

**CITY OF SHERMAN
CITY COUNCIL REGULAR MEETING AGENDA
COUNCIL CHAMBERS OF THE CITY HALL
220 WEST MULBERRY STREET
SHERMAN, TEXAS
MONDAY, OCTOBER 4, 2010
5:00 P.M.**

- A.1 [CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN](#)
- A.2 [PLEDGE OF ALLEGIANCE](#)
- A.3 [INVOCATION BY COUNCIL MEMBER JOE N. SMITH](#)
- A.4 [APPROVE MINUTES OF THE REGULAR CITY COUNCIL MEETING OF SEPTEMBER 20, 2010, THE CALLED CITY COUNCIL MEETING \(HELD JOINTLY WITH THE SHERMAN ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS\) OF SEPTEMBER 23, 2010, AND THE CALLED CITY COUNCIL MEETING \(FAIR HOUSING IMPEDIMENT ANALYSIS FOCUS GROUP SESSION FOR SHERMAN GOVERNMENT AGENCIES\) OF SEPTEMBER 23, 2010](#)

Proclamation

- A.5 [PROCLAMATION](#)
“Domestic Violence Awareness Month” – October 2010

Public Hearing

- B.1 [INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5673](#)
Amending Ordinance No. 5064 to Increase the Rates Charged for Cemetery Spaces and Services

Close Public Hearing and Consider Adoption of Ordinances

- B.2 [ADOPTION OF ORDINANCES](#)
Consider Adoption of Ordinance Number:
(a) 5673
- B.3 [CONSENT AGENDA](#)
Asterisked (*) items are considered to be routine and will be enacted in one motion without discussion unless a Council Member or a citizen requests a specific item be discussed and voted on separately

Resolutions

C.1 [* RESOLUTION NO. 5528](#)

Authorizing Execution of an Agreement with the Sherman Independent School District for the Non-Exclusive Use of Portions of the City's Gallagher Road Elevated Water Tank for the Installation and Operation of a Communications System

C.2 [* RESOLUTION NO. 5529](#)

Authorizing the City Manager to Execute Contracts with the Sherman Council for the Arts & Humanities, Inc. and the Friends of the Red River Historical Museum (aka Red River Historical Museum)

C.3 [* RESOLUTION NO. 5530](#)

Authorizing Execution of an Agreement with Habitat for Humanity of Grayson County for the Abatement of Ad Valorem Property Taxes for the Construction of a New Single-Family Residence at 707 South Throckmorton Street

Change Order

D.1 [* CHANGE ORDER NO. 1](#)

Pelton Street Water Main Replacement Project; Dickerson Construction Co., Inc.; \$2,694.00, Increase

Other Business

D.2 [OTHER BUSINESS](#)

Receive Presentation from Executive Director of Planning and Public Works Don W. Keene on Projects and Activities within the Street Department

D.3 [OTHER BUSINESS](#)

Receive Presentation from Executive Director of Planning and Public Works Don W. Keene on the City of Sherman's Capital Improvement Projects

D.4 [* OTHER BUSINESS](#)

Consider Request of the Austin College Kappa Gamma Chi to Temporarily Close Certain Streets for the Homecoming 2010 'Roo Run and Joey Walk on Saturday, October 23, 2010

D.5 [CITIZEN REQUESTS](#)

D.6 [MEDIA QUESTIONS](#)

D.7 [COUNCIL COMMENTS](#)

Executive Session

E.1 [EXECUTIVE SESSION](#)

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

Section 551.071 Consultation with City Attorney Concerning Pending or Contemplated Litigation:

(a) Receive the City Attorney’s Briefing on Pending Litigation

Section 551.074 Personnel Matters

(a) Consider the Qualifications, Appointment and Removal of Members to Boards and Commissions:

(i) Sherman Economic Development Corporation
Board of Directors (2)

The Council reconvenes into General Session

F.1 [OPEN MEETING](#)

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

F.2 [ADJOURNMENT](#)

[COUNCIL CALENDAR](#)



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. A.1

CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. A.2

PLEDGE OF ALLEGIANCE

The Honorable Joe N. Smith, Council Member



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. A.3

INVOCATION BY COUNCIL MEMBER JOE N. SMITH



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. A.4

APPROVE MINUTES

**OF THE REGULAR CITY COUNCIL MEETING OF SEPTEMBER 20, 2010,
THE CALLED CITY COUNCIL MEETING (HELD JOINTLY WITH THE SHERMAN
ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS) OF
SEPTEMBER 23, 2010, AND THE CALLED CITY COUNCIL MEETING
(FAIR HOUSING IMPEDIMENT ANALYSIS FOCUS GROUP SESSION FOR
SHERMAN GOVERNMENT AGENCIES) OF SEPTEMBER 23, 2010**

STATE OF TEXAS

§

September 20, 2010

COUNTY OF GRAYSON

§

BE IT REMEMBERED THAT A Regular Meeting of the City Council of the City of Sherman, Grayson County, Texas was begun and held in the Council Chambers of City Hall on September 20, 2010.

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

MEMBERS ABSENT: NONE.

CALL TO ORDER

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

CALL TO ORDER

APPROVE MINUTES

The Council reviewed the Minutes of the Regular City Council Meeting of September 7, 2010. Council Member Smith moved to approve the Minutes as presented; Second by Council Member Adami. All present voted AYE.
MOTION CARRIED.

APPROVE MINUTES

PROCLAMATION

GERMAN – AMERICAN PARTNERSHIP BETWEEN
WOLNZACH GYMNASIUM AND SHERMAN HIGH SCHOOL

Council Member Wacker read a proclamation recognizing the German – American Partnership between Wolnzach Gymnasium and Sherman High School and the students that are currently in Sherman participating in the exchange program.

GERMAN-AMERICAN
PARTNERSHIP WITH
SHERMAN HIGH

NATIONAL NIGHT OUT – TEXAS – OCTOBER 5, 2010

Council Member Adami presented a proclamation to Captain Ken Francis, Police Department, recognizing October 5, 2010 as “National Night Out – Texas.” Captain Francis thanked the Council for the proclamation.

NATIONAL NIGHT
OUT – TEXAS
(OCT. 5, 2010)

INTRODUCTION AND PUBLIC HEARING OF ORDINANCES

Mayor Magers introduced Ordinance 5671 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES, ENTITLED “UTILITIES”, AT ARTICLE 13.06, ENTITLED “SOLID WASTE”, AT SECTIONS 13.06.005, 13.06.086, 13.06.087, AND 13.06.088 TO INCREASE CERTAIN SOLID WASTE FEES; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

ORD 5671
SOLID WASTE FEES

No citizens appeared before the City Council to discuss Ordinance 5671.

Mayor Magers introduced Ordinance 5672 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES, ENTITLED "UTILITIES", AT ARTICLE 13.08, ENTITLED "UTILITY BILLING", AT SECTIONS 13.08.005 AND 13.08.006, REVISING RATES FOR WATER AND SEWER FOR FISCAL YEAR 2010-2011; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

ORD 5672
WATER & SEWER
RATES

No citizens appeared before the City Council to discuss Ordinance 5672.

The Public Hearing was closed.

CLOSE PUBLIC
HEARING

ADOPTION OF ORDINANCES

Ordinance 5671

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES, ENTITLED "UTILITIES", AT ARTICLE 13.06, ENTITLED "SOLID WASTE", AT SECTIONS 13.06.005, 13.06.086, 13.06.087, AND 13.06.088 TO INCREASE CERTAIN SOLID WASTE FEES; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

ORD 5671
SOLID WASTE FEES

Ordinance 5672

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES, ENTITLED "UTILITIES", AT ARTICLE 13.08, ENTITLED "UTILITY BILLING", AT SECTIONS 13.08.005 AND 13.08.006, REVISING RATES FOR WATER AND SEWER FOR FISCAL YEAR 2010-2011; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

ORD 5672
WATER & SEWER
RATES

Mayor Magers explained that both ordinances contain minimum rate increases for two "fixed cost businesses." For example, it costs about the same amount of money to process 1,000 tons of trash or 10,000 tons of trash, and it costs about the same to purify 1,000 gallons of water or 10,000 gallons of water.

With the economic downturn of the past couple of years, especially on the solid waste side, the amount of waste going to the Texoma Area Solid Waste Authority Landfill has been severely lessened.

At TASWA, Sherman hauls 50% of the trash, put up 1/3 of the money, and has 20% of the vote. Previously the TASWA Board was financing for 20 years, cells that would only last three to five years. The debt would help keep rates low, but cause problems "down the road." The Board has now moved to "paying as you go" which will be good for Sherman in the long term.

As for the rate increase for water, Sherman is losing two industries, Folgers and MEMC. The rate increases only recoup 50% of the revenue that will be lost by these closings.

The Council considered many alternatives and were able to maintain the property tax rate.

ACTION TAKEN.

Motion by Council Member Adami to approve Ordinance Nos. 5671 and 5672, as presented. Second by Council Member Smith.

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

VOTING NAY: None.

MOTION CARRIED.

Ordinance 5666

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, PROVIDING FOR THE LEVY OF AD VALOREM TAXES FOR THE CITY OF SHERMAN, TEXAS, FOR THE TAX YEAR 2010; DISTRIBUTING THE SAME AMONG THE VARIOUS FUNDS; PROVIDING FOR A PENALTY AND INTEREST FOR FAILURE TO PAY THE TAXES LEVIED WITHIN THE TIME PROVIDED BY LAW; PROVIDING FOR A REPEALER.

**ORD 5666
AD VALOREM
TAX LEVY**

ACTION TAKEN.

Motion by Council Member Adami to approve Ordinance No. 5666, as presented. Second by Council Member Wacker.

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

VOTING NAY: None.

MOTION CARRIED.

CONSENT AGENDA

The Council reviewed the Consent Agenda. Council Member Adami asked to remove Item C-3 entitled "Resolution 5525 – Awarding a Bid to and Authorizing the Execution of a Contract with IESI TX Corporation for Residential Commingled Recycling Processing Services" and Item C-4 entitled "Resolution 5526 – Awarding a Bid to and Authorizing the Execution of a Contract with Pratt Industries, Inc. for Cardboard Recycling Processing Services" from the Consent Agenda for discussion in their regular order of business.

CONSENT AGENDA

Council Member Wacker moved to approve the Consent Agenda, with the exception of Item C-3 and Item C-4, which will be discussed in their regular order of business. Second by Council Member Softly. All present voted AYE.

RESOLUTIONS

RESOLUTION NO. 5523 – SUPPORTING LOCALLY GOVERNED COMMUNITY CENTER MHMR SERVICES OF TEXOMA AS THE MOST EFFECTIVE AND COST EFFICIENT MEANS TO MANAGE AND DELIVER SERVICES FOR TEXANS

**RES 5523
MHMR COMMUNITY
CENTER**

**WITH INTELLECUTAL AND DEVELOPMENTAL DISABILITIES
AND SERIOUS MENTAL ILLNESS IN COOKE, FANNIN AND
GRAYSON COUNTIES**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, SUPPORTING LOCALLY GOVERNED COMMUNITY CENTER MHMR SERVICES OF TEXOMA AS THE MOST EFFECTIVE AND COST EFFICIENT MEANS TO MANAGE AND DELIVER SERVICES FOR TEXANS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES AND SERIOUS MENTAL ILLNESS IN COOKE, FANNIN AND GRAYSON COUNTIES.

Mayor Magers recognized MHMR Services for the cost savings to the institutions and penal systems. He added that it is a tremendous program and Grayson County is fortunate to have their services.

ACTION TAKEN.

Motion by Council Member Wacker to approve Resolution No. 5523, as presented. Second by Deputy Mayor Steele.

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

VOTING NAY: None.

MOTION CARRIED.

**RESOLUTION NO. 5524 – AUTHORIZING EXECUTION OF
AGREEMENTS WITH THE SHERMAN HOUSING AUTHORITY,
THE TEXOMA AREA PARATRANSIT SYSTEM, INC., THE
GRAYSON COUNTY CRISIS CENTER, THE BOYS & GIRLS
CLUB OF SHERMAN, INC., THE CHILD & FAMILY GUIDANCE
CENTER OF TEXOMA, AND THE CITY OF SHERMAN PARKS
& RECREATION DEPARTMENT FOR THE USE OF
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AGREEMENTS WITH THE SHERMAN HOUSING AUTHORITY, THE TEXOMA AREA PARATRANSIT SYSTEM, INC., THE GRAYSON COUNTY CRISIS CENTER, THE BOYS & GIRLS CLUB OF SHERMAN, INC., THE CHILD & FAMILY GUIDANCE CENTER OF TEXOMA, AND THE CITY OF SHERMAN PARKS & RECREATION DEPARTMENT FOR THE USE OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS.

CONSENT AGENDA.

RES 5524
CDBG FUNDING

**RESOLUTION NO. 5525 – AWARDING A BID TO AND
AUTHORIZING THE EXECUTION OF A CONTRACT WITH IESI
TX CORPORATION FOR RESIDENTIAL COMMINGLED
RECYCLING PROCESSING SERVICES**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH IESI TX CORPORATION FOR RESIDENTIAL COMMINGLED RECYCLING PROCESSING SERVICES.

RES 5525
RESIDENTIAL
RECYCLING SERVICES

Council Member Adami asked to remove Item C-3 and Item C-4 from the Consent Agenda for discussion in their regular order of business.

He verified that the single stream recycling bid for \$32 per ton was being recommended over the \$35 per ton bid because it was cheaper to transport to the closer facility. George Olson, City Manager, verified that one facility is located this side of McKinney and the other is past Denton.

RESOLUTION NO. 5526 – AWARDING A BID TO AND AUTHORIZING THE EXECUTION OF A CONTRACT WITH PRATT INDUSTRIES, INC. FOR CARDBOARD RECYCLING PROCESSING SERVICES

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING THE EXECUTION OF A CONTRACT WITH PRATT INDUSTRIES, INC. FOR CARDBOARD RECYCLING PROCESSING SERVICES.

Council Member Adami verified that for the cardboard recycling services the cost savings for the transportation is not outweighed by the increase in price. Mr. Olson verified that these are the rates that they pay the City for delivering the cardboard recycling to them.

ACTION TAKEN.

Motion by Council Member Adami to approve Resolution Nos. 5525 and 5526, as presented. Second by Council Member Smith.

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

VOTING NAY: None.

MOTION CARRIED.

RES 5526
CARDBOARD
RECYCLING SERVICES

RESOLUTION NO. 5527 – AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH RENDA ENVIRONMENTAL, INC. FOR THE 2010-2013 BIOSOLIDS PROJECT AT THE SHERMAN WASTEWATER TREATMENT PLANT

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH RENDA ENVIRONMENTAL, INC. FOR THE 2010-2013 BIOSOLIDS PROJECT AT THE SHERMAN WASTEWATER TREATMENT PLANT.

CONSENT AGENDA.

RES 5527
BIOSOLIDS PROJECT

CITIZENS REQUESTS
HAZARDOUS CARGO SPILL

Don Mathis, 1800 W. Washington, Apt. 206, said he just heard there was a hazardous cargo spill near Sherman High School today. He expressed concern and asked if there was a hazardous cargo route through Sherman.

Mayor Magers said there is a hazardous cargo route through Sherman. Fire Chief J.J. Jones said there was no spill, it was on the FM 1417 Spur, but there was no cargo leak.

HAZARDOUS
CARGO SPILL

MEDIA QUESTIONS

ARTS FESTIVAL

Kathy Williams, Herald Democrat Reporter, said this weekend's Arts Festival was good.

ARTS FESTIVAL

COUNCIL COMMENTS

SOCCER FIELDS

Council Member Smith said soccer started this Saturday and the fields looked good and were in great condition. He thanked the staff for their hard work on the fields.

SOCCER FIELDS

ARTS FESTIVAL

Council Member Adami said Arts Festival was a big success as usual, even though it was hot.

ARTS FESTIVAL

WEEKEND ACTIVITIES IN SHERMAN

Council Member Wacker said it was a great weekend in Sherman with Arts Festival and the Community Series concert. She thanked the staff and volunteers that made Arts Festival happen this year.

WEEKEND ACTIVITIES
IN SHERMAN

SHERMAN BEARCATS

Council Member Howeth said the Sherman Bearcats had a great week with the Homecoming activities, culminating with a very nice win on Friday night.

SHERMAN BEARCATS

ARTS FESTIVAL

Mayor Magers said Arts Festival is a volunteer activity and the City helped out this year. He recognized April Patterson, Tourism Director, for her hard work for the event.

ARTS FESTIVAL

SHERMAN YOUTH SPORTS

Mayor Magers said if anyone missed the Sherman Youth Sports during Arts Festival, the fourth grade team won but the third grade team lost. There is one more game for the season and he invited everyone out to watch.

SHERMAN YOUTH
SPORTS

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

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

EXECUTIVE SESSION

SECTION 551.074

PERSONNEL MATTERS
CONSIDER THE
QUALIFICATIONS, APPOINTMENT
OR REMOVAL OF MEMBERS TO
BOARDS AND COMMISSIONS:
MEALS ON WHEELS OF TEXOMA
(1)

Council Members decided the Executive Session was not needed to consider the reappointment to the Meals on Wheels of Texoma Board of Directors.

**APPOINT/REMOVE OR CONSIDER QUALIFICATIONS TO
BOARDS AND COMMISSIONS:**

MEALS ON WHEELS OF TEXOMA BOARD OF DIRECTORS

(1)

Mayor Magers personally thanked Phyllis Hicks for her service on the Meals on Wheels of Texoma Board of Directors and “highly recommended” that she be reappointed.

ACTION TAKEN.

Motion by Council Member Wacker to reappoint Phyllis Hicks to the Meals on Wheels of Texoma Board of Directors for a term from September 30, 2010 to September 30, 2011. Second by Council Member Adami.

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

VOTING NAY: None.

MOTION CARRIED.

ADJOURNMENT

On Motion duly made and carried, the meeting adjourned at 5:18 p.m.

**MEALS ON WHEELS
OF TEXOMA BOARD
OF DIRECTORS**

ADJOURNMENT

MAYOR

CITY CLERK

STATE OF TEXAS §

September 23, 2010

COUNTY OF GRAYSON §

BE IT REMEMBERED THAT A Joint Meeting of the Sherman City Council and the Sherman Economic Development Corporation was begun and held in the City Council Chambers on September 23, 2010.

COUNCIL MEMBERS PRESENT: Mayor Bill Magers; Deputy Mayor Willie Steele.
Council Members Adami, Howeth, Smith, Softly, Wacker.

COUNCIL MEMBERS ABSENT: None.

SEDCO MEMBERS PRESENT: Gregory Kirkpatrick, Rad Richardson, Todd Thompson, Kelly Bickerstaff, Juston Dobbs.

SEDCO MEMBERS ABSENT: None.

CITY STAFF PRESENT: George Olson, City Manager; Robbie Hefton, Assistant City Manager/CFO; Brandon Shelby, City Attorney; Don Keene, Executive Director – Planning and Public Works; Pam Cloer, Assistant to the City Manager; Kathy Bass, Systems Coordinator; Linda Ashby, City Clerk.

SEDCO STAFF PRESENT: John Boswell, President; Frank Gadek, Vice President; Darlene Brown, Administrative Assistant.

PURPOSE: **Call to Order, Quorum Determined, Meeting Declared Open, Recognition of Guests and Visitors**

SEDCO WORK PROGRAM 2010-2011
President's Presentation of the 2010-2011 Work Program

SEDCO WORK PROGRAM 2010-2011
City Council to Discuss and Consider Approval of the SEDCO Work Program 2010-2011

SEDCO BUDGET 2010-2011
President's Presentation of the SEDCO Budget 2010-2011

SEDCO BUDGET 2010-2011
City Council to Discuss and Consider Approval of the 2010-2011 SEDCO Budget

OTHER BUSINESS

ADJOURNMENT

CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN, RECOGNITION OF GUESTS AND VISITORS

Mayor Magers called the meeting to order at 12:02 p.m., declared a quorum present, and opened the City Council Meeting. Greg Kirkpatrick, Chairman of the Sherman Economic Development Corporation, declared a quorum present, and opened the SEDCO Meeting.

SEDCO WORK PROGRAM 2010-2011

PRESIDENT'S PRESENTATION OF THE 2010-2011 WORK PROGRAM

John Boswell, Sherman Economic Development Corporation President, said this year's Work Program is similar to last year's program and is taken from Chapter 9 of the City's Comprehensive Master Plan. There are three main goals of SEDCO:

- Stimulate economic activity through business development and industry attraction
- Develop retain, and attract talent
- Promote and enhance quality of place

SEDCO's accomplishments this year include three deals approved by the Board totaling 166 new jobs and over \$18 million worth of investment. This was a below average year, but not the lowest SEDCO has ever had.

One project this year, approved by the City Council, was working with the existing industry on the Blalock Commercial Overlay District. Mr. Boswell said he and Mayor Magers visited with and got 100% "buy in" from the industrial partners for the commercial development of the corner at S.H. 75 and F.M. 1417. As discussions were held with the industries it was found that there was a need to reconfigure transportation infrastructure around that intersection.

SEDCO is currently working with the Texas Department of Transportation to add a southbound exit ramp south of the F.M. 1417 bridge. If that intersection becomes commercial, the plan is to take the trucks out of the intersection so they don't interact with the cars. The new exit ramp will allow trucks to exit the highway with access to Tyson, Progress Rail, and Sunny D. Over 100 trucks are used daily at Tyson and Sunny D and this will remove that truck traffic from the intersection of S.H. 75 and F.M. 1417.

Mr. Boswell said SEDCO also worked in marketing by increasing awareness about the economic development opportunities both within Sherman and without Sherman. They are marketing to real estate brokers across the Country and are trying to educate local citizens about the vision for the Industrial Park. SEDCO has put together a promotional video to share the vision for the Industrial Park. He played the video, which will be added to the website and to YouTube.

Along with the video, SEDCO is trying to get community buy in from citizens and is marketing an "Ask Me About Sherman" campaign to promote the quality of place. This will help citizens know more about things going on in Sherman. Promoting quality of place should help attract new talent to the community. One of the things that is important to new citizens is the Parks and Recreation program. SEDCO also designed a Parks and Recreation video that will be added to their website and YouTube, and hopefully the City's website, to promote Sherman.

At the last quarterly report, SEDCO was asked to concentrate on attracting water intensive industries. They worked with TIP Strategies, the same company that the City contracted with to complete Chapter 9 of the Comprehensive Master Plan, to identify water intensive industries and design a strategy that would work with SEDCO's existing goals.

The approach was to identify high-volume industrial water users; to examine regional water resources: demand, supply and availability; to match viable water intensive industries with economic development strategies; and to recommend targets for business recruitment. Thermoelectric power and irrigation are two areas that use the most water. Texas is one of the top four states for industrial water withdrawals. In North Texas, high water users include semiconductors, food and beverage products, poultry processing, health care products, aircraft production, and energy. In 2010, Sherman currently has 35.8 million gallons per day of water available.

Mr. Boswell said based on the selection criteria of geographic location, utilities infrastructure, land inventory and industrial sites, and workforce, the water intensive industries that Sherman should target are food products manufacturing, pharmaceuticals manufacturing, and data centers. The MEMC facility would be a good building for pharmaceuticals manufacturing. He discussed the pros and cons of each area of manufacturing.

SEDCO WORK PROGRAM 2010-2011
CITY COUNCIL TO DISCUSS AND CONSIDER APPROVAL OF THE SEDCO WORK PROGRAM 2010-2011

Mayor Magers asked why Mr. Boswell did not include paint and coatings manufacturing in the water intensive industries for Sherman. Mr. Boswell explained that this type of industry tends to locate along the coast and brings with them air quality issues. He did not feel this was a “good fit” for Sherman.

Mayor Magers asked what companies had been contacted. Mr. Boswell said they have not contacted any companies but have a lead on a data center. Panda Energy, which has already been announced, will be a big water user. He added that SEDCO has only had the completed Study for about a week and have not targeted the industries yet.

Mayor Magers verified that the Study took three months to complete by TIP Strategies. Council Member Adami asked how the plan would be implemented. Mr. Boswell said they will start with the industry clusters and research who in each category should receive the direct target marketing. They will start with letters and direct mailings, then follow up with more aggressive calling to get appointments scheduled. Mr. Boswell said data centers are harder to identify, but they will also concentrate on start-up pharmaceuticals.

Council Member Smith verified that the work will begin today. He has been saying for a year that Sherman needs to market the water available in Sherman and he expressed concern that SEDCO only started implementing this three months ago. Mr. Boswell said SEDCO has always used marketing for industries using water. The difference is that the focus has been on trying to find employers first and some of these types of industries are not big employers. Many prospects have been brought in that had high water needs, but now the focus is on an industry just because they are a high water user and for no other reason. Sherman has implemented water intensive companies already.

Mayor Magers felt the “Water Intensive Target Sectors Study” performed by TIP Strategies is a 30,000 foot view of North American Industry Classification System (NAICS) codes that outline four industry niches that are high water users. He had hoped to see a strategic plan to recruit these types of industries. He felt the Study really did not warrant three months of work and asked the SEDCO Board their thoughts.

SEDCO Secretary Todd Thompson said he had hoped to see a list of actual companies that were recommended. Mr. Boswell said recommended companies would be “region specific” to certain areas. He added that TIP Strategies produced the Study in two months. He agreed that the Study didn’t answer all the problems, but it does identify possible targets for industry specific water users.

Council Member Adami said the Council reinforced that they want to see water users. The additional water allocation was purchased and they hoped the community asset would bring in industries. He was concerned about commercial buildings, such as MEMC, which are underutilized and sit on the market. He felt the marketing plan should be more aggressive and get people interested that use a great deal of water and need an existing facility that is available. He felt the marketing plan needs to involve more.

Mr. Kirkpatrick said SEDCO has held discussions that, given the economic environment, the old ways of economic development probably don’t work. They need to think outside the box and be the pursuer. He admitted that they were not bringing results today, but they have discussed changing the concept of how they recruit businesses.

SEDCO Member Rad Richardson added that historically, Sherman will have the best and most dependable water supply when companies are looking to locate, however it costs more to live in Sherman than in other towns around here and the City Council has just increased water, sewer, and solid waste costs again. Mayor Magers said these are fixed cost businesses, however the City can give discounts to industries locating in Sherman. George Olson, City Manager, said Sherman is still below the average. Robby Hefton, Assistant City Manager/CFO, said about ten years ago Sherman’s rates were in the top one-third percent for industrial use. Since that time, Sherman has moved down and the rates are now about average with peer cities, even with the 6% increase this year.

Mayor Magers said if the City gets a prospect that is “kicking and screaming” about water rates, they would probably do something to ease the situation. He said from the Study, he had wanted to see a plan with measurable benchmarks that listed specific target industries with a business plan to get these industries. Instead the Study lists universal water users that do things that use water.

Mr. Boswell said for the past twelve months, SEDCO has been operating on goals adopted by the City Council a year ago. These goals include issues for jobs, property tax, and other items not solely focused on water. He asked if the City Council wanted SEDCO to focus only on high water users and nothing else. Mayor Magers said water is a key differentiator in Sherman, Texas. Mr. Boswell said the problem is that water is a differentiator for Sherman, but there is not a shortage of water nationwide. SEDCO must find the industries that need water that want to locate in this area. The world is not their playground for water users, there is only a shortage of water from I-35 westward, in that southwest segment of the United States.

Council Member Adami felt that water was a part of the overall picture because Sherman has the water and it should be an asset that is sellable. Dallas is having water problems and there are many areas that are having water shortages. Sherman's water is an asset that should be used and should fit within the overall goals.

Mr. Boswell said SEDCO has always tried to use water as a differentiator. The problem is, of the top ten questions asked on any project, water is never in the top ten. Council Member Howeth verified that the top questions are about property taxes and tax abatements, and everyone has those. Mr. Boswell said quality of life is not in the top ten questions either. He added that funding the government through property taxes in Texas is a disadvantage to industries also looking at locating in Southern Oklahoma, which funds through income tax.

Mr. Thompson said he is the incoming SEDCO Chairman and for the next year he wants to have a clear understanding of exactly where the City Council wants to go. He wants to see a cost benefit analysis of what selling the water will mean to the City and wants to have the City involved in the prospect discussions. He emphasized that the City Council needs to be a part of the process from the beginning.

Mayor Magers added that if the City can get water users, they can lower the water rate and it can be amortized over a wider base. The City Council has worked two long, hard years to get the additional water from Lake Texoma. From a regional standpoint, such as North Texas and Southern Oklahoma, water is a differentiator and SEDCO needs to be focusing on those industries that can use what Sherman has. There are industries that have water issues or air quality issues and Mayor Magers said he expected to be "farther down the road than we are."

Council Member Smith felt that more communication was needed between SEDCO and the City Council. Up to this point, he did not feel that the City was very proactive in implementing a recruitment strategy or marketing plan. He would like to see a proactive strategy developed and implemented because he felt economic development is stagnant.

Mr. Boswell disagreed saying that the SEDCO team is more aggressive than 95% of the communities in the State of Texas, and in the Country. He said they are out there every day calling people, sending information out, and marketing. They don't wait for the telephone to ring and for things to fall into their lap. SEDCO doesn't generally report how many contacts are made because results are what are measured. This year there were three projects approved but there were many other things that happened that didn't result in approved projects.

Council Member Smith was concerned that the Council doesn't know what all SEDCO is doing, they only hear about the approved projects. Mayor Magers said for the last decade, from 1999 to 2009, the Sherman – Denison Standard Metropolitan Statistical Area (SMSA) has been dead last in job growth in Texas. Mr. Boswell said that according to the Texas A&M Real Estate Center, two years ago the Sherman – Denison SMSA was second in Texas in job creation, primarily due to the announcement of Tyson and Ruiz Foods. Mayor Magers said the City Council and the Mayor are ultimately accountable for the efforts of SEDCO and from 1999 to 2009, the Sherman – Denison SMSA has had a -5.5% job growth.

Mayor Magers asked the Council if they wanted to review SEDCO's Work Plan. He asked how the benchmarks and performance were measured and how success would be measured in this Plan. Mr. Thompson said SEDCO should be more specific and detailed in their Plan. Mr. Boswell said the Work Plan presented was the same Plan that is listed in Chapter 9 of the City's Comprehensive Master Plan.

Council Member Adami said it is the same Plan, but that is a long range Plan and there needs to be some way to measure it. Mr. Boswell felt economic development was also a long range plan. Council Member Smith added that there should be more communication between the City Council and SEDCO. Deputy Mayor Steele said it seems

elementary to talk about the number of contacts or telephone calls, but he felt it was important, because those are measurable details and numbers. This helps the Council know what is going on besides the broad view they get during the quarterly report.

Mr. Boswell said the Council seems to be saying that it's all about measuring the process and not the results. Mayor Magers said asking what industries should be targeted for Sherman, out of the four high water categories, is not a process, it is a result. Who are the qualified, target prospects? Once those are identified, then the question is what do you want to do to get them. The consultant's Plan lists four market segments that Sherman should want. It doesn't even list specific companies in these areas to target. He did not feel that the Study was an actual Plan. A Plan should include specifics and measurable results.

Deputy Mayor Steele asked if SEDCO would like another chance to review the Plan before the City Council considers approval. Council Member Wacker suggested including more detail and a strategy with action items. She said the Council wants both a deliverable Work Plan and results. Mr. Thompson said he did not see a problem with this suggestion but asked when the Council would like to review the revised Plan.

Mayor Magers said the Council will be holding a long range planning session with the City staff in November 2010. He suggested including SEDCO during that process. Mr. Thompson asked if SEDCO could schedule a work session with the City Council to get their ideas and some realistic expectations from the staff that should be considered in the Work Plan. Council Members felt that a joint work session would be a good idea.

NO ACTION WAS TAKEN ON THE WORK PLAN.

SEDCO BUDGET 2010-2011

PRESIDENT'S PRESENTATION OF THE SEDCO BUDGET 2010-2011

Mr. Boswell presented the SEDCO Budget for 2010-2011, which is the same as last year. He did not feel it needed to be changed even though the goals will be changing. The only adjustment is under expenses for programs – marketing and attraction. The maximum amount that is available to use for marketing is 10% of the sales tax revenue. He added that SEDCO can spend more than 10% in a single year if those dollars have already been earmarked in past Budgets. He said there is approximately \$100,000 that has been unspent that will “roll” into next year.

SEDCO BUDGET 2010-2011

CITY COUNCIL TO DISCUSS AND CONSIDER APPROVAL OF THE 2010-2011 SEDCO BUDGET

Council Members asked about the \$734,400 listed under “other revenue.” Mr. Boswell said that is the sale of land to Panda Energy and has not been paid to SEDCO at this time. SEDCO expects the project to close this year. The agreement calls for Panda Energy to purchase the land from SEDCO and after the completion of the facility it goes back out.

Mayor Magers confirmed that SEDCO has \$10 million in ending fund balance and of that amount \$6.9 million has been committed. He asked for a breakdown of that committed amount. Mr. Boswell said \$4 million of that reserved amount is for CertainTeed's Phase 2. Their contract says that by December 31, 2011, CertainTeed must announce plans to begin Phase 2. If they don't start, the money would be moved back from “reserved” to “unreserved.”

Mayor Magers didn't feel that Sherman would get many more 3,000 employee, industrial complexes in Blalock Park. Should the Council and SEDCO re-examine last year's Plan and broaden the scope? Mr. Kirkpatrick said they have discussed targeting more medium sized firms in Dallas and Fort Worth and assessing the age of their facilities, their tax rates, and trimming the broad view down to target smaller industries. They can focus on smaller players, but still look at quality companies.

Mr. Thompson said they should also identify Dallas plants with emission problems that might work for Sherman or companies that are landlocked. For example, a printing industry is one of the largest emissions there is but it is not recognized as a “lead battery plant.”

Council Member Adami felt it would be important to target aged facilities or companies that are out of abatements in Dallas and Fort Worth. Mr. Kirkpatrick added that everyone's goal is to put SEDCO money to work and they may need to enlarge the standard parameters and make the money work.

Council Member Wacker said they should look at "niche" companies that might be "green" or start up entrepreneurial businesses. Mr. Boswell said in the past, start up businesses have been considered high risk. Mayor Magers said probably companies that have gone through the first round and are ready to be commercially viable.

Deputy Mayor Steele verified that the sales tax revenue is based on the sales tax revenue from the City's Budget. Mr. Hefton said sales tax is trending flat compared to last year and slightly below budget for this year. For FY 2011, sales tax is budgeted at 0% increase from last year.

ACTION TAKEN.

Motion by Council Member Wacker to approve the SEDCO Budget for FY 2010-2011, as presented.

Second by Deputy Mayor Steele.

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

VOTING NAY: None.

MOTION CARRIED.

OTHER BUSINESS

Mayor Magers distributed a handout of the "Market Report 2010" from the Texas A&M Real Estate Center. He said he has been an advocate of targeting Dallas businesses and he felt this should be a part of SEDCO's plan.

He said as Mayor, he has met only a few of the prospects that have considered Sherman. He felt that if there is a "hot" prospect, he should be included. He felt there should be a focus on driving business forward and that there were many opportunities available.

Previously the Mayor or a City Council Member sat on the SEDCO Board of Directors. After his election, he felt it was not appropriate for a member of the Board of Directors to set on a sub-committee. The City Council is and should be held accountable to taxpayers for the success or failure of economic development.

From the statistics presented, Mayor Magers said slow growth is predicted for Sherman. Sometimes Grayson County is portrayed as below the mean in education, however the statistical numbers don't show that. Only in the higher degrees, such as Bachelor's and Master's, does Sherman "dip" below the mean.

From 1999 through 2009, the Sherman-Denison SMSA has realized a -5.5% growth rate. He felt much of this decline could be attributed to the closing of plants. He added that Sherman needed to start getting those jobs back. Mayor Magers asked what specifically is being done to drive this.

Sherman has 22% less labor cost than Dallas, which is a key cost for businesses. Couple this with a high mean of high school graduates and a lower housing cost than Collin, Dallas, and Denton Counties, and Sherman emerges as a lower cost place to do business. Mayor Magers asked why wouldn't Sherman use that specific targeted strategy to pull businesses from the Metroplex to Sherman.

Mr. Boswell said one problem with comparing rent in Grayson County is that most of Sherman's industrial buildings are owner occupied. Since Sherman doesn't have a lot of lease space, it's hard to compare lease rates. Mayor Magers also addressed property tax rates saying that Dallas County's property tax rates are \$2.60.

Mayor Magers added that if the City is serious about thinking outside the box, then they need to spend time trying to recruit Dallas companies to move to Sherman. Dallas is a City with over five million population, located 60 minutes south of Sherman, with higher rental rates, higher housing costs, and higher taxes. Without writing one incentive check SEDCO should be working to get a non primary employer here.

If, in this economy, the door to heavy capital industrial manufacturing is closed then this other door might be open. A critical part of SEDCO's strategic plan needs to be to go south and get businesses to move to Sherman. Their employees could even commute.

He urged that this strategy be incorporated in SEDCO's plan or if it won't work, tell the Council why. Mayor Magers said the City Council and SEDCO should be working together as a team. There needs to be improved communications between the business development arm of the City and the City Council.

ADJOURNMENT

There being no further business to come before the City Council or the Sherman Economic Development Corporation, motion was duly made and approved to adjourn the Joint Meeting at 1:18 p.m.

MAYOR

ATTEST

CITY CLERK

Water-Intensive Industry Analysis for Sherman, TX



August 31, 2010





Overview

- Approach
- Industrial Water Use
- Regional Water Resources
- Water-intensive Industry Analysis
- Target Industries



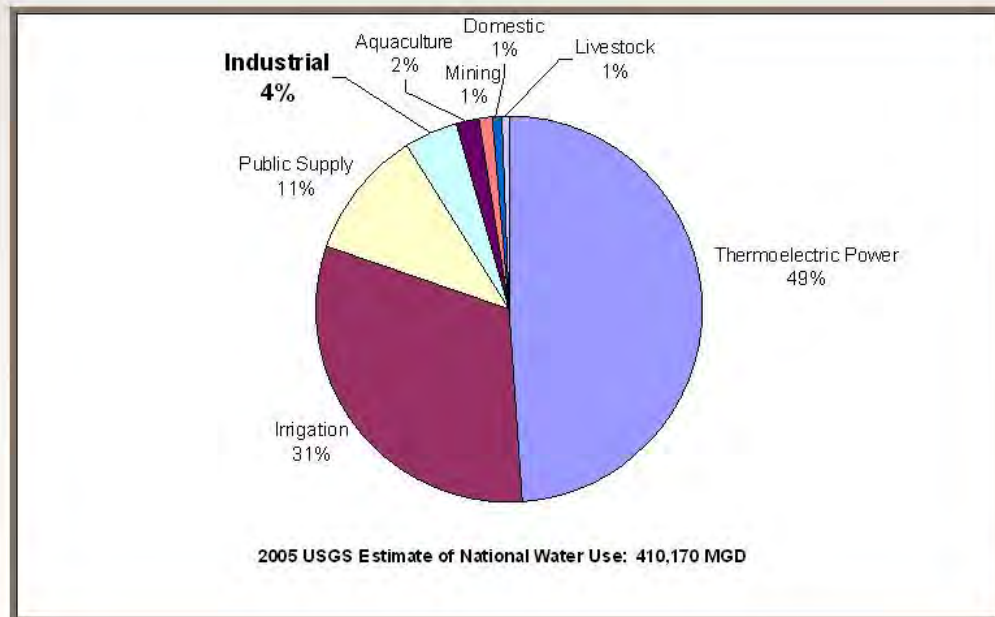
Approach

- Identify high-volume industrial water users.
- Examine regional water resources: demand, supply and availability.
- Match viable water-intensive industries with economic development strategies.
- Recommend targets for business recruitment.

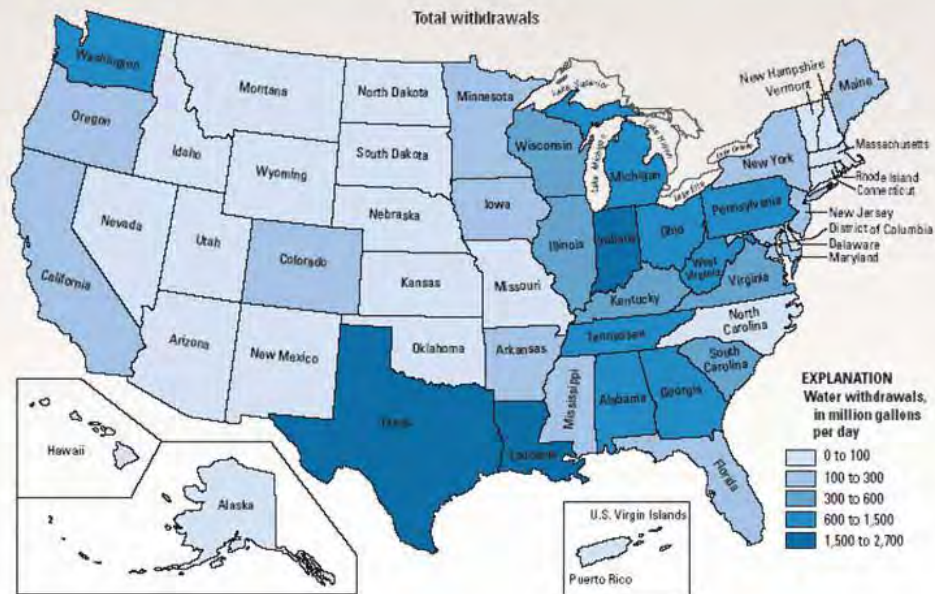


Industrial Water Use

water use | NATIONAL



water use | STATE INDUSTRIAL





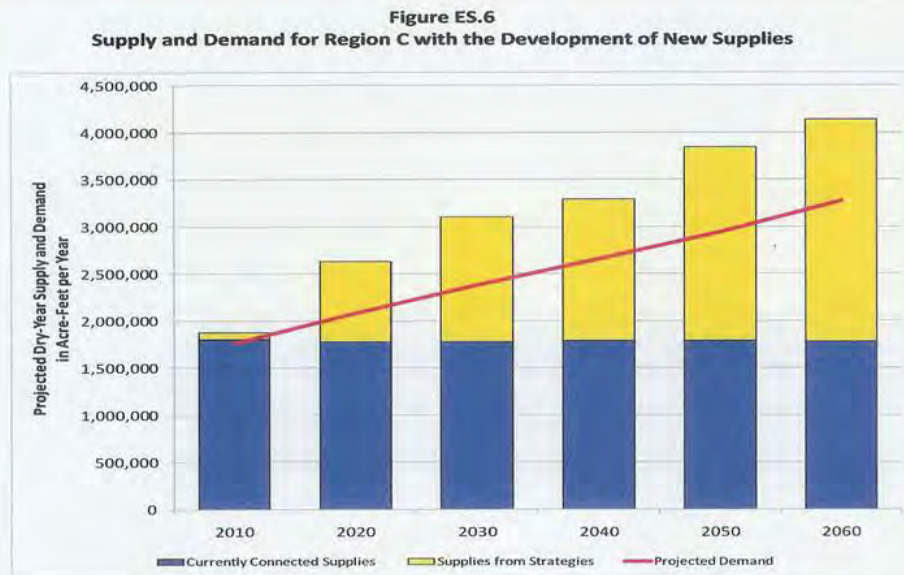
water use | HIGH-VOLUME USERS

- In the US
 - Grain and crop farming
 - Power generation
 - Livestock ranching
 - Animal processing
 - Dairy products
 - Food manufacturing and processing
- In North Texas
 - Semiconductors
 - Food and beverage products
 - Poultry processing
 - Health care products
 - Aircraft production
 - Energy



Regional Water Resources

water resources | REGION C SUPPLY & DEMAND



Source: 2011 Initially Prepared Region C Water Plan



water resources | AVAILABILITY

Lake Texoma:

- GTUA water right amendment adds 50,000 ac-ft storage and adds 56,500 ac-ft per year diversion and use authority.



Source: Amendment to Water Right Permit No. 4301, April 20, 2010



water resources | AVAILABILITY

City of Sherman Water Demand and Available Supply

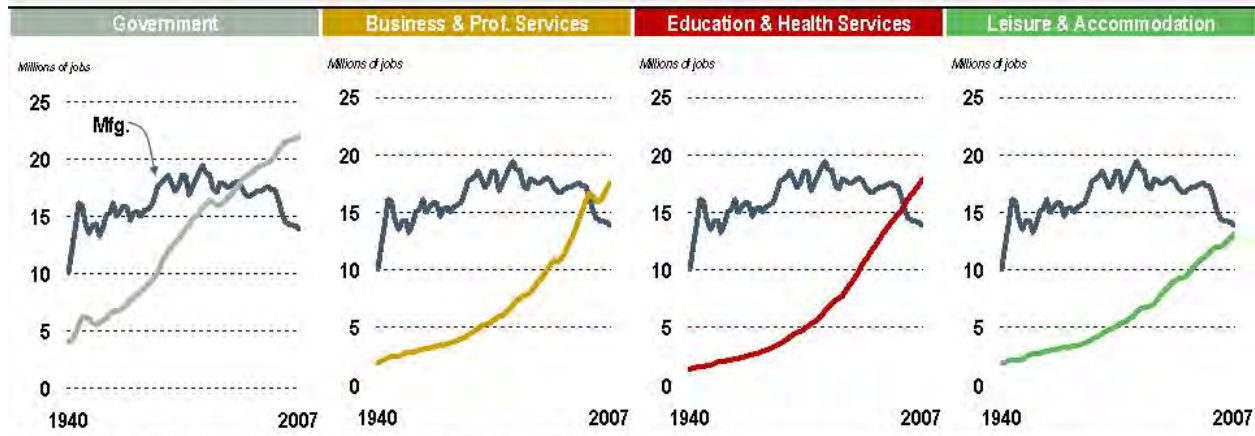
Year	Water Demand (MGD)	Surface Water Rights Available (MGD)
Existing 2008	8.76	22.3
2010	9.00	35.8
2020	10.8	35.8
2030	12.2	35.8
2040	13.7	35.8
2050	15.9	35.8
2060	19.0	35.8

Source: TWDB, Halff Assoc, Sherman 2009 Comprehensive Plan, SEDCO



Water-intensive Industries Targets

Trends | Manufacturing vs. Services (U.S.)



SOURCE: U.S. Bureau of Labor Statistics, Current Employment Statistics (average annual employment by major sector)



targets | **SELECTION CRITERIA**

- **Geographic location**
Central location in North Texas, near Dallas-Ft Worth Metroplex
- **Utilities infrastructure**
Well-maintained water and wastewater facilities with sufficient capacity; planned new energy provider
- **Land inventory and industrial sites**
Quality business parks and land near transportation corridors
- **Workforce**
Growing labor pool of skilled and semi-skilled workers



recommendations | TARGET INDUSTRIES

- **Value-added food products manufacturing** (niche market frozen foods and specialty products)
- **Pharmaceuticals manufacturing** (diagnostics for professional and home use, and “lifestyle” drugs)
- **Paint and coatings manufacturing** (water-based products with “green” appeal)
- **Data Centers** (server farms or internet hotels)



Value-Added Food Products

Rationale:

- History of food processing industry in the region.
- Upgrading of skills, technology, and wages in production processes for specialty foods.
- Value-added food processing expected to increase in employment in the US during the coming decade.





Pharmaceuticals Manufacturing



Rationale:

- Continued growth in employment projected for the foreseeable future, even as economy fluctuates.
- Demand fueled by aging of the Baby Boomer population.
- Employs high-end, high-wage workers.
- Diagnostics and “lifestyle” drugs are growth segments of particular interest.



Paint and Coatings Manufacturing

Rationale:

- Despite current slumps in housing and automotive industry, strong demand for coatings is projected.
- Outlook positive for niche products, such as water-based acrylics and “green” coatings.
- Modest growth in employment is forecast in the coming decade.





Data Centers



Rationale:

- Massive amounts of water are used to cool servers in storage facilities.
- Industry is expected to grow as need for secure server storage is demanded.
- Low employment, but benefits from added tax and water revenues.
- Texas already has a history of data centers, particularly in Dallas and Richardson.



Thank You

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WATER-INTENSIVE TARGET SECTORS STUDY

For the



SHERMAN ECONOMIC DEVELOPMENT CORPORATION

August 2010

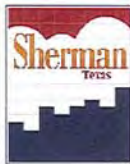


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recommended industry targets

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About TIP Strategies

TIP Strategies, Inc. (TIP) is a privately held Austin-based business and economic development consulting firm committed to providing quality solutions for both public and private-sector clients.

Established in 1995, the firm's areas of practice include economic development consulting, strategic planning, site selection, economic impact analysis, regional economic development, target industry analysis, cluster analysis, technology audit, transit-oriented development, workforce analysis, feasibility studies, market analysis, and redevelopment analysis and planning.

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INTRODUCTION

The city of Sherman is blessed with an abundance of a key natural resource: water. The city currently operates with a water surplus and has recently amended a water right for increased use and storage in Lake Texoma. While other areas of Texas have experienced water shortages and drought-limited water supply, Sherman has excess water capacity available as a tool for aiding economic development.

This analysis examined Sherman's water supply resources for suitability to attract water-intensive industries. The analysis included a review of data on industrial water consumption nationally, regional water capacities and demand projections, and current economic development strategies for business recruitment to the Sherman area.

Recommended targets for water-intensive industry recruitment include value-added food products manufacturing, pharmaceutical manufacturing, paint and coatings manufacturing, and data centers (server farms). These targets take advantage of the strengths of the Sherman area: abundant water resources, access to transportation corridors, land availability, expanding regional labor pool, and existing industry bases.

Purpose

The purpose of this report was to review data on water-intensive industry sectors and recommend potential targets based on water demand. This report is intended to provide Sherman with a framework to focus marketing resources on a few select areas that will hold the most return on time and dollars invested in expansion and attraction efforts.

The key to recommending industry targets is to match feasibility with desirability. Our recommendations are based on a review of national data on industrial water use, regional water demand and availability, and current local economic development business recruitment strategies. All of these elements were used to determine the feasibility of water-intensive industry targets for Sherman.



Based on our analysis, we recommend the following water-intensive industry targets:

- **Value-added food products manufacturing**
- **Pharmaceuticals manufacturing**
- **Paint and coatings manufacturing**
- **Data Centers** (also known as server farms or internet hotels)

Methodology

The analysis began with a review of national data on industry-specific water use and demand projections. The next step in the process was to look at the regional water resources and water system background to determine current and future water availability for industrial use.

The information and knowledge gathered on water resource use and availability was then combined with the research on active and growing water-intensive industries to identify a few targets that presented the greatest opportunities for Sherman. Recommendations for targets are the ones considered most feasible and desirable based upon our research and analysis. Industry profiles are included later in this report for each recommended target industry including a brief industry description, an industry definition, current industry trends, and any specific emerging segments of emphasis within the industry.



WATER USE AND TRENDS

National water use. The U.S. Geological Survey (USGS) National Water-Use Information Program provides an estimate of national water-use. The USGS works in cooperation with local, State, and Federal environmental agencies to collect and compile data on water withdrawal information aggregated at the county, state, and national levels. Every five years, data at the county level are compiled into a national water-use data system and state-level data are published in a national circular. The latest USGS report on water use (issued in 2007 based on 2005 estimates) reports water uses in eight categories: public supply, domestic use, irrigation, livestock, aquaculture, industrial, mining and thermoelectric power. The industrial category covers self-supplied water usage; water delivered to industries through public supply systems was not included.

Since the mid-1980s, irrigation use has generally declined although irrigated acreage has increased, thermoelectric power water withdrawals have declined sharply but have recently increased, and public water supply and domestic use have generally increased consistent with population growth. Self-supplied industrial water use, which comprises roughly four percent (18,200 MGD) of total national withdrawals, was the only category that has declined consistently since 1985. Industrial use includes water withdrawals for manufacturing and producing commodities such as food, paper, chemicals, refined petroleum, wood products and primary metals.

The most recent detailed survey of US industrial water use by sector was done in 1982 by the Census Bureau. This element of the census was subsequently removed due to budget cuts. A recent report from Carnegie-Mellon's Department of Civil Engineering (*Environmental Science and Technology*, February 2010) used economic input-output life cycle assessment methods to estimate direct and indirect water withdrawals for over 400 industry sectors using 2002 economic output. The largest industrial water users identified in this paper were power generation and agriculture (grain farming, fruit farming, cattle ranching, animal processing, and poultry and egg production). Also included in the list of top industrial water users were food and beverage production, animal food manufacturing, and paint and coatings manufacturing.



Regional water demand. Sherman, located in Grayson County, is part of the Region C Water Plan area. Most of Region C is in the upper portion of the Trinity River basin, with smaller parts in the Red, Brazos, Sulphur, and Sabine River basins. According to the 2011 Initially Prepared Region C Water Plan, water use in the region has increased significantly in recent years, primarily in response to population growth. The plan reports a projected water shortage of 1.5 million acre-feet per year by 2060, requiring development of significant new water supplies over the next 50 years. The plan also recommends management strategies to mitigate projected shortages largely through new supplies from wholesale water providers, including the Greater Texas Utility Authority (GTUA), the city of Sherman's water utility. With implementation of the recommended strategies, the Region should have more than enough water supply to meet future municipal and industrial demands.

The *Dallas Business Journal* (July 30, 2010) listed the top 25 largest corporate water users ranked by number of gallons of water used in North Texas in 2009. Ten of the top 25 users were food processors. The remainder included healthcare products, semiconductors, energy, aviation and related services, and hospitality sectors (hotels and theme parks).

Local Water Resources. According to the 2009 Comprehensive Plan, the city's water supply system sufficiently serves all components. No capacity upgrades are required in the near future, however distribution system improvements may be needed as the service area grows. The plan further notes that there is abundant surface water available to Sherman over the next 50 years, detailed in the table below.

Water Demand and Available Water Supply

Year	Water Demand (MGD)	Surface Water Rights Available (MGD)
Existing 2008	8.76	22.3
2010	9.00	35.8
2020	10.8	35.8
2030	12.2	35.8
2040	13.7	35.8
2050	15.9	35.8
2060	19.0	35.8

Source: 2009 City of Sherman Comprehensive Plan



As noted in the table, the city's water demand is projected to be well short of available supply.

Recently, in April 2010, surface water availability was significantly increased through amendment to the water right permit between GTUA and the US Army Corps of Engineers. In addition to the previous authorizations to GTUA to divert and use up to 25,000 acre-feet per year (22.3 MGD) from Lake Texoma for municipal and industrial purposes, the amendment authorized another 66,500 acre feet per year (50.4 MGD). The permit amendment also increases storage capacity in Lake Texoma by 50,000 acre-feet, bringing total storage to 72,600 acre-feet.

The updated agreement between GTUA and the City of Sherman now allots up to 35.8 MGD of available water. This increase spurred the city's interest in attracting water-intensive industries to the area.

While the city's access to available water appears to be significant, some caution should be exercised when planning for economic growth. Several factors may adversely impact future water supplies. The management strategies may not be implemented in accordance with the draft 2010 Region C Water Plan. Recent comments on the water plan received from the Texas Water Development Board (TWDB) indicate possible over-allocation of Lake Texoma pertinent to environmental flows for wildlife management area (WMA) needs. A 2003 volumetric study of Lake Texoma, performed by the U.S. Army Corps of Engineers, Tulsa Division, reveals that lake volume has been decreasing slowly over the past six decades, from about 3.1 million acre-feet in 1943 to 2.5 acre-feet in 2002 (although some changes may be due to methodological differences in measurement).



RECOMMENDED INDUSTRY TARGETS

The decision to focus on a select few target water-intensive industries does not preclude possibilities in other areas. Rather, the priority targets are, or have the potential to become, drivers that take capital from outside the region and initiate activity that produces income and value for Sherman and the surrounding region. Further, our focus does not suggest that these targets are the only sectors that add value to the area economy. For example, the presence of pharmaceutical manufacturing facilities may attract companies that package and distribute these products. Over time, other important, unforeseen target areas may emerge.

Selection of the target water-intensive industries are based on Sherman's identified strengths, as outlined in the city's comprehensive plan. Key strengths include:

- Geographic location. Sherman is within close proximity to the Dallas-Ft Worth Metroplex. This provides businesses access to major markets as well as several important transportation corridors. The Dallas-Forth Worth region is expected to continue to enjoy employment gains across a wide range of economic sectors as the Metroplex climbs the ranks of North America's largest metropolitan statistical areas (MSA) and most important business centers.
- Utilities Infrastructure. There is abundant water available to Sherman; water supply far exceeds demand, and a recent water right amendment for storage at Lake Texoma added even more capacity. The city's water infrastructure is sufficiently delivering water. The city has well-maintained wastewater treatment system with a highly successful Industrial Pretreatment program. While energy utility costs have fluctuated in the past, a new state-of-the-art natural gas-powered electricity supplier will add energy capacity and stability to the area.
- Available industrial sites and land inventory. Quality sites in the city's various business parks will appeal particularly to companies with aggressive expansion timelines. Sherman's large industrial sites have access to interstate highways and railroad systems. Municipal, regional and international airports are also easily accessible.
- Workforce. Sherman has access to a quickly growing labor pool of skilled and semi-skilled workers in the surrounding six-county area.



Value-Added Food Manufacturing

As noted above in the comment on top water users in North Texas, food processing consumes high volumes of water. The food processing industry remains one of the few manufacturing sectors expected to increase employment in the US during the next decade. This is, in large part, a result of growing US and international consumer demand stemming from overall population growth. The food products industry in general is a very attractive industry to recruit to as it is a stable industry not likely to move offshore.

Food processing—much like the remainder of manufacturing—is undergoing a significant degree of transformation. Changes in the US food processing industry are the result of two primary challenges: shifts in US consumer preferences and increasing globalization. US consumers' food preferences are becoming increasingly fractured due to changing demographics and the increasing sophistication of the American palate. Additionally, time constraints on American households have risen dramatically in the last 20 years allowing families fewer opportunities to cook traditional meals, resulting in the increased consumption of prepackaged foods. This category of food processing is referred to as value-added food production.

Value-added food products are those that increase in value due to the processing refinement of raw ingredients. A value-added food products operation requires easy access to transportation assets, such as interstates and rail. Value-added food products companies also require large amounts of water. Based on current and projected trends within the food industry, we recommend that Sherman focus on specialty food production. The specialty foods industry includes companies that process and manufacture niche market foodstuffs for consumption, including prepackaged ethnic food, organic prepackaged foods, candy and confections, frozen foods, dairy products, edible oils, fish and seafood, grains, meat products, sauces and condiments, snack foods, and sugar and other sweeteners.

Related NAICS codes

NAICS	Description
311412	Frozen Specialty Food Manufacturing
311422	Specialty Canning
311712	Fresh and Frozen Seafood Processing
311813	Frozen Cakes, Pies, and Other Pastries Manufacturing
311919	Other Snack Food Manufacturing
311991	Perishable Prepared Food Manufacturing
311999	All Other Miscellaneous Food Manufacturing



Selection Criteria:

- Business costs, including labor and taxes.
- Abundant semi-skilled labor.
- Proximity to consumer markets.
- Abundant water/wastewater.
- Large industrial sites with access to transportation.

Rationale:

- Central location within the fast-growing Sunbelt and relative access to consumer markets.
- History of food processing industry in the region.
- Availability of skilled and semi-skilled workers in the region.
- Upgrading of skills, technology, and wages in production processes for specialty foods.
- Food processing one of only a few manufacturing industries expected to increase in employment in the US during the coming decade.
- Multitude of food processors constantly seeking new locations translating into a larger pool of potential recruits.

Strategic Considerations and Recommendations:

- Despite upgrade in skills and wages, food processing remains a relatively low-wage industry.
- Sherman will need to carefully select which specialty food processors it recruits. Special considerations should be given to:



- Types of food processors that may damage Sherman's image and make it more difficult to attract professional talent.
- Ensuring that labor shortages at existing food processors do not occur as a result of the competition of a newer company in this industry.
- Opportunities for entrepreneurial specialty food processing and agricultural ventures (e.g., wineries, "natural" and/or organic foods, and festival-like farmers markets) should also be explored.



Pharmaceuticals and medicine manufacturing

As baby-boomers continue to age, the demand for pharmaceuticals and medications will continue to grow. Pharmaceuticals manufacturing is a very attractive industry target. Companies usually bring high-quality, high-wage jobs, the growth potential is high, and pharmaceuticals can bring significant capital investment. Water is used widely during the production of pharmaceutical products as a direct ingredient as well as for indirect uses such as fermentation, formulation, rinsing, sanitizing and cleaning. Sherman's surplus water capacity will thus be very attractive to these manufacturers. The city's location is also very appealing in that pharmaceutical manufacturers would be able to recruit workers from around the region while accessing several markets in the Dallas-Fort Worth Metroplex.

There are three main types of pharmaceutical companies. Large, or mainline, pharmaceutical companies are established firms that have many approved drugs already on the market. These companies often have significant numbers of R&D laboratories and manufacturing plants throughout the US and around the world. In contrast, smaller pharmaceutical companies are usually newer firms that often do not have any approved drugs on the market. As a result, these firms almost exclusively perform R&D. In addition to developing drugs, some small pharmaceutical companies perform contract research for other pharmaceutical companies. Finally, generic pharmaceutical companies manufacture drugs that are no longer protected by patents. Because their products are all established drugs, they devote fewer resources to R&D and more to manufacturing.

The Bureau of Labor and Statistics expects employment in this industry to increase as demand grows. The number of wage and salary jobs in pharmaceutical and medicine manufacturing is expected to increase by six percent over the period 2008-2018, compared with 11 percent projected for all industries combined. Even under fluctuating economic conditions, demand is expected to remain strong for this industry's products. Despite the increasing demand for drugs, several factors may temper employment growth in the industry. Drug producers and buyers are placing more emphasis on cost effectiveness due to the extremely high costs of developing new drugs. Competition from the producers of generic drugs will put pressure on firms with expiring patents on brand-name drugs. Advances in

Related NAICS codes

NAICS	Description
3254	Pharmaceutical and Medicine Manufacturing
32541	Pharmaceuticals and Medicine Manufacturing
325411	Medicinal and Botanical Manufacturing
325412	Pharmaceutical Preparation Manufacturing
325413	In-Vitro Diagnostic Substance Manufacturing
325414	Biological Product (except Diagnostic) Manufacturing



manufacturing processes will improve efficiency in pharmaceutical plants, while some companies are also manufacturing more of their products overseas.

Public perception of pharmaceutical manufacturing is critical for the image of these companies. Companies experience scrutiny from regulators, environmental groups and the public who have concerns about microbial contamination and other impurities discharged to drinking water. Most high quality water systems used within pharmaceutical production have some element of recirculation to control microbial proliferation within the system. While chemical and organic impurities can usually be managed with little difficulty, proliferation of bacteria, viruses and other organisms can challenge even the best system designs.

Selection Criteria:

- Industrial sites with access to transportation (e.g., rail served sites and interstate access)
- Light industrial, distribution space; general purpose flex space for research and development (pharmaceutical biotechnology)
- Availability of semi-skilled production labor
- Business costs, including labor and taxes.
- Proximity to supplier and consumer markets.
- Abundant water/wastewater.

Rationale:

- Central location within the fast-growing North Texas area and relative access to supplier and consumer markets, and transportation corridors.
- Continued growth in employment expected for the foreseeable future, nationally, with the aging of the Baby Boomer population.



- Availability of skilled and semi-skilled workers in the region (Collin and Grayson Counties).
- Pharmaceuticals is one of only a few manufacturing industries expected to increase in employment in the US during the coming decade.

Strategic Considerations and Recommendations:

- Sherman will need to carefully select which pharmaceutical manufacturers it recruits. Special considerations should be given to public perceptions about pharmaceuticals production wastewater and potential harm to drinking water from by-products and microbial contamination.
- Opportunities for medical specialty ventures (e.g., diagnostics used in hospitals, laboratories, and homes; generic drugs; and "lifestyle" drugs for the treatment of nonlife-threatening conditions) should especially be explored.



Paint and Coatings Manufacturing

Paint and coatings manufacturing is a segment of the chemical manufacturing industry. The US Bureau of Labor and Statistics (BLS) concludes that although output in the chemical manufacturing industry is expected to grow, employment is projected to decline by 13 percent over the 2008-18 period, compared to 11 percent growth projected for all industries combined. Only one segment of the industry —paint, coatings, and adhesive products —is projected to grow. The remaining segments of the chemical manufacturing industry are projected to lose jobs.

Chemical firms, including paint and coatings manufacturers, are concentrated in regions where other manufacturing businesses are located, such as the Great Lakes region near the automotive industry. Plants also are located near the petroleum and natural gas production centers along the Gulf Coast in Texas and Louisiana. Because chemical production processes often use large volumes of water, and chemicals are primarily exported by ship all over the world, major industrial ports are another common location of chemical plants. Texas, New Jersey, Louisiana, North Carolina, and Illinois are the nation's top chemical producers.

The paint, coating, and adhesives manufacturing plants produce paints, varnishes, putties, paint removers, sealers, adhesives, glues, and caulking. The construction and furniture industries are large customers of this segment. Other customers range from individuals refurbishing their homes to businesses needing anticorrosive paints that can withstand high temperatures.

The raw materials used in the paint and coatings production process contain Volatile Organic Compounds (VOCs). Many VOCs are listed as hazardous air pollutants (HAPs), regulated under air quality programs as contaminants which cause serious human health risks and environmental hazards. In addition, the manufacturing process may generate pigment dust, causing particulate matter emissions (known as PM-10) that can adversely effect both in-plant working conditions and outside ambient air quality.

Related NAICS codes

NAICS	Description
3255	Paint and coatings manufacturing
325510	Paint and coatings manufacturing
32552	Adhesive manufacturing
325520	Adhesive manufacturing and caulking compounds



Selection Criteria:

- * Business costs, including labor and taxes.
- * Availability of semi-skilled production labor, as well as white-collar professionals and skilled technicians.
- * Proximity to consumer and supplier markets.
- * Abundant water/wastewater.
- * Large industrial sites with access to transportation.

Rationale:

- * Central location within the fast-growing Sunbelt and easy access to Metroplex, a major population growth center. Despite current housing slump, strong demand for housing and construction materials will continue over the long-term.
- * Continued demand is forecast for water-based paints and coatings, especially for "green" construction products and materials.
- * Availability of skilled and semi-skilled workers in the region.
- * While the chemical manufacturing industry as a whole is declining, the paint, coatings and adhesives segment is projected to grow in the coming decade.

Strategic Considerations and Recommendations:

- * Manufacturers tend to locate on sites near large ports, such as the Gulf Coast and the Great Lakes (in Texas for example, Sherwin-Williams has plants in Houston and Beaumont). Sherman's distance from industrial ports may be a disadvantage.
- * Careful consideration should be given to the potential risks to public health and the environment associated with the manufacture of paint and coatings.



Data Centers

The data center industry is growing, stimulated by the world's voracious appetite for advanced information technology. Demand is driven by nearly every economic sector: governments, financial services, healthcare, education, communications, entertainment, security and protection services, satellite navigation, shipment transportation, and many more. Companies such as Google, Microsoft, and Yahoo search the globe for new sites for data centers, also called server farms or internet hotels. Server farms can reach the size of multiple football fields, use extensive amounts of electricity and consume large quantities of cooling water—up to 360,000 gallons of water a day. Sherman has land availability and a favorable climate for a server farm, and current water capacity to meet industrial usage at this level.

The *TIA-942: Data Center Standards Overview* describes the requirements for the data center infrastructure. The simplest is a Tier 1 data center, which is basically a server room, following basic guidelines for the installation of computer systems. The most stringent level is a Tier 4 data center, which is designed to host mission critical computer systems, with fully redundant subsystems and compartmentalized security zones controlled by biometric access controls methods. Currently, Tier 4 data centers are the only type being constructed.

As mentioned above, data centers consume enormous amounts of electricity. Power consumption may range from 40 to 80 watts per square foot, compared to a typical office building's 5-watt per square foot consumption. Further review is warranted to see if Sherman's energy utility could meet the needs of this type of facility.

Although massive in scale, server farms seldom require large numbers of employees. Typical centers employ anywhere from 25 to 50 workers. Benefits accrue to communities in the form of added tax revenues, increased property values, and the potential for attracting data center support industries.

Related NAICS codes

NAICS	Description
518210	Data Processing, Hosting, and Related Services

Data centers or server farms do not have a NAICS code that specifically describes this service. The general category is defined as follows:

This industry comprises establishments primarily engaged in providing infrastructure for hosting or data processing services. These establishments may provide specialized hosting activities, such as Web hosting, streaming services or application hosting, provide application service provisioning, or may provide general timeshare mainframe facilities to clients. Data processing establishments provide complete processing and specialized reports from data supplied by clients or provide automated data processing and data entry services.



Selection Criteria:

- Large tracts of affordable industrial land.
- Abundant and reliable water/wastewater.
- Availability of semi-skilled labor.
- Business costs, including labor and taxes.

Rationale:

- Central location within the fast-growing North Texas area and access to consumer markets.
- Data center industry is expected to grow as need for secure server storage is demanded through information technology expansion and innovation (e.g. cloud computing).
- Texas already has a history of data centers, particularly in Dallas and Richardson.

Strategic Considerations and Recommendations:

- Data centers employ very few people, so contribute little to the job market. Benefits come from increased tax revenue and water revenue.
- Data centers do not require a lot of amenities, but they do have very particular and non-negotiable needs. Companies are seeking new locations with low risk for natural disasters, reliable water supply, low-cost power, and access to global telecommunications.
- Companies generally look for sites of between 75 to 100 acres, but this may be negotiable depending on the subcategory of facility being considered (e.g. switching hubs, corporate data centers, or data storage racks).



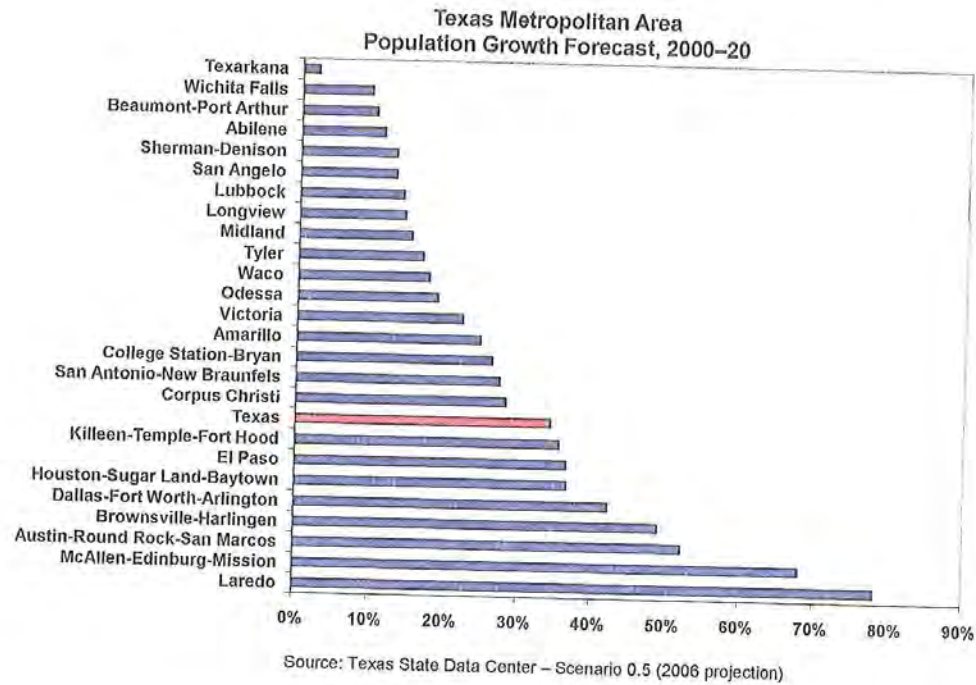
MARKET REPORT 2010



sherman | denison



<http://recenter.tamu.edu>



Sherman-Denison MSA Projected Population		
Year	Texas State Data Center (Scenario 0.5)	Texas Water Development Board
2000	110,595	110,595
2005	114,163	-
2010	118,011	133,913
2015	121,810	-
2020	124,953	163,711
2025	127,551	-
2030	129,763	188,537
2035	131,687	-
2040	133,290	208,936

Sources: Texas State Data Center (Feb. 2009 projection)
and Texas Water Development Board (Nov. 2009 projection)

Texas Metropolitan Area Population* Change			
Metropolitan Area	1999	2009	Percent Change
Austin-Round Rock-San Marcos	1,205,898	1,705,075	41.4
McAllen-Edinburg-Mission	555,875	741,152	33.3
Laredo	189,014	241,438	27.7
Dallas-Fort Worth-Arlington	5,059,956	6,447,615	27.4
Houston-Sugar Land-Baytown	4,644,526	5,867,489	26.3
San Antonio-New Braunfels	1,689,009	2,072,128	22.7
Brownsville-Harlingen	330,277	396,371	20.0
Tyler	172,758	204,665	18.5
Texas	20,558,220	24,304,290	18.2
Killeen-Temple-Fort Hood	325,473	379,231	16.5
College Station-Bryan	182,327	212,268	16.4
Midland	117,621	132,316	12.5
Lubbock	247,882	276,659	11.6
El Paso	675,397	751,296	11.2
Waco	211,548	233,378	10.3
Sherman-Denison	109,173	120,030	9.9
Odessa	122,450	134,625	9.9
Amarillo	224,469	246,474	9.8
Longview	194,184	206,874	6.5
Texarkana	129,486	137,486	6.2
San Angelo	105,657	110,119	4.2
Victoria	111,409	115,396	3.6
Corpus Christi	404,155	416,095	3.0
Abilene	159,755	160,070	0.2
Beaumont-Port Arthur	385,034	378,477	-1.7
Wichita Falls	151,374	147,421	-2.6

*July 1 population estimates
Source: U.S. Census Bureau

Education

Educational Attainment, Persons Age 25 and Older (in percent)
Sherman-Denison MSA

County	High school graduate	Some college, no degree	Associate's degree	Bachelor's degree	Master's degree	Doctorate degree
Grayson	30.0	25.4	7.6	11.3	4.1	0.7
Texas	24.8	22.4	5.2	15.6	5.2	0.8

Source: U.S. Census Bureau 2000

Educational Level, Persons Age 25 and Older
(in percent)

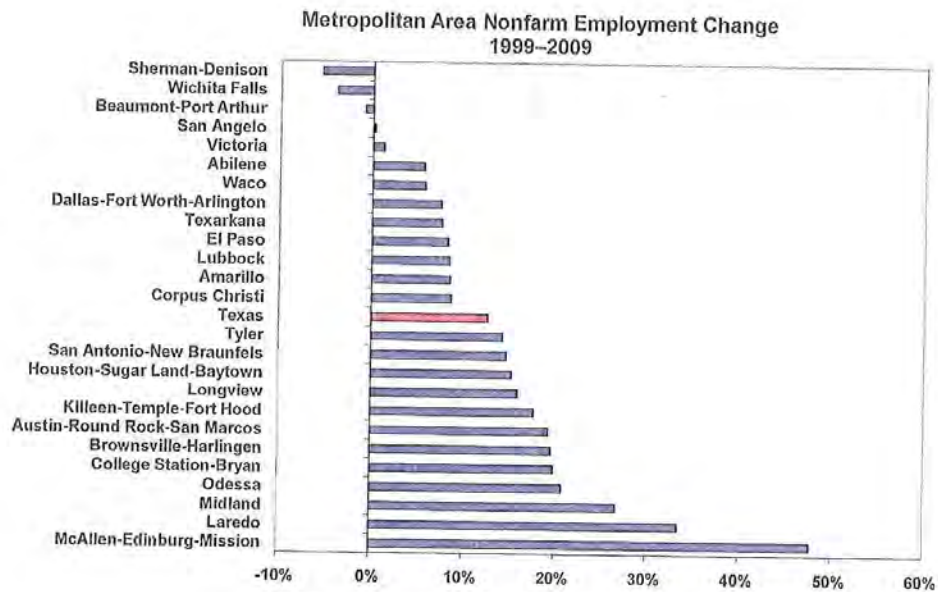
Level of Education	Sherman-Denison MSA	Texas
High School Graduate or Higher	80.2	75.7
Bachelor's Degree or Higher	17.2	23.2

Source: U.S. Census Bureau 2000 (1999 definition)

Local College and University Enrollment, Fall Semester

School	2005	2006	2007	2008	2009
Austin College	1,370	1,354	1,339	1,298	1,364
Grayson County College	3,715	3,775	3,717	4,122	4,712

Source: Texas Higher Education Coordinating Board

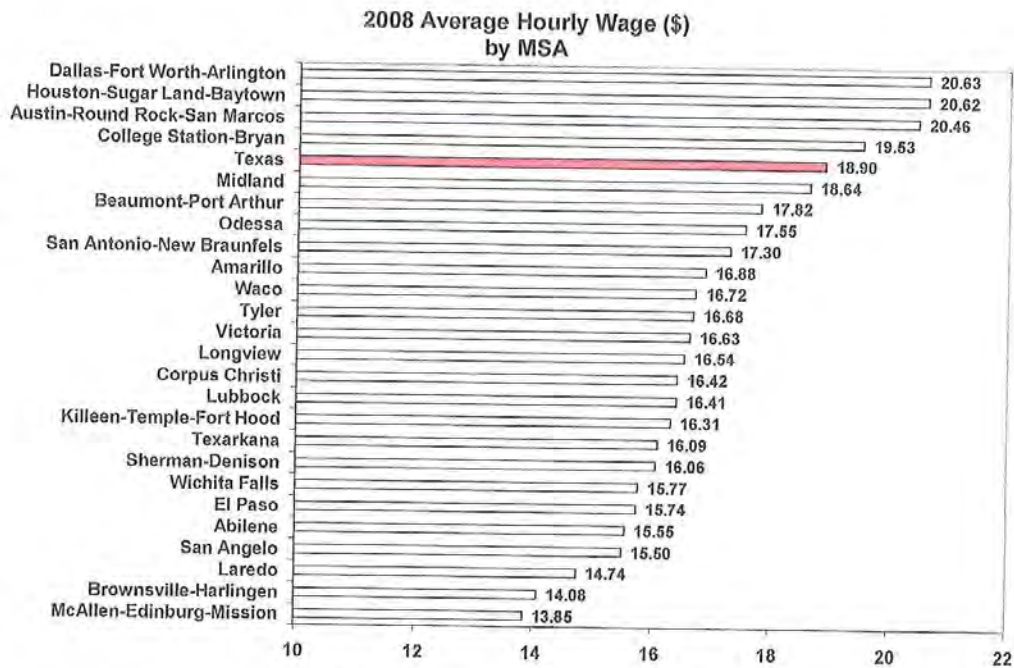


Data as of March 2010. For the latest data, please see the Real Estate Center's *Monthly Review of the Texas Economy*.

Sources: Texas Workforce Commission and Real Estate Center at Texas A&M University

Texas Metropolitan Area Nonfarm Employment Change			
Metropolitan Area	1999	2009	Percent Change
McAllen-Edinburg-Mission	147,000	217,200	47.8
Laredo	65,500	87,400	33.4
Midland	52,400	66,400	26.7
Odessa	49,000	59,200	20.8
College Station-Bryan	80,400	96,400	19.9
Brownsville-Harlingen	103,900	124,300	19.6
Austin-Round Rock-San Marcos	635,400	758,200	19.3
Killeen-Temple-Fort Hood	106,300	125,100	17.7
Longview	81,500	94,500	16.0
Houston-Sugar Land-Baytown	2,202,000	2,539,000	15.3
San Antonio-New Braunfels	727,500	834,600	14.7
Tyler	81,200	92,800	14.3
Texas	9,155,000	10,309,100	12.6
Corpus Christi	163,200	177,400	8.7
Amarillo	101,700	110,400	8.6
Lubbock	119,300	129,400	8.5
El Paso	251,300	272,100	8.3
Texarkana	52,400	56,400	7.6
Dallas-Fort Worth-Arlington	2,663,600	2,864,300	7.5
Waco	100,400	106,200	5.8
Abilene	62,200	65,700	5.6
Victoria	48,400	49,000	1.2
San Angelo	43,800	43,900	0.2
Beaumont-Port Arthur	160,300	158,900	-0.9
Wichita Falls	61,100	58,700	-3.9
Sherman-Denison	45,100	42,600	-5.5

Data as of March 2010. For the latest data, please see the Real Estate Center's *Monthly Review of the Texas Economy*.
Sources: Texas Workforce Commission and Real Estate Center at Texas A&M University



Note: Data reflect most recent year surveyed
Source: Bureau of Labor Statistics

**Housing Affordability Index
3Q 2009**

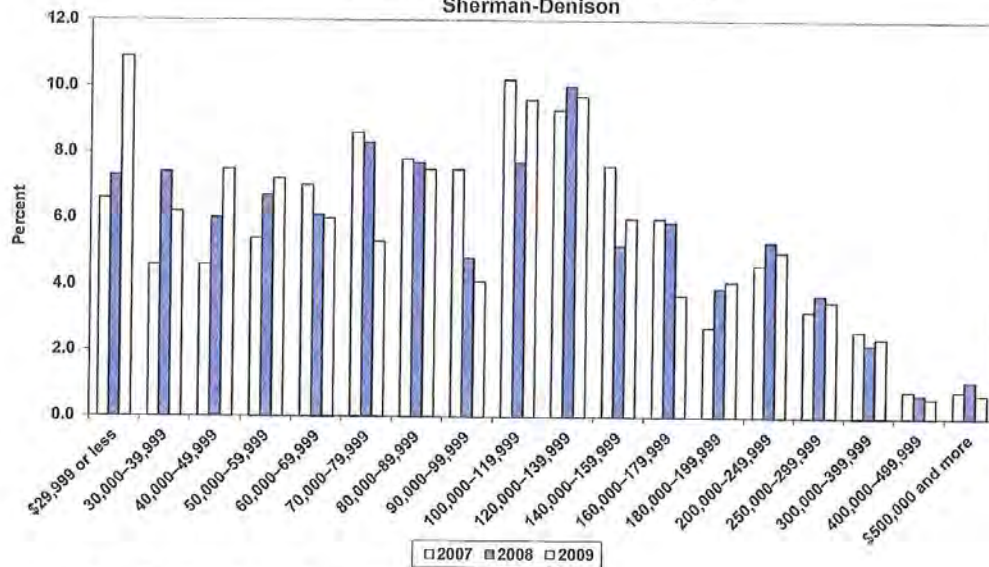
MLS	2009 Median- Priced Home	Required Income to Qualify	Median Family Income	HAI*	HAI for First-Time Homebuyers**
Sherman-Denison	\$107,000	\$22,233	\$57,900	2.60	2.27
Texas	\$150,300	\$31,195	\$57,400	1.84	1.27
United States	\$196,600	\$40,712	\$64,000	1.57	1.04

*The HAI is the ratio of the median family income to the income required to buy the median-priced house using standard mortgage financing at the current interest rate. Standard financing is a fixed-rate, 30-year loan covering 80 percent of the cost of the home. A HAI of 1.00 indicates that the median family income is exactly equal to the required income to qualify for the standard loan to purchase the median-priced house.

**First-time homebuyer is assumed to purchase a home equal to the first quartile home price using a 90 percent home loan at an interest rate 0.5 percent greater than the standard current rate.

Source: Real Estate Center at Texas A&M University

**Price Distribution of MLS Homes Sold
Sherman-Denison**



Source: Real Estate Center at Texas A&M University

MLS	2009 Median- Priced Home	Required Income to Qualify	Median Family Income	HAI*	HAI for First-Time Homebuyers**
Arlington	\$130,500	\$27,116	\$64,600	2.38	1.59
Collin County	\$202,900	\$42,160	\$99,600	2.36	1.48
Dallas	\$160,000	\$33,246	\$67,600	2.03	1.45
Denton County	\$163,400	\$33,952	\$74,480	2.19	1.33
Fort Worth	\$115,900	\$24,082	\$64,600	2.68	1.99
Irving	\$135,600	\$28,176	\$67,600	2.40	1.67
Texas	\$150,300	\$31,195	\$57,400	1.84	1.27
United States	\$196,600	\$40,712	\$64,000	1.57	1.04

*The HAI is the ratio of the median family income to the income required to buy the median-priced house using standard mortgage financing at the current interest rate. Standard financing is a fixed-rate, 30-year loan covering 80 percent of the cost of the home. A HAI of 1.00 indicates that the median family income is exactly equal to the required income to qualify for the standard loan to purchase the median-priced house.

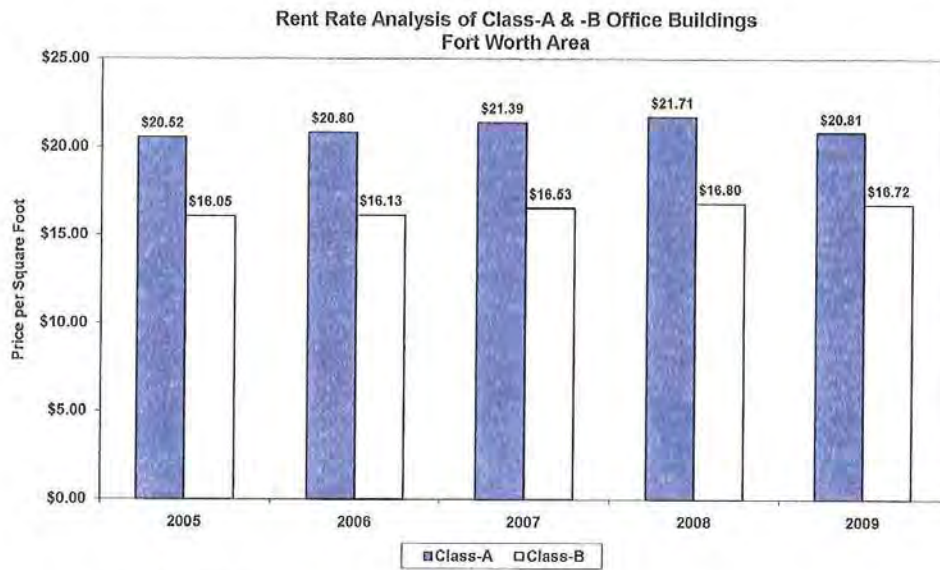
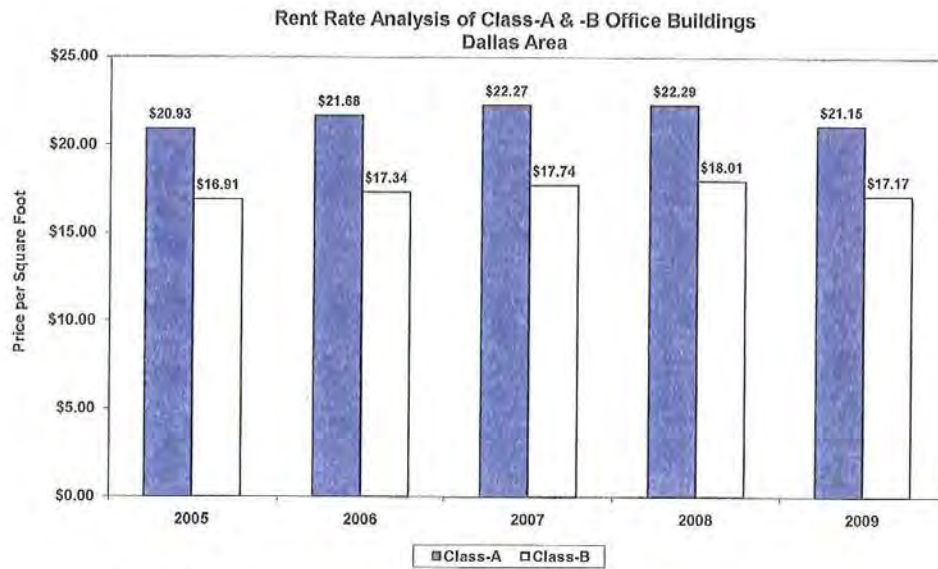
**First-time homebuyer is assumed to purchase a home equal to the first quartile home price using a 90 percent home loan at an interest rate 0.5 percent greater than the standard current rate.

Source: Real Estate Center at Texas A&M University



Source: Real Estate Center at Texas A&M University





Rent Rate Analysis of Class-A & -B Office Buildings						
Submarket	Dec-08		Dec-09		Percent Change 12/08-12/09	
	Class-A	Class-B	Class-A	Class-B	Class-A	Class-B
Dallas Market						
Dallas CBD	\$24.79	\$16.24	\$24.18	\$16.56	-2.5	2.0
Uptown/Turtle Creek	28.28	21.91	26.79	20.92	-5.3	-4.5
White Rock	N/A	15.41	N/A	15.80	N/A	2.5
Central Expressway	22.68	18.49	21.62	17.50	-4.7	-5.3
Preston Center	30.06	23.83	28.50	21.21	-5.2	-11.0
Stemmons Freeway	20.30	16.28	19.50	15.66	-4.0	-3.8
South Irving	N/A	13.65	N/A	13.22	N/A	-3.1
Las Colinas/Urban Center	25.92	18.92	23.76	18.54	-8.3	-2.0
Office Center/LBJ Extension	23.60	20.71	21.65	20.14	-8.2	-2.8
DFW Freeport/Coppell	22.90	19.59	21.69	19.40	-5.3	
West LBJ Freeway	22.79	18.10	20.01	16.30	-12.2	-9.9
Denton/Lewisville	N/A	18.43	N/A	17.73	N/A	-3.8
Frisco/The Colony	23.36	20.83	21.75	20.08	-6.9	-3.6
Allen/McKinney	23.46	17.35	21.79	16.91	-7.1	-2.5
Upper Tollway/West Plano	23.26	21.95	22.91	20.34	-1.5	-7.3
Plano	19.30	20.35	18.64	19.49	-3.4	-4.2
Richardson	23.59	18.85	21.07	17.85	-10.7	-5.3
North Dallas Tollway	25.20	20.19	23.39	19.49	-7.2	-3.5
East LBJ Freeway	22.33	18.21	21.68	17.79	-2.9	-2.3
Garland	N/A	13.05	N/A	11.89	N/A	-8.9
Southeast Dallas	N/A	14.26	N/A	13.55	N/A	-5.0
Mesquite/Rockwall	N/A	14.77	N/A	14.58	N/A	-1.3
Southwest Dallas	N/A	13.04	N/A	12.00	N/A	-8.0
Grand Prairie	N/A	17.89	N/A	15.15	N/A	-15.3
Dallas Average	\$22.29	\$18.01	\$21.15	\$17.17	-5.1	-4.7
Fort Worth Market						
Fort Worth CBD	\$25.52	\$17.62	\$23.95	\$16.05	-6.1	-8.9
Northwest Fort Worth	N/A	15.58	N/A	16.38	N/A	5.2
Alliance Air/Fossil Creek	N/A	18.89	N/A	18.85	N/A	-0.2
Westlake/Grapevine	25.45	20.40	24.77	20.88	-2.7	2.4
Hurst/Euless/Bedford	18.55	15.22	17.44	14.50	-6.0	-4.7
Northeast Fort Worth	17.44	15.01	16.92	15.59	-3.0	3.8
Arlington	21.96	17.27	21.32	17.18	-2.9	-0.5
Southeast Fort Worth	N/A	15.02	N/A	15.04	N/A	0.1
Southwest Fort Worth	21.34	16.23	20.44	16.02	-4.2	-1.3
Fort Worth Average	\$21.71	\$16.80	\$20.81	\$16.72	-4.1	-0.5

Note: Rents for properties using triple net terms have been grossed up to full service by applying operating expense data. Rents reflect full service equivalent.

Note: Due to small submarket sample sizes in some cases, particularly in Class-A, rent increases and decreases may be magnified relative to other submarkets.

Source: Delta Associates

Property Tax Rates 2009	
Taxing Entity	Tax Rate per \$100 Valuation
Dallas	
City of Dallas	\$0.748
Dallas County	0.228
Dallas ISD	1.271
Total*	\$2.600
Fort Worth	
City of Fort Worth	\$0.855
Fort Worth ISD	1.322
Tarrant County	0.264
Total*	\$2.800
Arlington	
City of Arlington	\$0.648
Arlington ISD	1.272
Tarrant County	0.264
Total*	\$2.680
*Only the typical taxing entities are included in the total. However, there are numerous taxing entities that need to be taken into account for an actual tax rate calculation. See following link for more complete lists: http://www.dallascad.org/ Sources: Dallas Central Appraisal District and Tarrant County Appraisal District	

Property Tax Rates 2009	
Taxing Entity	Tax Rate per \$100 Valuation
Sherman	
City of Sherman	\$0.320
Sherman ISD	1.440
Grayson County	0.491
Total*	\$2.251
Denison	
City of Denison	\$0.594
Denison ISD	1.277
Grayson County	0.491
Total*	\$2.362
*Only the typical taxing entities are included in the total. However, there are numerous taxing entities that need to be taken into account for an actual tax rate calculation.	
Source: Grayson County Appraisal District, http://www.graysonappraisal.org	

SHERMAN



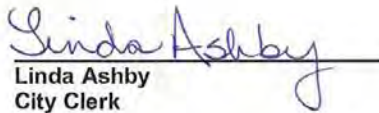
**SPECIAL CALLED MEETING OF THE
CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS
IN THE CITY COUNCIL CHAMBERS
AT CITY HALL
220 WEST MULBERRY STREET
SHERMAN, TEXAS
THURSDAY, SEPTEMBER 23, 2010
3:30 P.M.**

City Council Members Present:

**Mayor Bill Magers.
Council Member Softly.**

There was not a quorum of City Council Members present at the Fair Housing Impediment Analysis Focus Group Session for Sherman Government Agencies on September 23, 2010, therefore there are no Meeting Minutes.

Attest:


**Linda Ashby
City Clerk**



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. A.5

PROCLAMATION

“Domestic Violence Awareness Month” – October 2010

Issue

To present a proclamation designating October 2010 as “Domestic Violence Awareness Month” in the City of Sherman

Background

Each year, the Crisis Center recognizes “Domestic Violence Awareness Month” to encourage citizens to become aware of the tragedy of domestic violence and to support those who are working toward its end.

Origination

The request originated with the Crisis Center.

Financial Consideration

There is no financial consideration to the City.

Staff Recommendation

It is the recommendation of the staff to present a proclamation proclaiming “Domestic Violence Awareness Month.”

Alternatives

The Council could choose not to present the proclamation.

Attachments

A proclamation proclaiming “Domestic Violence Awareness Month” is attached.

Prepared by:
Linda Ashby, City Clerk

Approved by:
George Olson, City Manager

SHERMAN



Proclamation

WHEREAS, the crime of domestic violence violates an individual's privacy and dignity, security and humanity, due to systematic use of physical, emotional, sexual, psychological and economic control and / or abuse including abuse to children and the elderly, and

WHEREAS, the problems of domestic violence are not confined to any group or groups of people, but cut across all economic, racial and societal barriers, and are supported by societal indifference, and

WHEREAS, the impact of domestic violence is wide ranging, directly affecting individuals and society as a whole, here in this community, throughout the United States and the world, and

WHEREAS, survivors of domestic violence themselves have been at the forefront of efforts to bring peace and equality to the home.

NOW THEREFORE, I, Bill Rogers, Mayor of the City of Sherman, Texas, by the authority vested in me, do hereby proclaim the month of October, 2010, as

DOMESTIC VIOLENCE AWARENESS MONTH

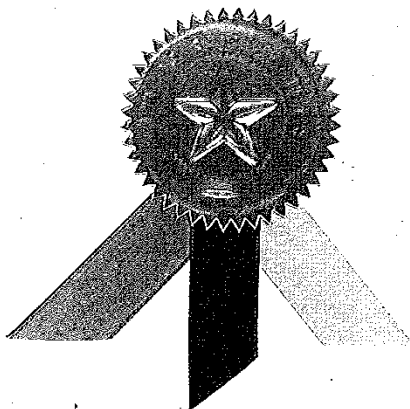
in the City of Sherman and urge all citizens to actively participate in the scheduled activities and programs to work toward improving victim safety and holding perpetrators of domestic abuse accountable for their actions against individual victims and our society as a whole.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Sherman to be affixed, this the 4th day of October, 2010.

Mayor

ATTEST:

Linda Ashby
City Clerk





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. B.1

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5673

Amending Ordinance No. 5064

to Increase the Rates Charged for Cemetery Spaces and Services

Issue

Adoption of an ordinance to increase the rates charged for grave spaces and services performed at the West Hill Cemetery

Background

At the June 17, 2010 Budget Workshop, the Sherman City Council approved staff recommendations to increase the rates charged for the acquisition of grave spaces and for the preparation of graves and other services performed at West Hill Cemetery. The fee increases are being made to more accurately and adequately recognize the costs of providing these services, while also taking into consideration the market rates in our local area. In comparison to the other cemeteries in the area, the proposed rates are still lower than the average others charged. In addition to these rate changes, we will also be looking at our policies in the cemetery and will bring the recommended changes to the Council in the near future.

Origination

City Council/City Staff

Financial Consideration

This rate increase is estimated to provide additional revenues of about \$70,000 annually.

Staff Recommendation

It is recommended that the Sherman City Council adopt the ordinance as presented to increase rates at the West Hill Cemetery.

Alternatives

The Council could elect to change fees in amounts different from those presented or simply choose to not increase these rates.

Attachments

Ordinance No. 5673

Comparison with Average Rates from Other Local Cemeteries

Prepared by:

Kevin Winkler, Parks and Recreation Administrator

Approved by:

George Olson, City Manager

ORDINANCE NO. 5673

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING ORDINANCE NO. 5064 TO INCREASE THE RATES CHARGED FOR CEMETERY SPACES AND SERVICES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the Code of Ordinances of the City of Sherman, Texas, at Chapter 1, "General Provisions", Article 1.08, "Cemeteries", Division 3, "Perpetual Care Fund; Rates and Charges", provides at Sections 1.08.074 and 1.08.075 that the sale price of grave spaces and lots and the fees for cemetery services, respectively, shall be set by ordinance;

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

SECTION 1. That Ordinance No. 5064, adopted by the Sherman City Council at the September 30, 2002 meeting, be and is hereby amended to read as follows:

Sec. 1. Hereafter, all grave spaces for interment, and regardless of location whether in Memorial Park, West Hill Cemetery, or West Hill Annex, shall be sold for the ~~sum of five hundred and fifty dollars (\$550) and all amounts listed below:~~

Full Spaces (10' x 40")	\$750.00
Half Spaces (5' x 40")	\$375.00

All crypts in the mausoleum building will be sold at prices ranging from five hundred fifty dollars (\$550.00) to eight hundred dollars (\$800.00) per crypt as currently carried on Sherman's books. Such prices have been predetermined by an examination of the location of all unsold crypts as reflected by the inventory of unsold crypts and their locations on file in the office of West Hill Cemetery.

Sec. 2. Fees for cemetery services.

The following fees are established for services rendered in the cemetery as follows:

CLASSIFICATION OF SERVICE	AMOUNT
Preparation of grave – Weekdays (<i>except Holidays</i>) from 8 a.m. to 3 p.m. 4 p.m.	
Opening and Closing – Adults Full Space	\$300 \$700
Opening and Closing – Children (10 and under) Half Space	\$150 \$600
Opening and Closing in Mausoleum	\$200
Setting up tent, lowering device, chairs, etc.	\$200

Preparation of grave – Saturdays ~~and~~ (except Holidays) from 8 a.m. to ~~12 p.m.~~ 2 p.m.

Opening and Closing – Adults Regular Space	\$350 \$850
Opening and Closing – Children (10 and under) Half Space	\$200 \$750
Opening and Closing in Mausoleum	\$250
Setting up tent, lowering device, chairs, etc.	\$250

Special Services – Weekdays (except Holidays) from 8 a.m. to 4 p.m.

Disinterring and Reinterring – Adults	\$200
Disinterring and Reinterring – Children (10 and under)	\$150
Disinterring only – Any Space	\$125 \$800
Reinterring only – Any Space	\$500

Ashes – Weekdays (except Holidays) from 8 a.m. to 4 p.m.

Opening and Closing – Full Space	\$100
Opening and Closing – Half Space	\$100
Setting up tent, chairs, etc.	\$200

Ashes – Saturdays (except Holidays) from 8 a.m. to 2 p.m.

Opening and Closing – Full Space	\$150
Opening and Closing – Half Space	\$150
Setting up tent, chairs, etc.	\$250

Weekday services from ~~3:00~~ 4 p.m. to 5 p.m.

A charge of sixty dollars (\$60.00) will be charged to the funeral home whose burial services require city employees to standby beyond ~~3:00~~ 4 p.m., not to exceed 5 p.m. during weekdays. Such charge will be forwarded to the funeral home creating such condition the day following the performance of such service.

Saturday, ~~Sunday and Holiday~~ (except Holiday) services from ~~12:00~~ 2 p.m. to 3 p.m.

A charge of one hundred dollars (\$100.00) will be charged to the funeral home whose burial services require city employees standby beyond ~~12:00~~ 2 p.m. during Saturdays; ~~Sundays and holidays~~ (except Holidays), not to exceed 3 p.m. Such charge will be forwarded to the funeral home creating such condition the day following the performance of such service.

Sunday burials

- (a) If a body is not embalmed, or if a body is in a state of decay where it cannot be embalmed and where in the opinion of duly authorized persons

that such body should be interred immediately, such burial shall be permitted to take place.

- (b) If, in the opinion of the health officer or a practicing physician, a person has died of a communicable disease this body shall be buried immediately.
- (c) No Sunday funerals will be permitted in West Hill Cemetery except as outlined in sub-paragraphs (a) and (b) of this section.

Cemetery property transfers

A charge of ~~twenty dollars (\$20.00)~~ *forty dollars (\$40.00)* shall be assessed for transferring ownership of cemetery property between private individuals.

SECTION 2. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

INTRODUCED on this the _____ day of _____, 2010.

ADOPTED on this the _____ day of _____, 2010.

EFFECTIVE DATE on this the _____ day of _____, 2010.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
BILL MAGERS, MAYOR

**APPROVED AS TO FORM
AND CONTENT:**

BY: _____
**BRANDON S. SHELBY,
CITY ATTORNEY**



SHERMAN

PARKS & RECREATION

West Hill Cemetery

Proposed Rate Changes

West Hill Cemetery			Other Local Cemetery Average		
<u>Grave Space</u>	<u>Lot</u>		<u>Grave Space</u>	<u>Lot</u>	
Full Space 10'x40"	\$ 750.00		Full Space	\$ 928.33	
Half Space 5'x40"	\$ 375.00				
<u>Opening & Closing</u>	<u>Weekday</u>	<u>Saturday</u>	<u>Opening & Closing</u>	<u>Weekday</u>	<u>Weekend</u>
Full Space 10'x40"	\$ 700.00	\$ 850.00	Full Space	\$ 771.67	\$ 1,021.67
Half Space 5'x40"	\$ 600.00	\$ 750.00			
<u>Special Services</u>	<u>Weekday</u>		<u>Special Services</u>	<u>Weekday</u>	
Disinterment - any space	\$ 800.00		Disinterment	\$ 1,206.67	
Reinterment - any space	\$ 500.00				
<u>Ashes</u>	<u>Weekday</u>	<u>Saturday</u>			
Open & Close	\$ 100.00	\$ 150.00			

The other local cemetery averages were calculated using rates acquired via phone conversations from Fairview Cemetery in Denison, Fairview Cemetery in Gainesville, and Cedarlawn Cemetery in Sherman on 6/21/10.



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. B.2

ADOPTION OF ORDINANCES

Consider Adoption of Ordinance Number: 5673

B.1 INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5673

Amending Ordinance No. 5064 to Increase the Rates Charged for Cemetery Spaces and Services



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. B.3

CONSENT AGENDA

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

C.1 * RESOLUTION NO. 5528

Authorizing Execution of an Agreement with the Sherman Independent School District for the Non-Exclusive Use of Portions of the City's Gallagher Road Elevated Water Tank for the Installation and Operation of a Communications System

C.2 * RESOLUTION NO. 5529

Authorizing the City Manager to Execute Contracts with the Sherman Council for the Arts & Humanities, Inc. and the Friends of the Red River Historical Museum (aka Red River Historical Museum)

C.3 * RESOLUTION NO. 5530

Authorizing Execution of an Agreement with Habitat for Humanity of Grayson County for the Abatement of Ad Valorem Property Taxes for the Construction of a New Single-Family Residence at 707 South Throckmorton Street

D.1 * CHANGE ORDER NO. 1

Pelton Street Water Main Replacement Project; Dickerson Construction Co., Inc.; \$2,694.00, Increase

D.4 * OTHER BUSINESS

Consider Request of the Austin College Kappa Gamma Chi to Temporarily Close Certain Streets for the Homecoming 2010 'Roo Run and Joey Walk on Saturday, October 23, 2010



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. C.1

*** RESOLUTION NO. 5528**

Authorizing Execution of an Agreement with the Sherman Independent School District for the Non-Exclusive Use of Portions of the City's Gallagher Road Elevated Water Tank for the Installation and Operation of a Communications System

Issue

The request of the Sherman Independent School District ("SISD") to install and operate a radio antenna and repeater system at the City's Gallagher Road elevated water tank

Background

By letter of July 29, 2010, the SISD requested permission to install certain communications equipment at the City's elevated water tank on Gallagher Road. The equipment would be used primarily for the normal operations and public safety of SISD's bus fleet and the protection of its student body and the community. The new equipment would be a significant upgrade to SISD's existing communications system and benefit its new Administration and Service Center complex under construction at 2701 Loy Lake Road. The proposed agreement mirrors agreements we require from other entities that wish to use our facilities. It would grant to SISD non-exclusive use of the City's elevated water tank for the installation, operation, maintenance, and security of SISD's communications system for a ten (10) year period.

Origination

Al Hambrick, Ed. D, Superintendent of Schools
Randy Reddell, Director of Transportation

Financial Consideration

No fees would be charged to SISD for their use of the Gallagher Road elevated water tank.

Staff Recommendation

It is recommended that the City Council approve the agreement with the SISD for their use of the Gallagher Road elevated water tank.

Alternatives

The Council could decide not to permit this use.

Attachments

SISD Request of July 29, 2010
Resolution No. 5528
Gallagher Elevated Water Tank Use Agreement

Prepared by:
Mark Gibson, Director of Engineering & Public Works

Approved by:
George Olson, City Manager



July 29, 2010

Mr. George Olson
City Manager, City of Sherman
220 West Mulberry
Sherman, Texas 75090

Dear Mr. Olson,

The Sherman Independent School District respectfully requests permission and approval from the City of Sherman to install and locate a radio antenna and repeater system at the Gallagher water tower site. This equipment would be located alongside current radio communication equipment in operation by the City of Sherman. The Sherman ISD equipment would be primarily utilized for the normal operations and public safety of the district's Transportation Department school bus fleet. The SISD equipment is of the same specifications currently in use at this site and would not result in any conflict or interference with present communication operations. The installation, service, and security would be responsibly maintained by the Sherman Independent School District through the licensed services of Shipman Communications.

Sherman ISD is currently in the final phases of construction of the new district Administration and Service Center complex at 2701 Loy Lake Road. The installation of this new communication antenna for our new Service Center will result in a significant upgrade to our communication system and safety for our students and community.

Respectfully submitted,

Al Hambrick, Ed. D
Superintendent of Schools

Randy Reddell
Director of Transportation

Equipment Specifications:

- 1- DB224A Andrew omni antenna with stand off pipe
- 1-LDFD-50A Andrew 7/8" heliax transmission line
- 1- Motorola MTR3000 VHF repeater system to be located in existing shelter
- 1-Grounding kit w/lightning protection on equipment end of transmission line

RESOLUTION NO. 5528

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT WITH THE SHERMAN INDEPENDENT SCHOOL DISTRICT FOR THE NON-EXCLUSIVE USE OF PORTIONS OF THE CITY'S GALLAGHER ROAD ELEVATED WATER TANK FOR THE INSTALLATION AND OPERATION OF A COMMUNICATIONS SYSTEM; 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 an agreement with the Sherman Independent School District for the non-exclusive use of portions of the City of Sherman's elevated water tank on Gallagher Road to install and operate a communications system, in accordance with the terms and conditions of the contract documents attached hereto and incorporated herein for all purposes.

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

PASSED AND APPROVED on this the ____ day of _____, 2010.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

BY: _____
**BRANDON S. SHELBY,
CITY ATTORNEY**

GALLAGHER ELEVATED WATER TANK USE AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF GRAYSON §

THIS USE AGREEMENT (this “Agreement” or this “Use Agreement”) is made and entered into this ____ day of _____, 2010, by and between the CITY OF SHERMAN, a municipal corporation situated in Grayson County, Texas (hereafter referred to as “CITY”), and the Sherman Independent School District (hereafter referred to as “SISD”),

WITNESSETH:

In consideration of the mutual covenants, payments, responsibilities and duties herein contained, CITY and SISD contract as follows:

1. PROPERTY: CITY hereby grants to SISD non-exclusive use of certain portions of the CITY’s Gallagher Road elevated water tank (hereinafter referred to as the “Property” or “Water Tank”) during the term of this Use Agreement.

2. USE: SISD shall use the Premises only for the specified purpose of transmitting and receiving communications signals and installing, constructing, operating, repairing, replacing, upgrading and maintaining its communications fixtures and related equipment.

2.1 SISD shall allow no other entity to use its equipment while it is mounted on the Water Tank.

2.2 SISD shall be allowed to locate required equipment at its own expense subject to prior approval by CITY as to size and location. Equipment installation shall be done in such a manner as to minimize clutter, maximize safety, and to provide sufficient space to work on all equipment. SISD shall not construct and mount additional equipment without the written approval of CITY.

2.3 CITY reserves the right to require SISD to relocate its equipment at SISD’s sole expense to another location on the Water Tank that is acceptable to SISD as may be necessary and required by the CITY. SISD shall complete any relocation of its equipment within ninety (90) days after written notice from CITY.

3. TERM: The term of this agreement will for ten (10) years and will commence on the date of full execution of this Agreement by both parties.

4. STANDARDS

4.1 SISD shall, at its expense, comply with all applicable present and future federal, state, and local laws, ordinances, rules and regulations including, without

limitation, laws and ordinances relating to health, radio frequency emissions, or other radiation and safety requirements in connection with the use, operation, maintenance, construction and/or installation of the equipment and/or the Premises.

- 4.2 SISD and all SISD contractors shall comply with customary safety procedures and requirements when working on elevated tanks. SISD also agrees to clean any areas on the Premises if and when SISD activity or use results in or creates the need for such cleaning.
- 4.3 SISD shall have the right, at its sole cost and expense, to install, operate and maintain on the Premises, in accordance with good engineering practices and with all applicable FCC rules and regulations, the Communication Facility and related equipment. Specific construction details shall be addressed in the construction plans.
- 4.4 SISD'S installation of all equipment shall be done according to plans approved by CITY. Any damage done to the Premises and/or the Water Tank or any other user's facilities during installation and/or during operations shall be repaired or replaced within five (5) days at SISD's expense and to CITY's sole satisfaction.
- 4.5 Prior to any construction on the Premises, SISD will provide plans depicting all equipment and construction to CITY and the exact proposed location of the equipment, including the mounting system on the Water Tank, all subject to CITY approval. Either prior to or no less than thirty (30) days after the completion of installation of the Communication Facility, SISD shall provide CITY with as-built drawings of the equipment and the improvements installed on the Premises.
- 4.6 SISD may perform regular maintenance and repairs necessary to continue the operation of the Communication Facility. In addition, SISD may update or replace the equipment from time to time with the prior written approval of CITY, provided that the replacement equipment are not greater in number or size than the existing equipment and that any change in their location on the Water Tank is approved by CITY in writing prior to installation. SISD shall submit to CITY a detailed proposal for any such replacement equipment and any supplemental materials as may be requested, for CITY's evaluation and approval. Any such approval of CITY shall not be unreasonably withheld or delayed.
- 4.7 All transmitters shall be FCC type accepted for the intended application with proper shielding.
- 4.8 Storage of any standby or emergency equipment or items will be with written approval of CITY. SISD will be fully responsible for loss or damage.
- 4.9 SISD shall have access to the Premises and the Water Tank by means designated by CITY upon twenty-four (24) hours notice to CITY for installation, repair,

replacement, or maintenance of its equipment. At no time shall SISD employees or contractors be on the Water Tank or any part thereof or inside the security fencing surrounding the Water Tank without a designated CITY employee being present. SISD may provide such notice by calling the CITY at (903) 892-7258.

5. MAINTENANCE

- 5.1** SISD shall, at its own expense, maintain any equipment on or attached to the Premises in a safe condition, in good repair and in a manner suitable to CITY so as not to conflict with the use of the Water Tank by CITY or other entities, if any. SISD shall not unreasonably interfere with the use of the Water Tank, the Premises, related equipment or other equipment of other users.
- 5.2** SISD shall have sole responsibility for the maintenance, repair, and security of its equipment and personal property, and shall keep the same in good repair and condition during the term of this Use Agreement.
- 5.3** SISD shall keep the Premises free of debris and anything of a dangerous, noxious or offensive nature or which would create a hazard or undue vibration, heat, noise or interference.
- 5.4** In the event the CITY or any other tenant undertakes painting or other alterations on the Water Tank, SISD shall be provided with at least thirty (30) days notice. SISD shall take reasonable measures at SISD's cost to cover SISD's equipment or personal property and protect such from paint and debris fallout which may occur during the painting or alterations process. SISD shall be responsible for any additional cost incurred by CITY as a result of special requirements or additional work due to the equipment. Temporary interruption of service may be necessary.

6. COMPLIANCE WITH STATUTES, REGULATIONS AND APPROVALS

- 6.1** SISD'S use of the Premises is contingent upon its obtaining and maintaining all licenses, certificates, permits, zoning, and other approvals that may be required by any federal, state and local authority. SISD shall erect, maintain and operate its Communication Facility in accordance with site standards, state statutes, ordinances, rules and regulations now in effect or that thereafter may be issued by the Federal Communications Commission ("FCC") or any other governing bodies.

7. INTERFERENCE

- 7.1** SISD'S installation, operation, and maintenance of its transmission equipment shall not damage or interfere in any way with the Amateur Radio Emergency Service (SkyWarn), Grayson County Services, and the CITY's existing or future use of the airwaves or equipment necessary for such use or with CITY's Water Tank operations or related repair and maintenance activities or with activities of

other users, as currently operating on the Water Tank. SISD agrees to cease all actions which interfere with CITY's use of the Water Tank within twenty-four (24) hours of notice of such interference. CITY, at all times during this Agreement, reserves the right to take any action it deems necessary, in its sole discretion, to repair, maintain, alter or improve the Property in connection with Water Tank operations as may be necessary, including making parts of the Water Tank available to other parties, as long as such other parties are bound by interference language in substantially similar form as contained herein. Other telecommunication users' installation, operation, and maintenance of its transmission equipment shall not damage or interfere in any way with the Communication Facility or with SISD's operations on the Water Tank.

- 7.2 Before approving the placement of the Communication Facility, CITY may obtain, at SISD's expense, an engineering study indicating whether the Water Tank is able to structurally support the SISD's equipment without prejudice to the CITY's primary use of the Water Tank.
- 7.3 SISD's use, operation, transmission, maintenance, replacement, expansion or change of its equipment or frequencies shall not, in any manner or means or to any degree whatsoever, limit, disturb, disrupt or interfere with current or future CITY's use, operation, transmission, maintenance, replacement, expansion or change of its equipment or frequencies or degrade the quality of its transmissions on this Water Tank or on any other facility used by CITY. Should SISD'S equipment or frequencies begin to cause such limitation, disturbance, disruption or interference of the CITY's equipment or frequencies or degrade the quality of its transmission, SISD shall shut down its facilities and immediately employ its best efforts as necessary to correct and eliminate the problems before resuming operations.
- 7.4 If equipment interference occurs, which is caused by SISD, additional protection devices may be required. The need for additional filtering equipment will be determined on a case-by-case basis; and the cost of any additional devices that may be required shall be borne by SISD. It is understood that, if SISD does not cure such problems within the periods specified herein, the CITY may disconnect (unplug) SISD equipment if it should cause problems with CITY equipment.

8. DEFAULT OR BREACH AND REMEDIES

- 8.1 SISD fails in the performance of any other covenant or condition of this Use Agreement and does not cure such default within thirty (30) days after written notice from CITY specifying the default. No such failure, however, will be deemed to exist if SISD has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of SISD.

- 8.2** In the event of a default, CITY shall have the right, at its option, in addition to and not exclusive of any other remedies CITY may have by operation of law or in accordance with this Use Agreement, without any further demand or notice, to eject all persons and equipment and removable items from the Property, and either (a) declare this Use Agreement at an end or (b) exercise any and all rights and remedies available to CITY under law and equity.
- 8.3** THIS SECTION LEFT BLANK.
- 8.4** This Use Agreement may be terminated at any time and for any reason by SISD.
- 8.5** This Use Agreement may be terminated by CITY if the CITY decides, in its sole discretion and for any reason, to redevelop the Property and/or discontinue use of the Water Tank. CITY will give notice to the extent possible; but no less than ninety (90) days notice to SISD will be provided unless an emergency condition exists as determined in the reasonable discretion of the City Manager.
- 8.6** Upon termination of this Use Agreement for any reason, SISD shall remove its equipment and any improvements from the Property within thirty (30) days of the date of the termination, and shall repair any damage to the Property caused by such equipment, all at SISD's sole cost and expense. Any such property or equipment which are not removed within thirty (30) days following the end of Use Agreement term shall become the property of CITY, subject to any prior and valid, existing security interest in same.

9. INDEMNITY AND INSURANCE

- 9.1 Disclaimer of Liability:** CITY shall not at any time be liable for any injury or damage occurring to any person or property from any cause whatsoever arising out of SISD construction, maintenance, repair, use, operation, condition or dismantling of the Communication Facility or SISD's equipment, except where caused solely by the gross negligence or willful misconduct of CITY, its agents, employees, servants or officials. In such case, CITY shall, as provided by law, at its sole cost and expense, indemnify and hold harmless SISD and its affiliates, save and except that the monetary obligation arising by virtue of the obligation herein created by this subsection shall not exceed the statutory limitations of liability applicable to the CITY under the terms of the Texas Tort Claims Act, Title 5, Civil Practice and Remedies Code of the State of Texas. CITY shall not be liable to SISD for any temporary interruption of use of its equipment except that which is caused by the gross negligence or willful misconduct by CITY.
- 9.2 INDEMNIFICATION:** SISD SHALL, AS PERMITTED BY LAW, AT ITS SOLE COST AND EXPENSE, INDEMNIFY AND HOLD HARMLESS CITY AND ALL ASSOCIATED, AFFILIATED, ALLIED AND SUBSIDIARY ENTITIES OF CITY, NOW EXISTING OR HEREINAFTER CREATED, AND

THEIR RESPECTIVE OFFICERS, BOARDS, COMMISSIONS, EMPLOYEES, AGENTS, ATTORNEYS, AND CONTRACTORS (HEREAFTER REFERRED TO AS "INDEMNITEES"), FROM AND AGAINST: (I) ANY AND ALL LIABILITY, OBLIGATION, DAMAGES, PENALTIES, CLAIMS, LIENS, COSTS, CHARGES, LOSSES AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE FEES AND EXPENSES OF ATTORNEYS, EXPERT WITNESSES AND CONSULTANTS), WHICH MAY BE IMPOSED UPON, INCURRED BY OR BE ASSERTED AGAINST THE INDEMNITEES BY REASON OF ANY ACT OR OMISSION OF SISD, ITS PERSONNEL, EMPLOYEES, AGENTS, CONTRACTORS OR SUBCONTRACTORS, RESULTING IN PERSONAL INJURY, BODILY INJURY, SICKNESS, DISEASE OR DEATH TO ANY PERSON OR DAMAGE TO, LOSS OF OR DESTRUCTION OF TANGIBLE OR INTANGIBLE PROPERTY, LIBEL, SLANDER, INVASION OF PRIVACY AND UNAUTHORIZED USE OF ANY TRADEMARK, TRADE NAME, COPYRIGHT, PATENT, SERVICE MARK OR ANY OTHER RIGHT OF ANY PERSON, FIRM OR CORPORATION, WHICH MAY ARISE OUT OF OR BE IN ANY WAY CONNECTED WITH THE CONSTRUCTION, INSTALLATION, OPERATION, MAINTENANCE, USE OR CONDITION OF THE PREMISES, EXCEPT WHERE CAUSED IN WHOLE BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY, ITS AGENTS, EMPLOYEES, SERVANTS OR OFFICIALS, OR SISD'S EQUIPMENT OR THE SISD'S FAILURE TO COMPLY WITH ANY FEDERAL, STATE, OR LOCAL ORDINANCE OR REGULATION; (II) ANY AND ALL LIABILITIES, OBLIGATIONS, DAMAGES, PENALTIES, CLAIMS, LIENS, COSTS, CHARGES, LOSSES AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE FEES AND EXPENSES OF ATTORNEYS, EXPERT WITNESSES AND OTHER CONSULTANTS), WHICH ARE IMPOSED UPON, INCURRED BY OR ASSERTED AGAINST THE INDEMNITEES BY REASON OF ANY CLAIM OR LIEN ARISING OUT OF WORK, LABOR, MATERIALS OR SUPPLIES PROVIDED OR SUPPLIED TO SISD, ITS CONTRACTORS OR SUBCONTRACTORS, FOR THE INSTALLATION, CONSTRUCTION, OPERATION, MAINTENANCE OR USE OF THE PREMISES OR SISD'S EQUIPMENT, AND, UPON THE WRITTEN REQUEST OF CITY, SISD SHALL CAUSE SUCH CLAIM OR LIEN COVERING CITY'S PROPERTY TO BE DISCHARGED OR BONDED WITHIN THIRTY (30) DAYS FOLLOWING SUCH REQUEST; (III) ANY AND ALL LIABILITY, OBLIGATION, DAMAGES, PENALTIES, CLAIMS, LIENS, COSTS, CHARGES, LOSSES AND EXPENSE (INCLUDING, WITHOUT LIMITATION, REASONABLE FEES AND EXPENSES OF ATTORNEYS, EXPERT WITNESSES AND CONSULTANTS), WHICH MAY BE IMPOSED UPON, INCURRED BY OR BE ASSERTED AGAINST THE INDEMNITEES BY REASON OF ANY FINANCING OR SECURITIES OFFERING BY SISD OR ITS AFFILIATES FOR VIOLATIONS OF THE COMMON LAW OR ANY LAWS, STATUTES, OR REGULATIONS OF THE STATE OF TEXAS OR UNITED STATES, INCLUDING THOSE OF THE FEDERAL SECURITIES

AND EXCHANGE COMMISSION, WHETHER BY SISD OR OTHERWISE; (IV) SISD'S OBLIGATION TO INDEMNIFY SHALL CONTINUE NOTWITHSTANDING TERMINATION OF THIS AGREEMENT UNTIL ALL SUCH CLAIMS ARE BARRED BY APPLICABLE STATUTES OF LIMITATION.

TO THE EXTENT PERMITTED BY LAW, CITY AGREES TO INDEMNIFY, DEFEND AND HOLD SISD HARMLESS FROM AND AGAINST ANY AND ALL INJURY, LOSS, DAMAGE OR LIABILITY (OR ANY CLAIMS IN RESPECT OF THE FOREGOING), COSTS OR EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES AND COURT COSTS) ARISING DIRECTLY FROM THE ACTIONS OR FAILURE TO ACT OF CITY OR ITS EMPLOYEES OR AGENTS, OR CITY'S BREACH OF ANY PROVISION OF THIS AGREEMENT, EXCEPT TO THE EXTENT ATTRIBUTABLE TO THE NEGLIGENT OR INTENTIONAL ACT OR OMISSION OF SISD, ITS EMPLOYEES, AGENTS OR INDEPENDENT CONTRACTORS.

- 9.3 ASSUMPTION OF RISK:** SISD UNDERTAKES AND ASSUMES FOR ITS OFFICERS, AGENTS, CONTRACTORS AND SUBCONTRACTORS AND EMPLOYEES (COLLECTIVELY "SISD" FOR THE PURPOSE OF THIS SECTION), ALL RISK OF DANGEROUS CONDITIONS, OBVIOUS OR UNDISCOVERABLE, ON OR ABOUT THE PREMISES, AND SISD HEREBY AGREES TO INDEMNIFY AND HOLD HARMLESS THE INDEMNITEES AGAINST AND FROM ANY CLAIM ASSERTED OR LIABILITY IMPOSED UPON THE INDEMNITEES FOR PERSONAL INJURY OR PROPERTY DAMAGE TO ANY PERSON (OTHER THAN FROM INDEMNITEE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT) ARISING OUT OF THE SISD'S INSTALLATION, OPERATION, MAINTENANCE, CONDITION OR USE OF THE PREMISES OR 'SISDS EQUIPMENT OR SISD'S FAILURE TO COMPLY WITH ANY FEDERAL, STATE OR LOCAL STATUTE, ORDINANCE OR REGULATION.
- 9.4 Defense of Indemnitees:** In the event any action or proceeding shall be brought against the Indemnitees by reason of any matter for which the Indemnitees are indemnified hereunder, SISD shall, upon notice from any of the Indemnitees, at SISD's sole cost and expense, resist and defend the same with legal counsel mutually selected by SISD and CITY; provided, however, that SISD shall not admit liability in any such matter on behalf of the Indemnitees without the written consent of CITY and provided further that Indemnitees shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without the prior written consent of SISD.
- 9.5 Notice, Cooperation and Expenses:** CITY shall give SISD prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this paragraph. Nothing herein shall be deemed to prevent CITY from cooperating with SISD and participating in the defense of any

litigation by CITY's own counsel. SISD shall pay all reasonable expenses incurred by CITY in response to any such actions, suits or proceedings. These reasonable expenses shall include all out-of-pocket expenses such as attorney fees and shall also include the reasonable value of any services rendered by the CITY's attorney, and the actual expenses of CITY's agents, employees or expert witnesses, and disbursements and liabilities assumed by CITY in connection with such suits, actions or proceedings, but shall not include attorneys fees for services that are unnecessarily duplicative of services provided CITY by SISD. If SISD requests CITY to assist it in such defense then SISD shall pay all expenses incurred by CITY in response thereto, including defending itself with regard to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as attorney fees and shall also include the costs of any services rendered by the CITY's attorney, and the actual expenses of CITY's agents, employees or expert witnesses, and disbursements and liabilities assumed by CITY in connection with such suits, actions or proceedings.

- 9.6 Insurance:** During the term of the Use Agreement, SISD shall maintain, or cause to be maintained, in full force and effect and at its sole cost and expense, the following types and limits of insurance: (i) "All Risk" property insurance for its property's replacement cost; (ii) commercial general liability insurance with a minimum limit of liability of Two Million Five Hundred Thousand Dollars \$2,500,000 combined single limit for bodily injury or death/property damage arising out of any one occurrence; and (iii) Workers' Compensation Insurance as required by law. The coverage afforded by SISD's commercial general liability insurance shall apply to CITY as an additional insured, but only with respect to CITY's liability arising out of its interest in the Property.
- 9.7 Named Insureds:** All policies, except for business interruption and worker's compensation policies, shall name CITY and all associated, affiliated, allied and subsidiary entities of CITY, now existing or hereafter created, and their respective officers, boards, commissions, employees, agents and contractors, as their respective interests may appear as additional insureds (hereafter referred to as the "Additional Insureds").
- 9.8 Evidence of Insurance:** Certificates of insurance for each insurance policy required to be obtained by SISD in compliance with this paragraph shall be filed and maintained with CITY annually during the term of the Use Agreement. SISD shall immediately advise CITY of any claim or litigation that may result in liability to CITY.
- 9.9 Cancellation of Policies of Insurance:** All insurance policies maintained pursuant to this Use Agreement shall contain the following endorsement: "At least sixty (60) days prior written notice shall be given to CITY by the insurer of any intention not to renew such policy or to cancel, replace or materially alter same, such notice to be given by registered mail to the parties named in this Use Agreement."

- 9.10 Insurance Companies:** All insurance shall be effected under valid and enforceable policies, insured by insurers licensed to do business in the State of Texas.
- 9.11 Deductibles:** SISD agrees to indemnify and save harmless CITY, as provided by law, the Indemnitees and Additional Insureds from and against the payment of any deductible and from the payment of any premium on any insurance policy required to be furnished by this Use Agreement.
- 9.12 Contractors:** SISD shall require that each and every one of its contractors and their subcontractors carry, in full force and effect, workers' compensation, comprehensive public liability and automobile liability insurance coverages of the type which SISD is required to obtain under the terms of this paragraph with appropriate limits of insurance.

10. HAZARDOUS SUBSTANCE INDEMNIFICATION

- 10.1** SISD represents and warrants that its use of the Premises herein will not generate any hazardous substance in violation of any applicable federal, state or local statutes or regulations, and it will not store or dispose on the Property nor transport to or over the Property any hazardous substance in violation of any applicable federal, state or local statutes or regulations.
- 10.2** CITY and SISD agree that each will be responsible for compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene condition or other matters as may now or at any time hereafter be in effect, that are now or were related to that party's activity conducted in or on the Property.

11. NOTICE: All notices or demands are deemed to have been given or made when delivered in person or mailed by certified, registered, or express mail, return receipt requested, postage prepaid, United States mail, and addressed to the applicable party as follows:

CITY: Office of the City Manager
City of Sherman
220 West Mulberry Street
Sherman, TX 75090

SISD: Superintendent of Schools
Sherman Independent School District
120 West King
Sherman, Texas 75090-7133

12. CONSTRUCTION: Both parties have participated fully in the review and revision of this Use Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Use Agreement.

13. ASSIGNMENT: Nothing in this Use Agreement shall preclude CITY from entering into other Agreements for other space for communications equipment to any person or entity as long as such other Agreements impose similar interference language.

14. SUCCESSORS AND ASSIGNS: This Use Agreement shall be binding upon and inure to the benefit of the parties and their respective successors.

15. MISCELLANEOUS

15.1 CITY and SISD represent that each, respectively, has full right, power, and authority to execute this Use Agreement.

15.2 This Use Agreement constitutes the entire agreement and understanding of the parties and supersedes all offers, negotiations, and other agreements of any kind. There are no representations or understandings of any kind not set forth herein. Any modification of or amendment to this Use Agreement must be in writing and executed by both parties.

15.3 This Use Agreement does not establish any real property rights, franchises or other rights whatsoever in real estate to SISD. This Use Agreement provides limited rights to use and limited rights for access to facilities subject to revocation upon the terms and conditions of this Use Agreement. It is further agreed that at no time shall SISD's Communication Facility be considered a fixture as such equipment shall at all times remain the personal property of SISD.

15.4 This Use Agreement and the performance hereof shall be governed, interpreted, construed and regulated by the laws of the State of Texas. Any litigation concerning this Use Agreement shall be conducted in Grayson County, Texas, and the parties hereby agree to the venue and personal jurisdiction of these courts.

15.6 One or more instances of forbearance by CITY in the exercise of its rights herein shall in no way constitute a waiver thereof.

15.7 No right or remedy granted herein or reserved to the CITY is exclusive of any other right or remedy herein by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Use Agreement may be waived without consent of the CITY. Forbearance or indulgence by CITY shall not constitute a waiver of any covenant or condition to be performed pursuant to this Use Agreement.

15.8 This Use Agreement is entered into subject to the Charter and ordinances of CITY, as they may be amended from time to time, and is subject to and is to be

construed, governed and enforced under all applicable State of Texas and Federal Laws.

- 15.9** If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants or conditions of this Use Agreement are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, or covenants of this Use Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

EXECUTED on the date first written above.

CITY OF SHERMAN, TEXAS

BY: _____
GEORGE OLSON, CITY MANAGER

THE STATE OF TEXAS §

CITY ACKNOWLEDGMENT

COUNTY OF GRAYSON §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared GEORGE OLSON, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act of the CITY OF SHERMAN, TEXAS, a municipal corporation of the State of Texas, Grayson County, Texas, and as the City Manager thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the ____ day of _____, 2010.

Notary Public In and For
the State of Texas

Notary's Printed Name
My Commission Expires:

SHERMAN INDEPENDENT SCHOOL
DISTRICT

BY:

Al Hambrick

DR. AL HAMBRICK,
SUPERINTENDENT OF SCHOOLS

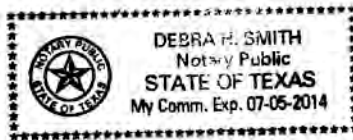
THE STATE OF TEXAS §

COUNTY OF GRAYSON §

SISD ACKNOWLEDGMENT

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared AL HAMBRICK, known to me to be the person and officer whose name is inscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act of the SHERMAN INDEPENDENT SCHOOL DISTRICT and as the Superintendent of Schools thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 21st day of September, 2010.



Debra H. Smith
Notary Public In and For
the State of Texas
Debra H. Smith
Notary's Printed Name
My Commission Expires:
7-5-2014



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. C.2

*** RESOLUTION NO. 5529**

**Authorizing the City Manager to Execute Contracts with the
Sherman Council for the Arts & Humanities, Inc. and the
Friends of the Red River Historical Museum (aka Red River Historical Museum)**

Issue

To distribute a portion of the Hotel-Motel Occupancy Tax funds received by the City of Sherman among the Sherman Council for the Arts & Humanities, Inc. (SCAH) and the Friends of the Red River Historical Museum (aka Red River Historical Museum)

Background

At the 2010-2011 Budget Workshop, the City Council allocated \$118,500.00 of the Hotel-Motel Occupancy Tax Fund dollars to be used to promote tourism through SCAH and the Museum, as follows:

- SCAH - \$36,000.00
- Red River Historical Museum - \$82,500.00

Origination

Mayor and City Council

Financial Consideration

The Council approved funding of \$118,500.00 for the fiscal year 2010-2011 budget, with funding provided from the Hotel-Motel Occupancy Tax Fund revenues.

Staff Recommendation

The staff recommends granting the City Manager authority to execute contracts with the two entities in the funding amounts established by the Council.

Alternatives

As directed by the City Council

Attachments

Resolution No. 5529

Proposed Contracts with SCAH and the Museum

Exhibit "A" - V.T.C.A., Tax Code § 351.101

Prepared by:

Robby Hefton, Assistant City Manager/CFO

Approved by:

George Olson, City Manager

RESOLUTION NO. 5529

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACTS WITH THE SHERMAN COUNCIL FOR THE ARTS & HUMANITIES, INC. AND THE FRIENDS OF THE RED RIVER HISTORICAL MUSEUM (AKA RED RIVER HISTORICAL MUSEUM); FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

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

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

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

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

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

PASSED AND APPROVED on this the ____ day of _____, 2010.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

BY: _____
BRANDON S. SHELBY,
CITY ATTORNEY

CONTRACT FOR ARTS AND HUMANITIES

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

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

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

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

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

I.

Amount Funded by the City

CITY agrees to reimburse ARTS COUNCIL not to exceed Thirty-Six Thousand Dollars and No Cents (\$36,000.00) of actual expenditures used in the promotion of the arts and humanities in Sherman and its surrounding area. This amount shall be paid in four (4) installments on the final execution of this agreement: October 15, 2010 and January 15, April 15, and June 15, 2011. The Thirty-Six Thousand Dollars and No Cents (\$36,000.00) shall be collected under the Hotel/Motel Occupancy Tax of the CITY.

II.

Expenditure of Money

ARTS COUNCIL shall spend no money received by it pursuant to this agreement that does not strictly conform to the requirements, intent and purposes as set forth in the Texas Tax

Code, Chapter 351, Section 351.101(a)(1)-(7), as amended, and such statutorily authorized administrative expenses, together with the Texas Attorney General opinions interpreting Section 351.101 of the Texas Tax Code. Specifically, ARTS COUNCIL agrees to use such hotel tax revenues solely for the purposes promoting Tourism and the convention and hotel industry and will use the revenues solely for the permissible uses listed in section 351.101(a) of the Texas Tax Code.

III. Budget

ARTS COUNCIL represents that it has prepared a proposed budget to be administered under this Contract to the Sherman City Council for the fiscal year of 2010-2011. Any changes, amendments, additions or deletions to this budget shall be approved by the Sherman City Council before such changes, amendments, additions or deletions shall take place.

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

IV. Quarterly Reports

ARTS COUNCIL shall furnish CITY quarterly financial reports on arts and humanities activities which show all actual expenditures whether those expenditures are budgeted or not from records maintained pursuant to Section 351.108(a) of the Texas Tax Code. The report shall compare actual expenditures to budgeted expenditures and to actual expenditures from the prior year. The report shall also provide an explanation of how the expenditure of such monies complied with Section 351.101 of the Texas Tax Code.

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

V.
Term of Agreement

This agreement shall be for the term of one (1) year, beginning October 1, 2010 through September 30, 2011, unless the Hotel/Motel Occupancy Tax Ordinances of the City of Sherman are repealed or amended within such term, or the failure of ARTS COUNCIL to conditions herein.

VI.
Termination of Agreement

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

VII.
Renewal of Agreement

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

VIII.
General Contract Terms

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

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

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

IN TESTIMONY WHEREOF, this instrument, in duplicate originals of equal force, has been executed on behalf of the Sherman Council for the Arts & Humanities, Inc. and on behalf of the City of Sherman, by its City Manager and attested by its City Clerk, effective the 1st day of October, 2010.

(remainder of page left intentionally blank)

CITY OF SHERMAN, TEXAS

BY: _____
NAME: **GEORGE OLSON**
TITLE: **CITY MANAGER**
DATE: _____

ATTEST:

BY: _____
 LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

BY: _____
 BRANDON S. SHELBY,
 CITY ATTORNEY

**SHERMAN COUNCIL FOR THE ARTS
& HUMANITIES, INC.**

BY: _____
NAME: _____
TITLE: _____
DATE: _____

CONTRACT WITH THE FRIENDS OF THE RED RIVER HISTORICAL MUSEUM

THE STATE OF TEXAS	§	
COUNTY OF GRAYSON	§	KNOW ALL MEN BY THESE PRESENTS:
CITY OF SHERMAN	§	

THIS AGREEMENT is made and entered by and between the **CITY OF SHERMAN**, a municipal corporation of the State of Texas (hereinafter called "CITY"), and the **FRIENDS OF THE RED RIVER HISTORICAL MUSEUM (aka RED RIVER HISTORICAL MUSEUM)**, a non-profit corporation of the State of Texas (hereinafter called "MUSEUM"), for the limited purpose of providing funds to the MUSEUM for a twelve (12) month period.

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

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

WHEREAS, CITY desires to promote tourism, advertise the city and its vicinity, and promote and improve the arts within the community by participating and assisting in the operation of the Red River Historical Museum; and

WHEREAS, MUSEUM shall consist of the property located at 301 South Walnut Street in the City of Sherman, Grayson County, Texas;

NOW, THEREFORE, in consideration of the mutual covenants and the payments herein, the CITY and MUSEUM agree as follows:

I.

During the period of October 1, 2010, through September 30, 2011, the CITY agrees to pay to MUSEUM Eighty-Two Thousand Five Hundred Dollars and No Cents (\$82,500.00) collected under the Hotel/Motel Occupancy Tax of the CITY; and MUSEUM agrees that all

funds are to be used entirely for the operation and maintenance of the MUSEUM. The Eighty-Two Thousand Five Hundred Dollars and No Cents (\$82,500.00) paid to the MUSEUM for the time period of October 1, 2010, through September 30, 2011, represents the entire amount budgeted for this purpose by the CITY for the fiscal year of 2010-2011. The Eighty-Two Thousand Five Hundred Dollars and No Cents (\$82,500.00) shall be paid in four (4) installments on the final execution of this agreement: October 15, 2010 and January 15, April 15, and June 15, 2011. Payments will be based on actual operation and maintenance expenditures and made strictly on a reimbursement basis. Reimbursement will be based on copies of actual invoices or other proof of payment as requested by the City. At that time, the MUSEUM shall also provide an explanation of how the expenditure of such monies complied with Section 351.101 of the Texas Tax Code.

Operations of the MUSEUM are to include the administration of all personnel associated with the MUSEUM, the management of all fund-raising activities in connection with the MUSEUM, the selection, preparation, and display of exhibits of artifacts, the interface with members of the general public concerning all matters related to the MUSEUM, and any other duties that could reasonably be construed as the operation of the MUSEUM.

II.

MUSEUM agrees that any money received under this contract will only be used for purposes specified in Chapter 351 of the Texas Tax Code and will not use any money received in this contract in any manner that does not strictly comply with the requirements, intent, and purposes as set forth in the Texas Tax Code, Chapter 351, Section 351.101(a)(1)-(7), as amended, and such statutorily authorized administrative expenses, together with the Texas Attorney General opinions interpreting Section 351.101 of the Texas Tax Code. A copy of

Section 351.101 of the Texas Tax Code is attached as Exhibit "A" and incorporated into this Contract for all purposes. Specifically, MUSEUM agrees to use such hotel tax revenues solely for the purposes of promoting tourism and the convention and hotel industry and will use the revenues solely for the permissible uses listed in section 351.101(a) of the Texas Tax Code.

III.

MUSEUM represents that it has prepared a proposed budget to be administered under this Contract to the Sherman City Council for the fiscal year of 2010-2011.

IV.

It is understood and agreed that this agreement is intended for the purpose of providing an agency for the administration of funds collected by the CITY under the provisions of the Hotel-Motel Occupancy Tax Ordinance of said CITY, and that CITY retains its legislative prerogative to alter, repeal, or otherwise amend such ordinance at any time.

V.

MUSEUM agrees and covenants that, in the event of a breach by MUSEUM of any of the covenants contained herein as determined by CITY in its sole discretion, CITY may, at its option, declare this agreement immediately forfeited and terminated as to the balance of the terms thereof.

VI.

The parties agree that the term of this Contract is for October 1, 2010, through September 30, 2011.

VII.

Notwithstanding the above, CITY and MUSEUM retain the right to cancel this agreement at any time, with or without cause and without liability or expense, by the giving of twenty (20) days notice of such intention to cancel. Notice to cancel by CITY shall be in

writing, signed by the City Manager with prior City Council approval. Notice to cancel by MUSEUM shall be in writing, signed by the MUSEUM President with prior MUSEUM Board of Directors approval.

VIII.

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

This agreement may not be changed, varied, or altered except by an instrument in writing and duly executed on behalf of CITY and by MUSEUM. Every obligation arising from this agreement shall be performable in Grayson County, Texas. Venue for any legal disputes arising from this Contract shall be Grayson County, Texas and governed by the laws of the State of Texas.

IN TESTIMONY WHEREOF, this instrument, in duplicate originals of equal force, has been executed on behalf of the Friends of the Red River Historical Museum of Sherman (aka Red River Historical Museum) and on behalf of the City of Sherman by its City Manager and attested by its City Clerk, effective on the 1st day of October, 2010.

(remainder of page left intentionally blank)

CITY OF SHERMAN, TEXAS

BY: _____
NAME: **GEORGE OLSON**
TITLE: **CITY MANAGER**
DATE: _____

ATTEST:

BY: _____
 LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

BY: _____
 BRANDON S. SHELBY,
 CITY ATTORNEY

**FRIENDS OF THE RED RIVER
HISTORICAL MUSEUM
(aka RED RIVER HISTORICAL
MUSEUM), a NON-PROFIT
CORPORATION**

(CORPORATE SEAL)

BY: _____
NAME: _____
TITLE: _____
DATE: _____

EXHIBIT "A"

Effective: June 19, 2009

**Vernon's Texas Statutes and Codes Annotated Currentness
Tax Code (Refs & Annos)**

Title 3. Local Taxation (Refs & Annos)

Subtitle D. Local Hotel Occupancy Taxes

Chapter 351. Municipal Hotel Occupancy Taxes (Refs & Annos)

Subchapter B. Use and Allocation of Revenue

→ § 351.101. Use of Tax Revenue

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

- (1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;
- (2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;
- (3) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;
- (4) the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;
- (5) historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:
 - (A) at or in the immediate vicinity of convention center facilities or visitor information centers; or
 - (B) located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates;
- (6) for a municipality located in a county with a population of one million or less, expenses, including promotion expenses, directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity;
- (7) subject to Section 351.1076, the promotion of tourism by the enhancement and upgrading of existing sports facilities or fields, including facilities or fields for baseball, softball, soccer, and flag football, if:
 - (A) the municipality owns the facilities or fields;
 - (B) the municipality:
 - (i) has a population of 80,000 or more and is located in a county that has a population of 350,000 or less;
 - (ii) has a population of at least 65,000 but not more than 70,000 and is located in a county that has a population of 155,000 or less;
 - (iii) has a population of at least 34,000 but not more than 36,000 and is located in a county that has a population of 90,000 or less;
 - (iv) has a population of at least 13,000 but less than 39,000 and is located in a county that has a population of at least 200,000;
 - (v) has a population of at least 65,000 but less than 80,000 and no part of which is located in a county with a population greater than 150,000; or

- (vi) is located in a county that:
 - (a) is adjacent to the Texas-Mexico border;
 - (b) has a population of at least 500,000; and
 - (c) does not have a municipality with a population greater than 500,000; and
- (C) the sports facilities and fields have been used, in the preceding calendar year, a combined total of more than 10 times for district, state, regional, or national sports tournaments; and

<Text of subsec. (a)(8) as added by Acts 2009, 81st Leg., ch. 402, § 1>

- (8) for a municipality with a population of at least 65,000 but less than 80,000, no part of which is located in a county with a population greater than 150,000, the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility.

<Text of subsec. (a)(8) as added by Acts 2009, 81st Leg., ch. 1220, § 3(a)>

- (8) signage directing the public to sights and attractions that are visited frequently by hotel guests in the municipality.

<Text of subsec. (a)(8) as added by Acts 2009, 81st Leg., ch. 1322, § 1>

- (8) the construction of a recreational venue in the immediate vicinity of area hotels, if:
 - (A) the municipality:
 - (i) is a general-law municipality;
 - (ii) has a population of not more than 900; and
 - (iii) does not impose an ad valorem tax;
 - (B) not more than \$100,000 of municipal hotel occupancy tax revenue is used for the construction of the recreational venue;
 - (C) a majority of the hotels in the municipality request the municipality to construct the recreational venue;
 - (D) the recreational venue will be used primarily by hotel guests; and
 - (E) the municipality will pay for maintenance of the recreational venue from the municipality's general fund.

(b) Revenue derived from the tax authorized by this chapter shall be expended in a manner directly enhancing and promoting tourism and the convention and hotel industry as permitted by Subsection (a). That revenue may not be used for the general revenue purposes or general governmental operations of a municipality.

(c) The governing body of a municipality by contract may delegate to a person, including another governmental entity or a private organization, the management or supervision of programs and activities funded with revenue from the tax authorized by this chapter. The governing body in writing shall approve in advance the annual budget of the person to which it delegates those functions and shall require the person to make periodic reports to the governing body at least quarterly listing the expenditures made by the person with revenue from the tax authorized by this chapter. The person must maintain revenue provided from the tax authorized by this chapter in a separate account established for that purpose and may not commingle that revenue with any other money. The municipality may not delegate to any person the management or supervision of its convention and visitors programs and activities funded with revenue from the tax authorized by this chapter other than by contract as provided by this subsection. The approval by the governing body of the municipality of the annual budget of the person to whom the governing body delegates those functions creates a fiduciary duty in the person with respect to the revenue provided by the tax authorized by this chapter.

(d) A person with whom a municipality contracts under this section to conduct an activity authorized by this section shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made by the person and, on request of the governing body of the municipality or other person, shall make the records available for inspection and review to the governing body or other person.

(e) Hotel occupancy tax revenue spent for a purpose authorized by this section may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing expenditures authorized under Section 351.101(a). If a municipal or other public or private entity that conducts an activity authorized under this section conducts other activities that are not authorized under this section, the portion of the total administrative costs of the entity for which hotel occupancy tax revenue may be used may not exceed the portion of those administrative costs actually incurred in conducting the authorized activities.

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

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

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

CREDIT(S)

Added by Acts 1987, 70th Leg., ch. 191, § 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, § 14.24(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1110, § 4, eff. Oct. 1, 1989; Acts 1993, 73rd Leg., ch. 680, § 3, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 1027, § 1, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 755, § 1, eff. June 13, 2001; Acts 2001, 77th Leg., ch. 1308, § 3, eff. June 16, 2001; Acts 2003, 78th Leg., ch. 209, § 90, eff. Oct. 1, 2003; Acts 2003, 78th Leg., ch. 303, § 1, eff. June 18, 2003; Acts 2005, 79th Leg., ch. 1247, § 1, eff. June 18, 2005; Acts 2007, 80th Leg., ch. 1144, § 1, eff. June 15, 2007; Acts 2009, 81st Leg., ch. 402, § 1, eff. June 19, 2009; Acts 2009, 81st Leg., ch. 1220, § 3(a), eff. June 19, 2009; Acts 2009, 81st Leg., ch. 1322, § 1, eff. June 19, 2009.

HISTORICAL AND STATUTORY NOTES

2008 Main Volume

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

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

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

"(h) The governing body of an eligible municipality, as defined in Section 351.001(3), Tax Code, may not approve the budget of a person with whom the eligible municipality enters into a contract under Subsection (c) unless the governing body first holds a public hearing to consider the proposed budget. The governing body may not hold the hearing unless notice of the hearing is published not later than the seventh day before the date of the hearing. The notice must be published in at least three newspapers having general circulation in the eligible municipality. If there are at least two newspapers having general circulation in the eligible municipality that are published daily, the notice must be published in at least two of those newspapers. If there is at least one newspaper having general circulation in the eligible municipality that is published weekly, the notice must be published in at least one of those newspapers. If there are fewer than three newspapers having general circulation in the eligible municipality, the notice must be published in every newspaper having general circulation in the eligible municipality. The notice may not be smaller than one-eighth of a page of the newspaper in which it appears and may not be published in the part of the newspaper in which legal notices and classified advertisements appear. The notice must include the purpose, date, time, and exact location of the public hearing and must clearly indicate that members of the public will be permitted to present their views at the hearing. The notice must contain a summary of the proposed budget, including the name of the person whose budget is being considered, the total amount to be budgeted, and the general uses for which the budget authorizes hotel occupancy tax revenue to be spent. The hearing must be held at a location convenient to members of the general public in the downtown business district of the eligible municipality. At the hearing, the governing body must afford all interested persons an opportunity to present their views on the proposed budget and its adoption."

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

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

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

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

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

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

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

2010 Electronic Update

2009 Legislation

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

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

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

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

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

2008 Main Volume

Prior Laws:

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

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

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

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

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

Vernon's Ann.Civ.St. art. 1269j-4.1, § 3c(a), (c).

LIBRARY REFERENCES

2008 Main Volume

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

RESEARCH REFERENCES

2010 Electronic Update

Encyclopedias

TX Jur. 3d Taxation § 292, Hotel Occupancy Taxes.

Treatises and Practice Aids

Brooks, 22 Tex. Prac. Series § 9.26, Municipal Hotel Occupancy Tax.

NOTES OF DECISIONS

Determination of permissible use 2
Recreational facilities 1

1. Recreational facilities

This section sets out the exclusive purposes for which the municipal hotel tax may be used; the tax may not be used for the operation of general recreational facilities. Op.Atty.Gen.1988, No. JM-965.

2. Determination of permissible use

Whether a particular proposed expenditure of municipal hotel occupancy tax revenue is a permissible use and will 'directly enhanc[e] and promot[e] tourism and the convention and hotel industry' is for a municipality's governing body to determine in the first instance. Tex. Atty. Gen. Op., No. GA-0124.

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

Current through the end of the 2009 Regular and First Called Sessions of the 81st Legislature

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END OF DOCUMENT



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. C.3

*** RESOLUTION NO. 5530**

**Authorizing Execution of an Agreement with Habitat for Humanity of Grayson County
for the Abatement of Ad Valorem Property Taxes for the Construction of a New
Single-Family Residence at 707 South Throckmorton Street**

Issue

This item is to consider property tax abatement for the construction of a new single-family residence at 707 South Throckmorton Street. The applicant would also like to have the \$75.00 residential tax abatement application fee waived.

Background

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

Origination

Habitat for Humanity of Grayson County, Applicant

Financial Consideration

A \$75.00 application fee has been received for this residential lot, along with a request that the fee be waived. If granted, the initial abatement for this lot will be approximately \$176.00 annually.

Staff Recommendation

The staff recommends approval of this abatement since it meets the requirements of the process. In addition, the staff recommends the waiver of the residential tax abatement application fee.

Alternatives

The City Council could decide against granting this abatement.

Attachments

Resolution No. 5530

Residential Tax Abatement Agreement

Application, Warranty Deed, Site Plan, Photo, and Building Permit Application

Location Map

Prepared by:
Scott Shadden, Director of Development Services

Approved by:
George Olson, City Manager

RESOLUTION NO. 5530

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT WITH HABITAT FOR HUMANITY OF GRAYSON COUNTY FOR THE ABATEMENT OF AD VALOREM PROPERTY TAXES FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 707 SOUTH THROCKMORTON STREET; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the City Manager be and is hereby authorized and directed, subject to receipt of a fully-executed agreement from Habitat for Humanity of Grayson County and subject to all contract documents being properly completed and approved as to form and content by the City Attorney, to execute an agreement with Habitat for Humanity of Grayson County for the abatement of ad valorem property taxes for a period of ten (10) years, for the construction of one (1) new single-family residence at 707 South Throckmorton Street, lying within the City of Sherman's Residential Tax Reinvestment Zone, in accordance with the City's policies and procedures established for this purpose.

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

PASSED AND APPROVED on this the ____ day of _____, 2010.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
BILL MAGERS, MAYOR

**APPROVED AS TO FORM
AND CONTENT:**

BY: _____
**BRANDON S. SHELBY,
CITY ATTORNEY**

THE STATE OF TEXAS §
 §
COUNTY OF GRAYSON §

AGREEMENT

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

WITNESSETH:

WHEREAS, on the 2nd day of June, 2008, the City Council of Sherman, Texas, passed Ordinance No. 5537 establishing a reinvestment zone for residential tax abatement, as authorized by Chapter 312 of the Texas Tax Code, as amended, hereinafter referred to as CODE; and

WHEREAS, the CITY has adopted a resolution (Resolution No. 5336) stating that it elects to be eligible to participate in a residential tax abatement program; and

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

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

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

WHEREAS, OWNER is prepared to comply with the provisions of the CITY'S guidelines and criteria enacted the 2nd day of June, 2008;

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

I.

1.01 To the extent authorized by the Texas Constitution and by the Tax Code, CITY hereby agrees to exempt from City of Sherman taxation a portion of the increase in value of taxable real property of OWNER in the CITY over the same real property and its value as calculated by the Grayson Appraisal District for ad valorem property tax purposes in accordance with the following schedule. Such tax exemption shall be in effect for tax years beginning January 1, 2010, and continuing for tax years 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018 and 2019 with same constituting ten (10) tax years. However, nothing contained herein shall be

construed to grant an abatement of taxes to be assessed based on the change of use of the property from an agricultural use to another use, sometimes referred to as rollback taxes, penalties or interest. In the event rollback taxes are applicable for the real property utilized by OWNER, then such increase in value of taxable property resulting from such rollback shall be used as the tax value for such property for the tax year 2010, sometimes referred to herein as the Base Tax Year.

SCHEDULE OF TAXES ASSESSED

<u>TAX YEAR</u>	<u>ABATEMENT</u>
2010	100%
2011	100%
2012	100%
2013	100%
2014	100%
2015	100%
2016	80%
2017	60%
2018	40%
2019	20%

II.

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

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

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

III.

3.01 The term of this Agreement shall be for tax years 2010, 2011, 2012, 2013, 2014, 2015 and 2016, 2017, 2018 and 2019 as indicated above in paragraph 1.01.

IV.

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

Construction of one (1) new single-family residence at 707 South Throckmorton Street, Sherman, Texas, and as more particularly described by the following:

BEING the South Fifteen Feet (15') of Lot 6, all of Lot 7 and the North Five Feet (5') of Lot 8, Block 10 of W. Elliott's Addition.

V.

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

VI.

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

VII.

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

VIII.

8.01 At any time before the expiration of the term hereof, this Agreement may be modified by the mutual action of the parties hereto to include other provisions that could have been included in the original agreement or to delete provisions that were not necessary to the original agreement. Such modification must be in writing and signed by all the parties hereto and

made by the same procedure by which the original Agreement was approved and executed. In no event may the original Agreement be modified so as to extend the term beyond the original term of this Agreement.

IX.

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

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

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

X.

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

XI.

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

XII.

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

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

Habitat for Humanity of Grayson County
PO Box 2725
Sherman, Texas 75091
(903) 815-0777

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

This Agreement is performable in Grayson County, Texas. Witness our hands on this the _____ day of _____, 2010.

CITY:
CITY OF SHERMAN, TEXAS

OWNER:
HABITAT OF HUMANITY OF
GRAYSON COUNTY

BY: _____
GEORGE OLSON
CITY MANAGER

BY: _____
NAME: BOB MONTGOMERY
TITLE: CONSTRUCTION

ATTEST:

BY: _____
LINDA ASHBY
CITY CLERK

APPROVED AS TO FORM
AND CONTENT:

BY: _____
BRANDON S. SHELBY,
CITY ATTORNEY

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

BEFORE ME, the undersigned authority, on this day personally appeared **Bob Montgomery of Habitat for Humanity of Grayson County**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein express.

GIVEN UNDER MY HAND and seal of office this ____day of _____, 2010 A.D.

Notary Public

CITY OF SHERMAN
APPLICATION FOR RESIDENTIAL TAX ABATEMENT

Property Owner:

Name: HABITAT FOR HUMANITY OF GRAYSON COUNTY

Mailing Address: PO Box 2725 SHERMAN TX 75091

Telephone Number: 903 893-0009

Contact (if different than owner):

Name: BOB MONTGOMERY

Mailing Address: PO Box 2725 SHERMAN TX 75091

Telephone Number: 903 815-0777

Property:

Physical Address: 707 S. THROCKMORTON SHERMAN TX 75090

Summary Legal Description: Lot: 7+1/4^{AC} LOT 6+6 Block: 10 Addition: 10, ELLIOTT

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

Improvements:

Type of Improvements (please check one): New Construction: ☒ Remodeling: ☐

Estimated Value of Improvements: \$55,000

Estimated Date of Start of Construction: 10-2-2010

Estimated Date of Completion of Project: 12-22-2010

Description of Project: NEW HOUSE CONSTRUCTION

Applicant(s): BOB MONTGOMERY Date: 9-20-2010
Bob Montgomery

00002582 Bk Vol Pg
DR 4591 112

Filed for Record in:
Grayson County

On: Feb 06, 2009 at 03:30P

As a
Recording

Document Number: 00002582

Amount: 24.00

Receipt Number - 282201

By:
GAIL WHITE

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

Feb 06, 2009

William Blackshear Bush, County Clerk
Grayson County

Grayson County
Wilma Blackshear Bush
County Clerk
Sherman, Texas 75090



70 2009 00002582

229717

Instrument Number: 2009-00002582

As
Recordings

Recorded On: February 06, 2009

Parties: TIN STAR HOMES LLC
To HABITAT FOR HUMANITY

Billable Pages: 3
Number of Pages: 5

Comment: WD

(Parties listed above are for Clerks reference only)

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

Recordings	24.00
Total Recording:	24.00

***** DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT *****

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

File Information:

Document Number: 2009-00002582
Receipt Number: 282201
Recorded Date/Time: February 06, 2009 03:30:02P
Book-Vol/Pg: BK-OR VL-4591 PG-108
User / Station: G WHITE - Cashiering Station 1

Record and Return To:

CHAPIN TITLE CO., INC.
620 N. TRAVIS ST.
SHERMAN TX 75090



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

CF 229777

00002582 OR 4591 109

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

WARRANTY DEED

Date: January 14, 2009

Grantor: Tin Star Homes, LLC

Grantor's Mailing Address (including county):

4200 Quail Run Rd.
Sherman, Grayson County, Texas 75092

8011 20/18 062

Grantee: Habitat for Humanity

Grantee's Mailing Address (including county):

P.O. Box 2725
Sherman, Grayson County, Texas 75092

163708
157667

Consideration: Ten Dollars and other valuable consideration to the undersigned paid by the Grantee herein named, the receipt of which is hereby acknowledged.

Property (including any improvements):

TRACT ONE 14' 18" of the South 15 feet of 1 of Six (6), all of 1 of Seven (7), and the North 5 feet of Lot Eight (8) in Block Ten (10) of the W. Elliotts Addition to the City of Sherman, Texas. Part of plat in record in Volume 404, Page 4, Plat Records, Grayson County, Texas.

TRACT TWO Block (1) of Three (3) in Block Thirty-two (32) of College Park Addition to the City of Sherman, Texas, as shown by plat thereof recorded in Volume 88, Page 534, Deed Records, Grayson County, Texas and both tracts being more particularly described on Exhibit "A" attached hereto and made a part hereof for all purposes.

Reservations from and Exceptions to Conveyance and Warranty:

All otherwise valid reservations and conveyances of the mineral estate, oil, gas, and other mineral leases, easements, rights-of-way, and restrictions of record in the office of the County Clerk of Grayson County, Texas.

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 wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to warranty.

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

Tin Star Homes, LLC

By:

Steve Palmer, Manager

Tin Star Homes, LLC

By:

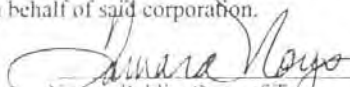
Tin Star General Contractors, LLC, Manager
By: Derek S. Humphreys, Member

(Acknowledgment)

Bk	Vol	Ps
00002582	OR	4591 110

STATE OF TEXAS
COUNTY OF GRAYSON

This instrument was acknowledged before me on the 20th day of January, 2009,
by Derek S. Humphreys, as Member of Tin Star General Contractors, LLC, Manager of
Tin Star Homes, L.L.C., a corporation, on behalf of said corporation.


Notary Public, State of Texas



	Bk	Vol	Pa
00002582	OR	4591	111

EXHIBIT "A"

TRACT ONE:

Being the South 15 feet of LOT SIX (6), all of LOT SEVEN (7) and the North 5 feet of LOT EIGHT (8) in BLOCK TEN (10) of the W. ELLIOTTS ADDITION to the City of Sherman, Texas, as shown by plat of record in Volume 101, page 4, Plat Records, Grayson County, Texas, and more particularly described as follows:

BEGINNING on the East line of Throckmorton Street 135 feet south of the South line of Wells Avenue;

THENCE with the east line of Throckmorton Street South 45 feet to a cross marked in the concrete sidewalk for corner;

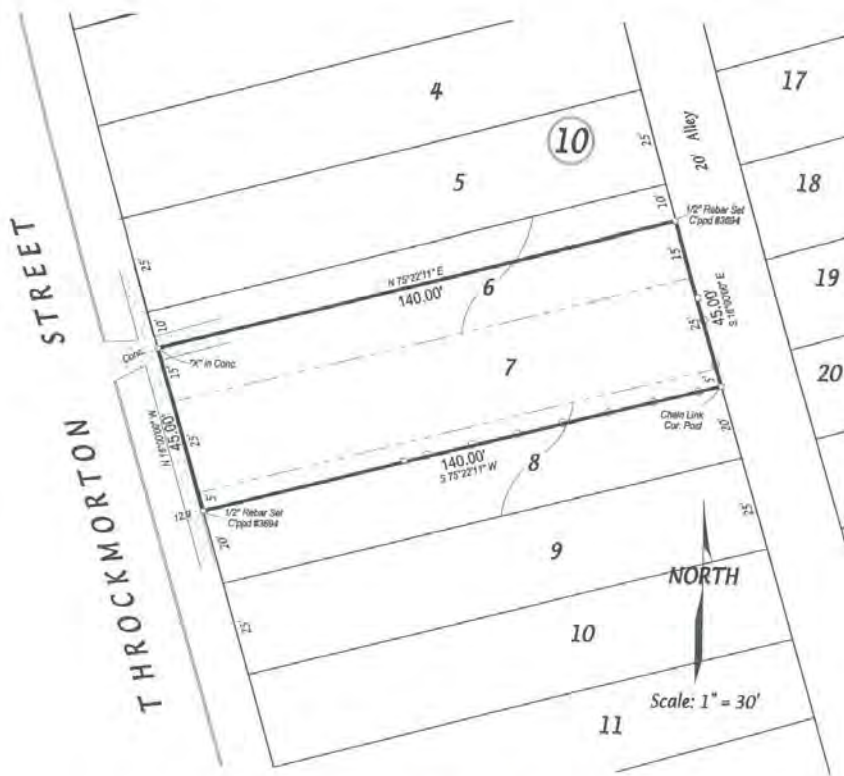
THENCE East parallel with the South line of Wells Avenue 140 feet to the west line of an alley;

THENCE with the West line of said alley north 45 feet to a stake for corner;

THENCE West parallel with the South line of Wells Avenue 140 feet to the east line of Throckmorton Street and the place of beginning, containing a tract of 45 feet x 140 feet, more or less.

TRACT TWO:

Being LOT THREE (3) in BLOCK THIRTY-TWO (32) of COLLEGE PARK SECOND ADDITION to the City of Sherman, Texas, as shown by plat thereof recorded in Volume 88, page 534, Deed Records, Grayson County, Texas.



SARTIN & ASSOCIATES, INC.

REGISTERED PROFESSIONAL LAND SURVEYORS

P.O. Box 1843 * 109 S. Travis * Sherman, Texas 75091-1843
Ph (903) 892-8003 * Fax (903) 868-2970 * Email - msartin@gccisp.com

SURVEY FOR: HABITAT FOR HUMANITY

I, Marshall Sartin, Registered Professional Land Surveyor, hereby certify that a survey of the property shown hereon was made on the ground on the 5th day of August, 2010 of the following described property:

The South Fifteen feet (15 ft.) of Lot SIX (6), all of Lot SEVEN (7) and the North Five feet (5 ft.) of Lot EIGHT (8) in Block TEN (10) of W. ELLIOTT'S ADDITION to the City of Sherman, Texas as shown by plat of record in Volume 101, Pages 4 & 5, Deed Records, Grayson County, Texas.

That the improvements located on said property are known as 707 S. THROCKMORTON STREET, SHERMAN, TEXAS, that this survey substantially complies with the current Minimum Standards for Professional Land Surveyors as adopted by the Texas Board of Professional Land Surveying and is subject to all easements of record that may affect said property.

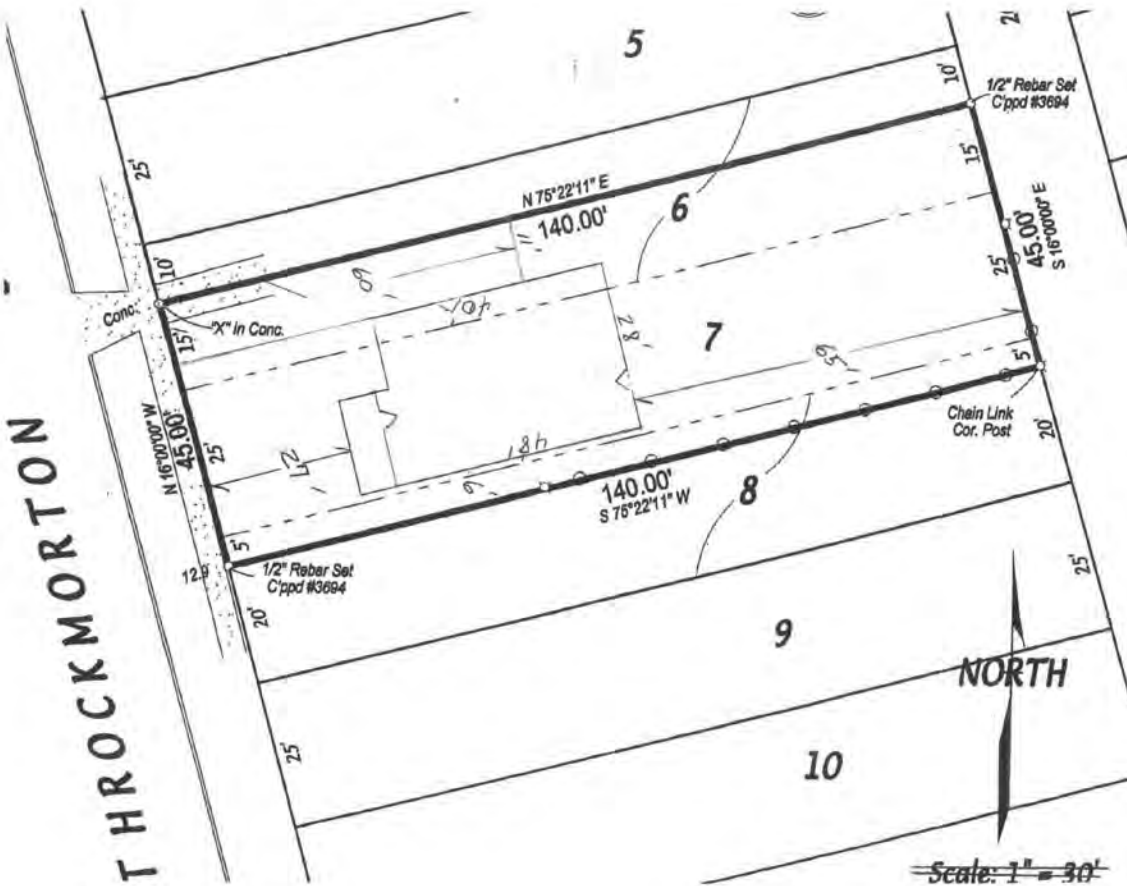
THIS SURVEY PLAT WAS PREPARED FROM A SURVEY PERFORMED ON THE DATE SHOWN HEREON FOR THE CLIENT NAMES HEREINABOVE AND FOR THE TRANSACTION TAKING PLACE AT THE TIME OF THIS SURVEY. THIS SURVEY PLAT IS NOT TO BE USED IN CONNECTION WITH ANY FUTURE TRANSACTIONS WITHOUT THE EXPRESSED WRITTEN CONSENT OF THE UNDERSIGNED SURVEYOR AND THE UNDERSIGNED SURVEYOR ACCEPTS NO LIABILITY FOR ANY FUTURE UNAUTHORIZED USE OF THIS SURVEY PLAT.

Marshall Sartin, R.P.L.S. # 3694



707THROC.pcs

THROCKMORTON



707 South Throckmorton



CITY OF SHERMAN
RESIDENTIAL BUILDING PERMIT

PERMIT #: 101390 SUBCONTRACTOR: HABITAT FOR HUMANITY DATE ISSUED: 9/20/2010

PROJECT ADDRESS: 707 S THROCKMORTON ST
PARCEL ID:
SUBDIVISION:

LOT #:
BLK #:
ZONE ORD:

ISSUED TO: HABITAT FOR HUMANITY
ADDRESS: PO BOX 2725
CITY, ST ZIP: SHERMAN TX 75091-2725
PHONE: 903-815-0777

CONTRACTOR: HABITAT FOR HUMANITY
ADDRESS: PO BOX 2725
CITY, ST ZIP: SHERMAN TX 75091-2725
PHONE:

PROP. USE: RESIDENTIAL
WORK: NEW RESIDENTIAL CONSTRUCTION

SQ FT: 1,238.00
BEDROOMS: 3

VALUATION: \$ 55,000.00
OCCP TYPE: RESIDENTIAL
CNST TYPE: WOOD FRAME

BATHROOMS: 2
STORIES: 1

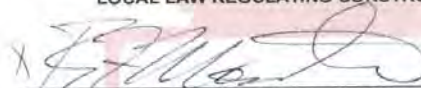
FEE CODE	DESCRIPTION	AMOUNT
BLD10	RESIDENTIAL STORMWATER MGMT	\$ 25.00
TOTAL		\$ 25.00

NOTES:

NOTICE

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

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

X 
(SIGNATURE OF CONTRACTOR OR AUTHORIZED AGENT)

9/29/2010
DATE

(APPROVED BY)

1/1
DATE



City of Sherman, Texas
Developmental Services Department

707 South Throckmorton

1 inch = 69 feet





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. D.1

*** CHANGE ORDER NO. 1**

**Pelton Street Water Main Replacement Project;
Dickerson Construction Co., Inc.; \$2,694.00, Increase**

Issue

To consider approval of a change order for the Pelton Street Water Main Replacement Project

Background

Change Order No. 1 is a final reconciliatory change order to adjust the final project quantities for the Pelton Street Water Main Replacement between Ricketts Street and Travis Street.

Origination

Department of Utilities Administration

Financial Consideration

The change order results in a \$2,694.00 increase in the contract amount, yielding a final contract price of \$167,500.00. The Capital Improvement Program (CIP) budget for the project is \$250,000.00.

Staff Recommendation

It is recommended that Change Order No. 1 be approved.

Alternatives

As may be directed by the City Council

Attachments

Change Order No. 1

Location Map

Prepared by:
Mark Gibson, Director of Engineering & Utilities

Approved by:
George Olson, City Manager

CHANGE ORDER

No. 1

PROJECT Pelton Street Water Line Replacement

DATE OF ISSUANCE 9/8/10

EFFECTIVE DATE _____

OWNER City of Sherman

OWNER's Contract No. _____

CONTRACTOR Dickerson Construction Company, Inc.

ENGINEER Morris Engineers

You are directed to make the following changes in the Contract Documents:

Description: See attached schedule of changes

Reason for Change Order: Job completion

Attachments: Schedule of changes

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price \$ 164,806.00	Original Contract Times Substantial Completion: Ready for Final Payment:
Net changes from previous Change Orders No. <u> </u> to <u> </u> \$ 0.0	Net change from previous Change Orders No. <u> </u> to <u> </u> Days
Contract Price prior to this Change Order \$ 164,806.00	Contract times prior to this Change Order Substantial Completion: Ready for Final Payment:
Net Increase of this Change Order \$ 2,094.00	Net Increase (Decrease) of this Change Order Days
Contract Price with all approved Change Orders \$ 167,500.00	Contract Times with all approved Change Orders Substantial Completion: Ready for Final Payment:

RECOMMENDED:
Morris Engineers

By: [Signature]
Engineer (Authorized Signature)

Date: 9-16-10

APPROVED:
City of Sherman

By: _____
Owner (Authorized Signature)

Date: _____

ACCEPTED:
Dickerson Construction Co. Inc.

By: [Signature]
Contractor (Authorized Signature)

Date: 9-16-10

ESDC No. 1917-8-B (1990 Edition)

Prepared by the Engineers Joint Contract Documents Committee and endorsed by the Associated General Contractors of America.

CITY OF SHERMAN
 PELTON STREET WATER LINE REPLACEMENT
 DICKERSON CONSTRUCTION CO., INC.
 CHANGE ORDER NO. 1

9/14/10

ITEM NO	ITEM DESCRIPTION	EST. QTY.	UNIT	UNIT PRICE	ORIGINAL CONTRACT	CHANGE ORDER NO. 1			FINAL QTY.	CONTRACT TOTAL
						ADD	DEDUCT	TOTAL		
1	F&I 2" DIA. ASTM 2241 SDR 21 WATER PIPELINE	79	LF	\$ 35.00	\$ 2,765.00	21		\$ 735.00	100	\$ 3,500.00
2	F&I 8" DIA. AWWA C900 SDR 18 PVC WATER PIPELINE	2451	LF	\$ 26.00	\$ 63,726.00	19		\$ 494.00	2470	\$ 64,220.00
3	F&I CEMENT LINED D.I. FITTINGS	1	LOT	\$ 5,000.00	\$ 5,000.00				1	\$ 5,000.00
4	F&I 2" DIA. AWWA GATE VALVES	4	EA	\$ 500.00	\$ 2,000.00				4	\$ 2,000.00
5	F&I 6" DIA. AWWA GATE VALVES	1	EA	\$ 800.00	\$ 800.00				1	\$ 800.00
6	F&I 8" DIA. AWWA GATE VALVES	4	EA	\$ 900.00	\$ 3,600.00				4	\$ 3,600.00
7	F&I FIRE HYDRANT ASSY.	4	EA	\$ 2,900.00	\$ 11,600.00				4	\$ 11,600.00
8	ADD TO BASE WATERLINE PRICE FOR 14" STEEL ENCASEMENT	72	LF	\$ 40.00	\$ 2,880.00	18		\$ 720.00	90	\$ 3,600.00
9	F&I 3/4" TO 1" SERVICE CONNECTIONS									
	NORTH SIDE	31	EA	\$ 250.00	\$ 7,750.00				31	\$ 7,750.00
	SOUTH SIDE	13	EA	\$ 350.00	\$ 4,550.00		-4	\$ (1,400.00)	9	\$ 3,150.00
10	EQPT. & LABOR TO INSTALL CITY-FURN. METER, METER BOX, METER	20	EA	\$ 35.00	\$ 700.00	11		\$ 385.00	31	\$ 1,085.00
11	F&I ASPHALT STREET REPAIRS	966	LF	\$ 42.50	\$ 41,055.00	54		\$ 2,295.00	1020	\$ 43,350.00
12	REPAIR CONCRETE DRVWY APPROACHES & VALLEY GUTTERS	394	LF	\$ 45.00	\$ 17,730.00		-56.5	\$ (2,542.50)	337.5	\$ 15,187.50
13	REPAIR CONCRETE SIDEWALKS	10	LF	\$ 15.00	\$ 150.00				10	\$ 150.00
14	TRENCH EXCAVATION PROTECTION	PER	LF	\$ 2.00						\$ -
15	SWPPP	1	JOB		\$ 500.00				1	\$ 500.00
16	6" DR18	-	LF	\$ 24.50		35		\$ 857.50	35	\$ 857.50
CO1	INSTALL VALVES FURNISHED BY CITY	-	EA	\$ 50.00		3		\$ 150.00	3	\$ 150.00
CO1	INSTALL HYDRANTS FURNISHED BY CITY	-	EA	\$ 1,000.00		1		\$ 1,000.00	1	\$ 1,000.00
	TOTAL				\$ 164,806.00			\$ 2,694.00		\$ 167,500.00



City of Sherman, Texas
PELTON ST WATER MAIN REPLACEMENT
(Ricketts St to Travis St)

PROJECT LOCATION MAP





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. D.2

OTHER BUSINESS

**Receive Presentation from Executive Director of Planning and Public Works
Don W. Keene on Projects and Activities within the Street Department**

Issue

Presentation about the City of Sherman's Street Department

Background

In order to provide the City Council with information and updates about City departments and activities, brief presentations will be given periodically to enhance this knowledge base. This particular presentation focuses on the Street Department.

Origination

City Manager

Financial Consideration

There is no cost associated with this presentation.

Council Action Requested

The Council need take no action on this presentation – for information purposes only.

Alternatives

None

Attachments

None

Prepared by:
Don Keene, Exec. Director – Planning & Public Works

Approved by:
George Olson, City Manager



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. D.3

OTHER BUSINESS

**Receive Presentation from Executive Director of Planning and Public Works
Don W. Keene on the City of Sherman's Capital Improvement Projects**

Issue

This item is a status update of the City of Sherman's Capital Improvement Program (CIP).

Background

Highlights of this presentation:

- 11 CIP projects (\$10.6M budget) have been completed within the past year.
- 19 CIP projects (\$16.3M budget) are currently in progress.
- All projects are currently within budget.
- Pecan Grove Park – West is complete.
- Brockett Street rebuild is complete.
- Washington Street and Lamberth Road improvement projects are underway.
- Development of a Sherman Watershed Management Plan has begun.
- Planning is underway for 2011 CIP projects which will begin 4Q10.

Origination

City Manager

Council Action Requested

There is no cost associated with this presentation.

Staff Recommendation

No Council action is needed on this presentation.

Alternatives

None recommended

Attachments

None

Prepared by:
Don Keene, Exec. Director – Planning & Public Works

Approved by:
George Olson, City Manager



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. D.4

*** OTHER BUSINESS**

Consider Request of the Austin College Kappa Gamma Chi to Temporarily Close Certain Streets for the Homecoming 2010 'Roo Run and Joey Walk on Saturday, October 23, 2010

Issue

Austin College Kappa Gamma Chi has submitted a request to close certain streets surrounding the Austin College campus for the Homecoming 2010 'Roo Run and Joey Walk at 8:30 a.m. on Saturday, October 23, 2010

Background

The Austin College Kappa Gamma Chi is sponsoring the Annual 5K 'Roo Run and 1-mile Joey Walk, to be held in conjunction with the Austin College 2010 Homecoming on Saturday, October 23rd. The activities will begin at 8:30 a.m. and will follow the route outlined on the attached map. The event will require traffic control assistance, and barricades from the City of Sherman.

Origination

Ting an Zheng, Austin College Kappa Gamma Chi 'Roo Run Service Chair

Financial Consideration

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

Staff Recommendation

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

Alternatives

Select another date, time or location for the proposed activities.

Attachments

Memo from Ms. Zheng dated September 16, 2010

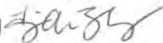
Map of Proposed Route

Prepared and Approved by:
George Olson, City Manager



AUSTIN
COLLEGE

M E M O R A N D U M

DATE: September 16, 2010
TO: Sherman City Manager
FROM: Ting an Zheng 
Austin College Kappa Gamma Chi 'Roo Run
Service Chair
RE: Homecoming 2010 'Roo Run

On Saturday, October 23, 2010 the Annual Kappa Gamma Chi 'Roo Run will be held in connection with Austin College 2010 Homecoming. The 5K 'Roo Run and 1-mile Joey Walk will begin at 8:30 a.m. on the steps of Ida Green Communications Center and then continue as shown on the attached map. Please allow the Austin College 'Roo Run permission to use Sherman city streets and traffic control assistance as in the past years.

Please contact me at 972.754.8876 if you have questions or need additional information.

cc. Cindy Bean, Associate Director of Alumni and Parent Relations
Michael Deen, Associate Director of Student Life

Attachment: Roo Run Map





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. D.5

CITIZEN REQUESTS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. D.6

MEDIA QUESTIONS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. D.7

COUNCIL COMMENTS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. E.1

EXECUTIVE SESSION

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

**Section 551.071 Consultation with City Attorney Concerning Pending
or Contemplated Litigation:**

**(a) Receive the City Attorney’s Briefing on Pending
Litigation**

Section 551.074 Personnel Matters

**(a) Consider the Qualifications, Appointment and
Removal of Members to Boards and
Commissions:**

**(i) Sherman Economic Development
Corporation Board of Directors (2)**

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. F.1

OPEN MEETING

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

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. F.2

ADJOURNMENT

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 10-4-2010

Subject: Agenda Item No. N/A

COUNCIL CALENDAR

2010 CITY COUNCIL MEETINGS

JANUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		5	6	7	1	2
3	4				8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

FEBRUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28						

MARCH

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

APRIL

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		6	7	1	2	3
4	5			8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

MAY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		4	5	6	7	1
2	3					8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

JUNE

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

JULY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

AUGUST

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

SEPTEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

OCTOBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

NOVEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

DECEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

01/04/10 - January 4th Council meeting cancelled - holiday schedules
01/18/10 - M.L.K., Jr. Birthday / Regular Council Meeting
02/15/10 - Washington's Birthday / Regular Council Meeting
04/30/10 - 12 Noon Budget Planning Meeting in Council Chambers
05/08/10 - City Council Election
05/11/10 - Called Meeting to Canvass Election Results
06/17-18/10 - Budget Workshop/Long Range Planning Workshop in Council Chambers
06/17/10 - Budget Workshop/Long Range Planning Workshop in Council Chambers
07/05/10 - Independence Day - Called Council Meeting on 07/06/10

08/09/10 - 5PM Called (Town Hall) Meeting - Public Hearing on Proposed Charter Amendments for November 2nd Election
08/31/10 - 12 Noon Called Meeting for Executive Session
09/06/10 - Labor Day / Called Council Meeting on 09/07/10
09/23/10 - 12 Noon Joint Meeting with SEDCO Board
09/23/10 - 3:30 PM Called Meeting - Focus Group Session for Sherman Gov. Agencies on Sherman Fair Housing Impediment Analysis
11/02/10 - Called Charter Amendment Election
11/15/10 - Canvass of Election Results during Regular Meeting