to Install Pumping Equipment

- Shop Labor to assemble and prepare new equipment for shipment to the jobsite.
- Trucking to haul new pumping equipment to well site
- Rig & crew to install new pumping equipment
- Technician to start up and test the pumping equipment
- Bacteriological sampling

Subtotal for Scope of Services outlined\$34,590.00

Grand Total for Scope of Services outlined Above\$197,770.00

Thank you for the opportunity to offer you our services as we await your response.

Sincerely,

Adder for Bonds: \$4,630.00

Francisco Ochoa
Weisinger Incorporated



Dorchester
#10 Woodbine
Well

DORCHESTER #10 WOODBINE WELL EMERGENCY REPAIR

1" = 3000'



2025

Council Calendar

January						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

February						
Su	Mo	Tu	We	Th	Fr	Sa
						1
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23	24	25	26	27	28	

March						
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23	24	25	26	27	28	29
30	31					

April						
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27	28	29	30			

May						
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25	26	27	28	29	30	31

June						
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29	30					

July						
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27	28	29	30	31		

August						
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24	25	26	27	28	29	30
31						

September						
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28	29	30				

October						
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26	27	28	29	30	31	

November						
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23	24	25	26	27	28	29
30						

December						
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7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

	Holiday
	Holiday for Firefighters/Police Only
	City Council Regular Meeting
	Special Called Meeting
	Budget Workshop
	Cancelled City Council Meeting

[illegible]