

**CITY OF SHERMAN
CITY COUNCIL REGULAR MEETING AGENDA
COUNCIL CHAMBERS OF THE CITY HALL
220 WEST MULBERRY STREET
SHERMAN, TEXAS
MONDAY, SEPTEMBER 15, 2008
5:00 P.M.**

- A.1 [CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN](#)
- A.2 [PLEDGE OF ALLEGIANCE](#)
- A.3 [INVOCATION BY COUNCIL MEMBER CHIP ADAMI](#)
- A.4 [APPROVE MINUTES OF THE CALLED CITY COUNCIL MEETING OF SEPTEMBER 2, 2008](#)

Proclamation

- A.5 [PROCLAMATION](#)
“Lions White Cane Day” – October 4, 2008

Introduction and Public Hearing of Ordinances

- B.1 [INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5556](#)
Providing for the Levy of Ad Valorem Taxes for the City of Sherman, Texas, for the Tax Year 2008; 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
- B.2 [INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5558](#)
Amending Section 12, Ordinance No. 2280, so as to Include Certain Properties within the C-2 (General Commercial) District at 3801 U.S. Highway 75 North, being Lot 1, Block C of the Sherman Commons Addition, Replat of Block C (Woodmont Sherman, L.P., Owners, and Mays & Company, Prospective Buyer)
- B.3 [INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5559](#)
Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Woodmont Sherman, L.P. (Owners) and Mays & Company (Prospective Buyer) to Allow a Tire Sales Business and an Automobile Service and Repair Business, including Sales, Service, Repair and Installation of Tires, Motor Vehicle Parts and Accessories, Oil and its Derivatives, Automobile Supplies and Furnishings in a C-2 (General Commercial) District and O-1 (75 & 82 Overlay) District at 3801 U.S. Highway 75 North, being Lot 1, Block 1 of the Sherman Commons Addition, Replat of Block C; Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000

B.4 [INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5560](#)

Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Mida Elizabeth Skipworth Estate (Owners), Charlie Skipworth (Executor), Mark and Lisa Malone (Prospective Buyers), and Sartin & Associates (Surveyor) to Allow a Two-Family Dwelling (Duplex) on the Proposed Lot 1, Block 1 of Malone's Addition in an R-1 (One Family Residential) District at 1523-1531 East Thomas Street, being 0.36 Acres in the G.B. Pilant Survey, Abstract No. 963; Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000

B.5 [INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5561](#)

Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Terry SC Wong (Owner), Dean Gilbert, Jr. (Property Manager) and Evergreen Presbyterian Ministries, Inc., Theresa Garrett (Tenant) to Allow a Day Habilitation Program/School and Training Center for Adults with Developmental Disabilities in a C-1 (Retail Business) District and O-1.1 (FM 1417 Overlay) District at 2001 Skyline Drive, Suite A-145, being Lot 3, Block 1 of the Skyline Business Park Replat; Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000

Close Public Hearing and Consider Adoption of Ordinances

B.6 [ADOPTION OF ORDINANCES](#)

Consider Adoption of Ordinance Numbers:

- a) 5556
- b) 5558
- c) 5559
- d) 5560
- e) 5561

B.7 [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. 5259](#)

Revoking and Replacing Resolution No. 5081; Establishing Salary Structures and Incentive/Certification Pay Schedules for Firefighters and Police Officers

C.2 [* RESOLUTION NO. 5260](#)

Approving and Adopting Amendment Number ONE to the Flexible Spending Account Plan for the City of Sherman's Employees and Dependents effective October 1, 2008

- C.3 [* RESOLUTION NO. 5261](#)
Authorizing Execution of an Interlocal Agreement between the City of Sherman and the City of Fort Worth for Household Hazardous Waste Services
- C.4 [* RESOLUTION NO. 5262](#)
Authorizing the Purchase of Replacement Residential Recycling Carts through the Houston-Galveston Area Council of Governments (H-GAC) for the Solid Waste Services Department
- C.5 [RESOLUTION NO. 5258](#)
Awarding a Bid to and Authorizing Execution of a Contract with VesCor, Inc. d/b/a Vessels Construction for Construction of Pecan Grove Park Development, Phase I
- C.6 [* RESOLUTION NO. 5263](#)
Authorizing Execution of an Encroachment License Agreement with Overland Group, LLC for a Multi-Tenant Sign in the Utility Easement along F.M. 1417 and Overland Trail in the O'Hanlon Ranch Addition, Phase 2 to the City of Sherman
- C.7 [* RESOLUTION NO. 5264](#)
Authorizing Execution of an Agreement with Barton Capital, LTD for the Abatement of Ad Valorem Property Taxes for the Construction of a New Single-Family Residence at 608 East Sycamore Street
- C.8 [* RESOLUTION NO. 5265](#)
Authorizing Execution of an Agreement with Barton Capital, LTD for the Abatement of Ad Valorem Property Taxes for the Construction of a New Single-Family Residence at 612 East Sycamore Street
- C.9 [* RESOLUTION NO. 5266](#)
Designating Code Enforcement Officials for the Purposes of Obtaining Administrative Search Warrants
- C.10 [* RESOLUTION NO. 5267](#)
Awarding a Bid to and Authorizing Execution of a Contract with Eagle Underground Utility Supply, Inc. d/b/a Mainline Supply Company for an Annual Supply of Water and Sewer Distribution and Collection Miscellaneous Parts and Materials
- C.11 [* RESOLUTION NO. 5268](#)
Authorizing Execution of an Amendment to the Developer's Agreement with Sherman Hills Country Club, LTD. for the Construction of Public Facilities in Sunrise Tract, Phase I of the Sherman Hills Addition to the City of Sherman

Request to Advertise

- D.1 [REQUEST TO ADVERTISE](#)
Brockett Street Beautification Project

Change Order

D.2 [* CHANGE ORDER NO. 1](#)

Ross Avenue Sewer Main Replacement; \$14,400.00, Increase

Other Business

D.3 [* OTHER BUSINESS](#)

Consider Request of the Sherman Independent School District and the Sherman High School Student Council to Temporarily Close Certain Streets for the 2008 Sherman High School Homecoming Parade on Monday, September 29, 2008

D.4 [* OTHER BUSINESS](#)

Final Plat Approval of the Malone's Addition; Mida Elizabeth Skipworth Estate, Owner; Mark and Lisa Malone, Prospective Buyers (1523-1531 East Thomas Street)

D.5 [* OTHER BUSINESS](#)

Final Plat Approval of the RJ Spencer Investments Addition; R.J. Spencer Investments, LLC, Owner (1102 F.M. 1417 NE)

D.6 [CITIZEN REQUESTS](#)

D.7 [MEDIA QUESTIONS](#)

D.8 [COUNCIL COMMENTS](#)

Executive Session

E.1 [EXECUTIVE SESSION](#)

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

Section 551.071 Consultation with City Attorney Concerning Legal Matters:
(a) Panda Energy

Section 551.071 Consultation with City Attorney Concerning Pending or Contemplated Litigation:
(a) Cause No. 05-06-00420-CV; *City of Sherman, et al v. James Wayne*
(b) Lucky Stop 10's Request for Alcohol Permit

- | | |
|-----------------|---|
| Section 551.072 | Deliberations Regarding Real Property:
(a) Deliberate Regarding the Potential Purchase of a Piece of Real Property |
| Section 551.074 | Personnel Matters:
(a) Consider the Qualifications, Appointment and Removal of Members to Boards and Commissions:
(i) Sherman Economic Development Corporation (2)
(b) Annual Performance Evaluation of the City Manager |
| Section 551.087 | Deliberations Regarding Economic Development Negotiations:
(a) Deliberate Regarding Commercial or Financial Information that the City has Received from Business Prospects and Deliberate any Offers or Incentives to the Business Prospects, including the following:
(i) Panda Energy |

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: 9-15-2008

Subject: Agenda Item No. A.1

CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. A.2

PLEDGE OF ALLEGIANCE

The Honorable Chip Adami, Council Member



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. A.3

INVOCATION BY COUNCIL MEMBER CHIP ADAMI



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. A.4

APPROVE MINUTES

THE CALLED CITY COUNCIL MEETING OF SEPTEMBER 2, 2008

September 2, 2008

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

CALL TO ORDER

CALL TO ORDER

**EMERGENCY
DISASTER
RELIEF**

Over 60 volunteers manned the Respite Center at the Municipal Ballroom, the Shelter at Fairview Baptist Church, and the Red Cross offices. The Shelter also housed 67 residents, mainly from Port Arthur and Beaumont. All evacuees have been able to leave and return to their homes. The Shelter is now empty but is on standby.

APPROVE MINUTES

The Council reviewed the Minutes of the Regular City Council Meeting of August 18, 2008. Council Member Adami moved to approve the Minutes as presented; Second by Council Member Steele. All present voted AYE. MOTION CARRIED.

“SHERMAN TODAY” PHOTO CONTEST

Traci Carlson, President of the Sherman Chamber of Commerce, introduced the winner of the first "Sherman Today" photo contest which was held in July 2008. Kathy Cole submitted a photograph of her son on a John Deere pedal tractor. The photograph will be published on the cover of an upcoming "Sherman Today" and will hang in City Hall.

CAPITAL IMPROVEMENT PROGRAM

CAPITAL IMPROVEMENT PROGRAM (CIP) 2008-2013

Mayor Magers introduced the City's Capital Improvement Program for 2008-2013.

No citizens appeared before the City Council to discuss the Capital Improvement Program for 2008-2013.

INTRODUCTION AND PUBLIC HEARING OF ORDINANCES

Mayor Magers introduced Ordinance 5557 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS ("CITY"), APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX" OR "THE COMPANY") REGARDING THE COMPANY'S RATE REVIEW MECHANISM FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; APPROVING ATMOS' PROOF OF REVENUES; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND LEGAL COUNSEL; PROVIDING A REPEALER CLAUSE; PROVIDING FOR SEVERABILITY.

ORD 5557
ATMOS
STEERING
COMMITTEE

No citizens appeared before the City Council to discuss Ordinance 5557.

The Ordinances were introduced and the Public Hearing was closed.

CLOSE PUBLIC
HEARING

ADOPTION OF ORDINANCES

Ordinance 5557

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS ("CITY"), APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX" OR "THE COMPANY") REGARDING THE COMPANY'S RATE REVIEW MECHANISM FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; APPROVING ATMOS' PROOF OF REVENUES; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND LEGAL COUNSEL; PROVIDING A REPEALER CLAUSE; PROVIDING FOR SEVERABILITY.

ORD 5557
ATMOS
STEERING
COMMITTEE

Mayor Magers explained that ATMOS requested \$33.5 million and through the negotiations, settled on \$20 million. The rates will be statewide.

ACTION TAKEN.

Motion by Council Member Adami to approve Ordinance No. 5557, as presented. Second by Deputy Mayor Wacker.

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

VOTING NAY: None.

MOTION CARRIED.

Ordinance 5551

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, PROVIDING FOR THE APPROPRIATION OF FUNDS FOR OPERATING AND CAPITAL EXPENDITURES FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2008, AND ENDING SEPTEMBER 30, 2009; PROVIDING FOR A REPEALER.

**ORD 5551
ANNUAL
BUDGET**

George Olson, City Manager, said the City Council had instructed the staff to seek additional alternatives for the operation of the Day Care Center. All non-profit day care centers in Sherman were contacted to determine their interest in being considered for lease of the facilities and for absorbing the program as it is today.

Five questionnaires were mailed out, including one to Jack and Jill Child Care in Denison. Only one written response was received by the City, from Jack and Jill Child Care Center.

Jack and Jill's operation is very close to the current program operated by the City. They operate for the low income and economically challenged citizens. Currently about 25% of their revenue comes from day care fees and they receive CCS donations. They have been in business for over 50 years.

Mr. Olson said the staff continues to pursue negotiations with Jack and Jill Child Care Center for the lease of the Sherman Day Care Center and will work with them on a transition plan.

Mayor Magers stated that he and Council Member Howeth have a conflict of interest and cannot discuss the day care issue. He passed the gavel to Deputy Mayor Wacker to allow a citizen to speak on the issue.

Tony Beaverson, 2609 Fair Oaks Circle

Mr. Beaverson commended the City Council for their forward looking vision for the City. He said he understood that the City would lose about \$400,000 in federal monies by closing the Day Care Center. Mr. Olson said that could happen if other matching funds aren't secured.

Mr. Beaverson asked if there was an increase in revenues projected for the City next year. Robby Hefton, Assistant City Manager/CFO, said the revenues are basically flat for next year. Mr. Beaverson verified that the decision to close

the Day Care Center is not from a loss of revenue but is a decision by the City Council. Council Member Adami did confirm that revenues are flat and expenses have increased. The “cut” was made to balance the budget.

Mr. Beaverson said the goal should not be to privatize the services that can be privatized. The goal should be to provide the best quality services. He said that family values should “stop at the pocketbook.” He expressed concern about the ideological shift he sees in the City Council.

Deputy Mayor Wacker passed the gavel back to Mayor Magers.

Council Member Softly said this is a hard decision to make but is needed for the direction in which the City is going. He would like the Day Care Center to remain open under the City’s direction, but things must sometimes change.

Mayor Magers asked if there were any other comments on the Budget itself.

ACTION TAKEN.

Motion by Council Member Smith to approve Ordinance No. 5551, as presented. Second by Deputy Mayor Wacker.

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

VOTING NAY: None.

MOTION CARRIED.

CONSENT AGENDA

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

Mayor Magers commended the staff for the bid process on Resolution 5257 which included biodiesel, adding that Sherman has a genuine concern for the community.

RESOLUTIONS

RESOLUTION NO. 5251 – APPROVING AND ADOPTING A FIVE-YEAR CAPITAL IMPROVEMENT PROGRAM FOR THE CITY OF SHERMAN, TEXAS

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, APPROVING AND ADOPTING A FIVE-YEAR CAPITAL IMPROVEMENT PROGRAM FOR THE CITY OF SHERMAN, TEXAS; PROVIDING FOR AN EFFECTIVE DATE.

ACTION TAKEN.

Motion by Deputy Mayor Wacker to approve Resolution No. 5251, as presented. Second by Council Member Softly.

CONSENT AGENDA

**RES 5251
CAPITAL
IMPROVEMENT
PROGRAM**

VOTING AYE: Adami, Howeth, Smith, Softly, Steele, Wacker.
VOTING NAY: None.
MOTION CARRIED.

**RESOLUTION NO. 5252 – ADOPTING AN INVESTMENT
POLICY FOR THE CITY OF SHERMAN**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SHERMAN, TEXAS, ADOPTING AN INVESTMENT POLICY
FOR THE CITY OF SHERMAN.
CONSENT AGENDA.

RES 5252
INVESTMENT POLICY

**RESOLUTION NO. 5253 -- AUTHORIZING EXECUTION OF
AGREEMENTS WITH THE SHERMAN HOUSING AUTHORITY,
THE TEXOMA AREA PARATRANSIT SYSTEM, INC., THE
GRAYSON COUNTY CRISIS CENTER, THE CHILD & FAMILY
GUIDANCE CENTER OF TEXOMA, THE NORTH TEXAS
YOUTH CONNECTION, AND THE BOYS & GIRLS CLUB, INC.
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 CHILD & FAMILY
GUIDANCE CENTER OF TEXOMA, THE NORTH TEXAS
YOUTH CONNECTION, AND THE BOYS & GIRLS CLUB, INC.
FOR THE USE OF COMMUNITY DEVELOPMENT BLOCK
GRANT FUNDS.
CONSENT AGENDA.

RES 5253
CDBG FUNDS

**RESOLUTION NO. 5254 – AUTHORIZING EXECUTION OF AN
INTERLOCAL COOPERATION CONTRACT WITH THE TEXAS
DEPARTMENT OF PUBLIC SAFETY IN RELATION TO THE
SHERMAN POLICE DEPARTMENT’S BREATH TESTING AND
LABORATORY ALCOHOL AND DRUG TESTING PROGRAM**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN
INTERLOCAL COOPERATION CONTRACT WITH THE TEXAS
DEPARTMENT OF PUBLIC SAFETY IN RELATION TO THE
SHERMAN POLICE DEPARTMENT’S BREATH TESTING AND
LABORATORY ALCOHOL AND DRUG TESTING PROGRAM.
CONSENT AGENDA.

RES 5254
ALCOHOL & DRUG
TESTING PROGRAM

**RESOLUTION NO. 5255 – AWARDING A BID TO AND
AUTHORIZING EXECUTION OF A CONTRACT WITH LEGACY
CONTRACTING, L.P. FOR THE REPLACEMENT OF SCREW
LIFT PUMPS AT THE 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 LEGACY
CONTRACTING, L.P. FOR THE REPLACEMENT OF SCREW
LIFT PUMPS AT THE WASTEWATER TREATMENT PLANT.
CONSENT AGENDA.

RES 5255
SCREW LIFT PUMP
REPLACEMENT

RESOLUTION NO. 5256 – AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT WITH TEXLANDEV-AUSTIN LANDING, L.P. FOR THE CONSTRUCTION OF PUBLIC FACILITIES IN THE AUSTIN LANDING PHASE TWO DEVELOPMENT TO THE CITY OF SHERMAN

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT WITH TEXLANDEV-AUSTIN LANDING, L.P. FOR THE CONSTRUCTION OF PUBLIC FACILITIES IN THE AUSTIN LANDING PHASE TWO DEVELOPMENT TO THE CITY OF SHERMAN.

CONSENT AGENDA.

RES 5256
AUSTIN LANDING
PHASE TWO

RESOLUTION NO. 5257 – AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT OF SALE WITH W. DOUGLAS DISTRIBUTING, LTD. D/B/A DOUGLAS DISTRIBUTING FOR AN ANNUAL SUPPLY OF GASOLINE, DIESEL AND BIO-DIESEL FUEL

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT OF SALE WITH W. DOUGLAS DISTRIBUTING, LTD. D/B/A DOUGLAS DISTRIBUTING FOR AN ANNUAL SUPPLY OF GASOLINE, DIESEL AND BIO-DIESEL FUEL.

CONSENT AGENDA.

RES 5257
ANNUAL SUPPLY
OF GASOLINE

**CHANGE ORDER NO. 1
HARRISON AVENUE STORM DRAIN REPLACEMENT; LYNN VESSELS CONSTRUCTION, LLC; \$969.99, INCREASE**

The City Council approved Change Order No. 1 to Lynn Vessels Construction for replacement of a section of existing storm sewer between Lowell Avenue and Mulberry Street along Harrison Avenue. The change order is a final reconciliatory change order to adjust the final project quantities for the project.

Funding for the project was included in the 2007-2012 Capital Improvement Program budget. The change order results in a \$969.99 increase in the contract amount, yielding a final contract price of \$79,520.22.

CONSENT AGENDA.

CHANGE ORDER
HARRISON AVE.
STORM DRAIN
REPLACEMENT

**CHANGE ORDER NO. 1
2007-2008 STREET MILL AND OVERLAY PROGRAM; R.K. HALL CONSTRUCTION, LTD.; \$46,709.00, INCREASE**

The City Council approved Change Order No. 1 to R.K. Hall Construction for the street mill and overlay services during Fiscal Year 2007-2008. The street improvement program included several mill and overlay projects that are part of the new “Enhanced Thoroughfare Network” program and the Capital Improvement Program. The change order results in a \$46,709 increase in the contract amount.

CONSENT AGENDA.

CHANGE ORDER
STREET MILL &
OVERLAY PROGRAM

OTHER BUSINESS

RECEIVE POLICE CHIEF TOM WATT'S BRIEFING ON GRAFFITI IN SHERMAN

GRAFFITI

Tom Watt, Police Chief, presented a report on graffiti in Sherman which is an initial sign of blight in a neighborhood. The graffiti is mainly seen on the east side of Sherman.

Chief Watt said many cities have an ordinance to enforce control of the graffiti. He said he is also going to upgrade the training of officers and plans to meet with the Dallas Police Department experts.

He added that Sherman currently has some gang graffiti but mainly the problem is young people that are "tagging" just because they can. The focus will also include a public education campaign, especially in the schools.

The City has also contacted the major paint dealers in Sherman and anticipate they will have some excess paint that can be used to cover the graffiti.

Jeff Miller, Director of Public Works, will participate with City crews that cover up graffiti on public property. The goal is to report and cover graffiti on public property as quickly as possible, hopefully within 24 hours. The excess paint will probably be made available to private property owners as well, to cover graffiti on their own property.

Mayor Magers asked if graffiti is a growing problem and if the plan is to codify how the problem will be addressed. Chief Watt said the problem has increased over the past year and currently there are 35 locations that have graffiti, with 25 of those being on private property.

He added that enforcement on private property is where the problem lies. Many cities declare graffiti a nuisance and provide for its abatement. Some cities file liens if the property owner doesn't abate the problem. One City even assesses a 10% penalty.

Council Member Smith verified that Chief Watt wants to give private property owners a specified amount of time to remove or cover the graffiti and if it is not removed within that time, the City will abate the nuisance.

Chief Watt added that 30% of the cities he spoke with provide for the City to ultimately abate the problem and absorb the cost. The other 70% of the cities require that the property owner pays the cost or the City abates the problem and files a lien on the property. He added that this would be after ample time to abate the nuisance and due process. The City would also provide the materials to the property owner for abatement.

Council Member Howeth addressed one business on Jones Street near First Street that has been “tagged” five times. She felt there should be teeth for enforcement against the people creating the graffiti, who are also probably violating the curfew ordinance.

Chief Watt added that there are some shielding compounds that allow for a quick wash to remove graffiti instead of the heavy scrubbing that may be required.

Mayor Magers asked who will administer the program. Chief Watt said the staff is currently in the process of building the program and it will be a partnership, but they plan to have one director responsible for the program.

Mayor Magers wanted to be sure there was some way for the City to step in and help the private property owner if they were unable to abate the problem. Chief Watt said that will be included in the proposal.

CONSIDER REQUEST OF THE SHERMAN ARTS FESTIVAL COMMITTEE TO TEMPORARILY CLOSE CERTAIN STREETS, SUSPEND PARKING TIME LIMITS, AND USE CERTAIN CITY FACILITIES AND SERVICES FOR THE 26TH ANNUAL SHERMAN ARTS FESTIVAL ON SATURDAY, SEPTEMBER 20, 2008

ARTS FESTIVAL

The City Council approved the request of the Sherman Arts Festival Committee to provide barricades and street closures, suspend parking time limits, and use City facilities and services, including trash pickup, trash cans, dumpsters, and street sweepers, for the 26th Annual Sherman Arts Festival on Saturday, September 20, 2008.

CONSENT AGENDA.

CITIZENS REQUESTS
GRAYSON DISASTER RELIEF

**GRAYSON
DISASTER
RELIEF
COMMITTEE**

Kathy Williams, 274 Yowell Hill, Whitewright, appeared as a member of the Grayson Disaster Relief Committee, and thanked the City of Sherman for opening the Respite Center and providing all the support services. She thanked Fire Chief Jeff Jones for his support, and Theresa Hutchinson, Recreation Coordinator, and her daughter for working with evacuee’s children. She also thanked local businesses that donated items or assisted with needs of the evacuees.

Mrs. Williams said the community really came together and the City responded very quickly to the need for a Respite Center. She thanked Mr. Olson, Mr. Hefton, and the City staff, and everyone that has worked over the last few years in organizing the Grayson Disaster Relief Committee.

Mayor Magers also thanked Mrs. Williams for her hard work during the situation.

EMERGENCY PREPAREDNESS SEMINAR

Traci Carlson, 828 Morrison Road, Howe, President of the Chamber of Commerce, commended the City Council on using a local business.

She also said the Chamber of Commerce, Texoma Council of Governments, and Texoma Regional Public-Private Preparedness Coalition, are sponsoring an Emergency Preparedness Seminar on September 5, 2008 at the Center for Workplace Learning at Grayson County College.

The seminar will be for small business owners to prepare a plan so their businesses will not fail when faced with an emergency such as hurricanes, tornados, workplace violence, or data loss.

MEDIA QUESTIONS

There were no media questions.

CONSIDER THE QUALIFICATIONS, APPOINTMENT AND REMOVAL OF MEMBERS TO BOARDS AND COMMISSIONS: CONFIRMATION OF CITY MANAGER APPOINTMENT OF A MEMBER TO THE CIVIL SERVICE COMMISSION (1)

Mr. Olson explained that the Civil Service Commission is a three member Commission with appointment by the City Manager and confirmation from the City Council. He recommended confirmation of Lee Salinas to the Civil Service Commission.

ACTION TAKEN.

Motion by Council Member Adami to confirm the City Manager's appointment of Lee Salinas to the Civil Service Commission to fill an unexpired term from September 3, 2008 to June 8, 2010. Second by Council Member Smith.

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

VOTING NAY: None.

MOTION CARRIED.

COUNCIL COMMENTS

ANNUAL BUDGET

Council Member Adami said the Budget is always a difficult decision, especially when there are flat revenues and rising expenses, which is a loss of money. It requires difficult choices and he thanked everyone for their patience.

He also congratulated Mr. Olson, Mr. Hefton, and all the staff for their hard work on the Budget and for addressing the needs of the evacuees displaced by Hurricane Gustav.

DAY CARE CENTER

Council Member Softly congratulated the staff for looking at other alternatives for the Day Care issue.

EMERGENCY PREPAREDNESS SEMINAR

MEDIA QUESTIONS

CIVIL SERVICE COMMISSION

ANNUAL BUDGET

DAY CARE CENTER

DAY CARE CENTER

Deputy Mayor Wacker said she was very excited about the public-private partnership and felt it was an excellent solution for the Day Care Center, which is a non-traditional City service.

She also thanked the Emergency Response Team for pulling together in the face of the recent emergencies.

CREEK CLEANING

Deputy Mayor Wacker reminded property owners with concerns about creek flooding, that they are responsible for creek maintenance to the center point of the creek. She asked that the staff provide a media release or public information campaign to make citizens aware of this fact.

CONDOLENCES TO CONGRESSMAN RALPH HALL

Mayor Magers offered condolences to Congressman Ralph Hall in the recent loss of his wife Mary Ellen. He said she was a great lady and will be missed. Mayor Magers asked everyone to keep Congressman Hall in their prayers.

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

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

SECTION 551.071 -- CONSULTATION WITH CITY ATTORNEY CONCERNING LEGAL MATTERS:
PANDA ENERGY

CITIES AGGREGATION POWER PROJECT, INC. (CAPP)
NEGOTIATIONS

SECTION 551.071 -- CONSULTATION WITH CITY ATTORNEY CONCERNING PENDING OR CONTEMPLATED LITIGATION:
CAUSE NO. 05-06-00420-CV;
CITY OF SHERMAN, ET AL V. JAMES WAYNE

LUCKY STOP #10'S REQUEST FOR ALCOHOL PERMIT

DAY CARE CENTER

CREEK CLEANING

**CONDOLENCES TO
CONGRESSMAN
RALPH HALL**

EXECUTIVE SESSION

SECTION 551.072 -- DELIBERATIONS REGARDING
REAL PROPERTY:
DELIBERATE REGARDING THE
POTENTIAL PURCHASE OF A
PIECE OF REAL PROPERTY

SECTION 551.087 -- DELIBERATIONS REGARDING
ECONOMIC DEVELOPMENT
NEGOTIATIONS:
DELIBERATE REGARDING
COMMERCIAL OR FINANCIAL
INFORMATION THAT THE CITY
HAS RECEIVED FROM BUSINESS
PROSPECTS AND DELIBERATE
ANY OFFERS OR INCENTIVES TO
THE BUSINESS PROSPECTS,
INCLUDING THE FOLLOWING:
PANDA ENERGY

On Motion duly made and carried, the Open Meeting
recessed and reconvened in Executive Session at 5:38 p.m.

On Motion duly made and carried, the Executive Session
recessed at 6:43 p.m. and reconvened in Open Meeting.

OPEN MEETING

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

OPEN MEETING

ADJOURNMENT

On Motion duly made and carried, the meeting adjourned at
6:44 p.m.

ADJOURNMENT

MAYOR

CITY CLERK



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. A.5

PROCLAMATION

“Lions White Cane Day” – October 4, 2008

Issue

Each year, the Sherman Noon Lions Club participates in “White Cane Day” to collect donations to help the needy with sight problems.

Background

The Lions Club voluntarily provides all manpower and leadership for the effort to collect donations from citizens wishing to participate in saving vision.

Origination

The request came from Dr. Jerry Gundersheimer, Chairman of the White Cane Drive, Sherman Noon Lions Club.

Financial Consideration

There is no financial consideration.

Staff Recommendation

The staff recommendation is to present the proclamation naming October 4, 2008 as “Lions White Cane Day” in Sherman.

Alternatives

The City Council could choose not to present the proclamation.

Attachments

The proclamation is attached.

Prepared by:
Linda Ashby, City Clerk

Approved by:
George Olson, City Manager

SHERMAN



Proclamation

WHEREAS, Lions International, with over 1,300,000 members in the free world, has been dedicated to saving sight for over sixty years, and

WHEREAS, the Sherman Noon Lions Club has been outstanding in its community in helping the needy with sight problems through the use of its White Cane donations, and

WHEREAS, the Sherman Noon Lions Club has invited its neighbors to share in saving vision by donating to its White Cane Day event, and

WHEREAS, the Lions Club voluntarily provides all manpower and leadership for the volunteer effort.

NOW THEREFORE, I, Bill Rogers, Mayor of the City of Sherman, Texas, by the authority vested in me, do hereby proclaim October 4, 2008

LIONS WHITE CANE DAY

in the City of Sherman and invite all citizens to join me in sharing the Lions concern for the best sight possible for our neighbors in need, by giving generously to Lions White Cane Day. Every penny will give "The Gift of Sight."

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Sherman to be affixed, this the 15th day of September, 2008.

Mayor

ATTEST:

Linda Ashby
City Clerk





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. B.1

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5556

Providing for the Levy of Ad Valorem Taxes for the City of Sherman, Texas, for the Tax Year 2008; 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

Issue

To hold a public hearing and introduce for adoption at the September 15th Council meeting, the Ad Valorem Tax Rate proposed for the upcoming fiscal year, as mandated by revisions in the State of Texas Truth-In-Taxation Laws

Background

The effective tax rate is the rate that yields the same amount of revenue as the prior year on property that is taxed in both years. This year's effective tax rate is \$0.401867, with a rollback rate of \$0.500669. At the Budget Workshop in July, the City Council directed that the actual total tax rate be set at \$0.320000 per \$100 valuation. Since the City uses ad valorem taxes to pay debt service on Certificates of Obligation, the tax rate will have both a Maintenance & Operations (M&O) component and an Interest and Sinking (I&S) component. The M&O rate is \$.306234 per \$100 valuation and the required I&S rate is \$.013766 per \$100 valuation. This is the final action on the tax rate.

Origination

Assistant City Manager/CFO

Financial Consideration

The proposed tax rate will generate approximately \$6.7 million in property tax revenues.

Staff Recommendation

Based on the Budget Workshop and discussion of the draft budget, the staff recommends the adoption of the tax rates as indicated above.

Alternatives

The City Council could change the direction they gave at the Budget Workshop by requesting a tax rate other than \$0.32 per \$100 valuation. Setting a rate over \$0.320000 per \$100 valuation would mean that the public hearing and publication process would have to begin again.

Attachments

Ordinance No. 5556

"2008 Property Rates in CITY OF SHERMAN"

Prepared by:
Robby Hefton, Assistant City Manager/CFO

Approved by:
George Olson, City Manager

ORDINANCE NO. 5556

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 2008; 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; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That there be, and there is hereby, levied and shall be collected a Maintenance and Operations (M&O) ad valorem tax of \$0.306234/\$100 Dollars (\$0.306234) and an Interest and Sinking (I&S) ad valorem tax of \$0.013766/\$100 Dollars (\$0.013766) on all taxable property situated within the corporate limits of the City of Sherman on the first day of January, A.D., 2008, and not exempt from taxation by the constitution and laws of the State of Texas, apportioned as follows, to-wit:

FOR GENERAL FUND EXPENDITURES, \$0.306234 on each One Hundred Dollars (\$100.00) assessed valuation of such property;

FOR DEBT SERVICE EXPENDITURES, \$0.013766 on each One Hundred Dollars (\$100.00) assessed valuation on such property.

SECTION 2. That a penalty shall be charged and collected from all persons who do not pay their taxes prior to the first day of February, 2009. Penalty charges shall be in accordance with the following schedule:

If paid in February, 2009	6%
If paid in March, 2009	7%
If paid in April, 2009	8%
If paid in May, 2009	9%
If paid in June, 2009	10%
If paid on or after July 1, 2009	12%

All delinquent taxes shall accrue interest from the date of delinquency at the rate of one percent (1%) for each month or portion of a month the tax remains unpaid. Pursuant to Section 33.07 of the Texas Property Tax Code, an additional penalty of 15% of the amount of taxes, penalty and interest that remain due after July 1, 2009, shall be assessed to defray the cost of collection.

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 _____, 2008.

ADOPTED on this the _____ day of _____, 2008.

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

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

DOREEN M. MCGOOKEY,
CITY ATTORNEY

2008 Property Tax Rates in CITY OF SHERMAN

This notice concerns 2008 property tax rates for CITY OF SHERMAN. It presents information about three tax rates. Last year's tax rate is the actual rate the taxing unit used to determine property taxes last year. This year's effective tax rate would impose the same total taxes as last year if you compare properties taxed in both years. This year's rollback tax rate is the highest tax rate the taxing unit can set before taxpayers can start tax rollback procedures. In each case these rates are found by dividing the total amount of taxes by the tax base (the total value of taxable property) with adjustments as required by state law. The rates are given per \$100 of property value.

Last year's tax rate:

Last year's operating taxes	\$7,374,744
Last year's debt taxes	\$0
Last year's total taxes	\$7,374,744
Last year's tax base	\$1,843,686,000
Last year's total tax rate	0.400000/\$100

This year's effective tax rate:

Last year's adjusted taxes (after subtracting taxes on lost property)	\$6,898,349
÷ This year's adjusted tax base (after subtracting value of new property)	\$1,716,574,326
= This year's effective tax rate (Maximum rate unless unit publishes notices and holds hearings.)	0.401867/\$100

This year's rollback tax rate:

Last year's adjusted operating taxes (after subtracting taxes on lost property and adjusting for any transferred function, tax increment financing, and/or enhanced indigent health care expenditures)	\$11,161,866
÷ This year's adjusted tax base	\$1,716,574,326
= This year's effective operating rate	0.650241/\$100
x 1.08 = this year's maximum operating rate	0.702260/\$100
+ This year's debt rate	0.013766/\$100
= This year's total rollback rate	0.716026/\$100
- Sales tax adjustment rate	0.215357/\$100
= Rollback tax rate	0.500669/\$100

Statement of Increase/Decrease

If CITY OF SHERMAN adopts a 2008 tax rate equal to the effective tax rate of 0.401867 per \$100 of value, taxes would decrease compared to 2007 taxes by \$271,036.

Schedule A - Unencumbered Fund Balances

The following estimated balances will be left in the unit's property tax accounts at the end of the fiscal year. These balances are not encumbered by a corresponding debt obligation.

Type of Property Tax Fund	Balance
MAINTENANCE & OPERATIONS	\$1,341,000
INTEREST & SINKING	\$150,000

Schedule B - 2008 Debt Service

The unit plans to pay the following amounts for long-term debts that are secured by property taxes. These amounts will be paid from property tax revenues (or additional sales tax revenues, if applicable).

Description of Debt	Principal or Contract Payment to be Paid from Property Taxes	Interest to be Paid from Property Taxes	Other Amounts to be Paid	Total Payment
2008 CERTIFICATE OF OBLIGATION	\$0	\$243,344	\$0	\$243,344
Total Required for 2008 Debt Service				\$243,344
- Amount (if any) paid from funds listed in Schedule A				\$0
- Amount (if any) paid from other resources				\$0
- Excess collections last year				\$0
= Total to be paid from taxes in 2008				\$243,344
+ Amount added in anticipation that the unit will collect only 100.00% of its taxes in 2008				\$0
= Total Debt Levy				\$243,344

Schedule C - Expected Revenue from Additional Sales Tax

In calculating its effective and rollback tax rates, the unit estimated that it will receive \$3,806,808 in additional sales and use tax revenues.

This notice contains a summary of actual effective and rollback tax rates' calculations. You can inspect a copy of the full calculations at 100 W. HOUSTON, SHERMAN, TX 75090.

Name of person preparing this notice: JOHN RAMSEY
Title: TAX ASSESSOR-COLLECTOR GRAYSON COUNTY
Date Prepared: July 28, 2008



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. B.2

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5558

Amending Section 12, Ordinance No. 2280, so as to Include Certain Properties within the C-2 (General Commercial) District at 3801 U.S. Highway 75 North, being Lot 1, Block C of the Sherman Commons Addition, Replat of Block C (Woodmont Sherman, L.P., Owners, and Mays & Company, Prospective Buyer)

Issue

To consider the request of Woodmont Sherman, L.P. (Owners) and Mays & Company (Prospective Buyer) concerning the property located at 3801 U.S. Highway 75 North, being Lot 1, Block C of the Sherman Commons Addition, Replat of Block C, to change the zoning from a C-1 (Retail Business) District to a C-2 (General Commercial) District

Background

The property is located at 3801 U.S. Highway 75 North between Taco Cabana and a retail center at the intersection of Loy Lake Road and Highway 75. The owners would like to construct a Firestone Tire - Complete Auto Care Store at this location.

Origination

Woodmont Sherman, L.P. (Owners) and Mays & Company (Prospective Buyer)

Board Recommendation

At the August 19, 2008 regular meeting, the Planning and Zoning Board voted 5/0 to recommend to the City Council that the zone change be approved.

Attachments

Ordinance No. 5558

Location Map

Photograph

Site Plan

P&Z Communication Form

Staff Review Letter

Prepared by:
Scott Shadden, Development Services Director

Approved by:
George Olson, City Manager

ORDINANCE NO. 5558

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 12, ORDINANCE NO. 2280, SO AS TO INCLUDE CERTAIN PROPERTIES WITHIN THE C-2 (GENERAL COMMERCIAL) DISTRICT AT 3801 U.S. HIGHWAY 75 NORTH, BEING LOT 1, BLOCK C OF THE SHERMAN COMMONS ADDITION, REPLAT OF BLOCK C (WOODMONT SHERMAN, L.P., OWNERS, AND MAYS & COMPANY, PROSPECTIVE BUYER); PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That from and after the passage of this ordinance, the following described property shall be in the C-2 (General Commercial) District at U.S. Highway 75 North, and that Section 12, Ordinance No. 2280 is hereby amended so as to hereafter include the following described property:

Being Lot 1, Block C of the Sherman Commons Addition, Replat of Block C.

SECTION 2. That this ordinance shall not become effective until entered upon the official zoning map as provided in Section 12, Ordinance No. 2280.

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 _____, 2008.

ADOPTED on this the _____ day of _____, 2008.

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

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

DOREEN E. MCGOOKEY,
CITY ATTORNEY



LEGEND

R-A	SINGLE FAMILY AGRICULTURAL DISTRICT	M-2	HEAVY MANUFACTURING DISTRICT
SF-1	SINGLE FAMILY RESIDENTIAL DISTRICT	M H	MANUFACTURED HOUSING DISTRICT
R-1	ONE AND TWO FAMILY RESIDENTIAL DISTRICT	BLA	BLALOCK INDUSTRIAL PARK
R-2	MULTI-FAMILY RESIDENTIAL DISTRICT	O-1	OVERLAY DISTRICT - 75 & 82
C-1	RETAIL BUSINESS DISTRICT	O-1.1	OVERLAY DISTRICT - 1417
C-2	GENERAL COMMERCIAL DISTRICT	O-1.2	OVERLAY DISTRICT - SAM RAYBURN FREEWAY
C-O	OFFICE DISTRICT	CPO	COLLEGE PARK OVERLAY
M-1	LIGHT MANUFACTURING DISTRICT	A&C	ARTS & CULTURAL OVERLAY DISTRICT
M-1.5	MEDIUM MANUFACTURING DISTRICT	CBD	CENTRAL BUSINESS DISTRICT



3801 U.S. HWY. 75 N. ZONE CHANGE

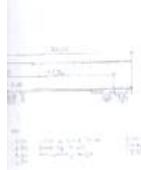
Department of Developmental Services





3801 Hwy 75 N.





PROFILE

TIRE CAPACITY	1,200 TIRES
PARTS SHELVES	630 L.F.
BUILDING AREAS	
CUSTOMER WAITING	1,050 S.F.
SERVICE AREA	4,175 S.F.
INVENTORY	2,343 S.F.
USED INVENTORY	347 S.F.
OTHERS	467 S.F.
TOTAL	8,382 S.F.
SITE AREA	
LOT COVERAGE	436,187 SF (9.880 AC)
PARKING REQ'D (1:400)	27 SPA
PARKING PROVIDED	79 SPACES

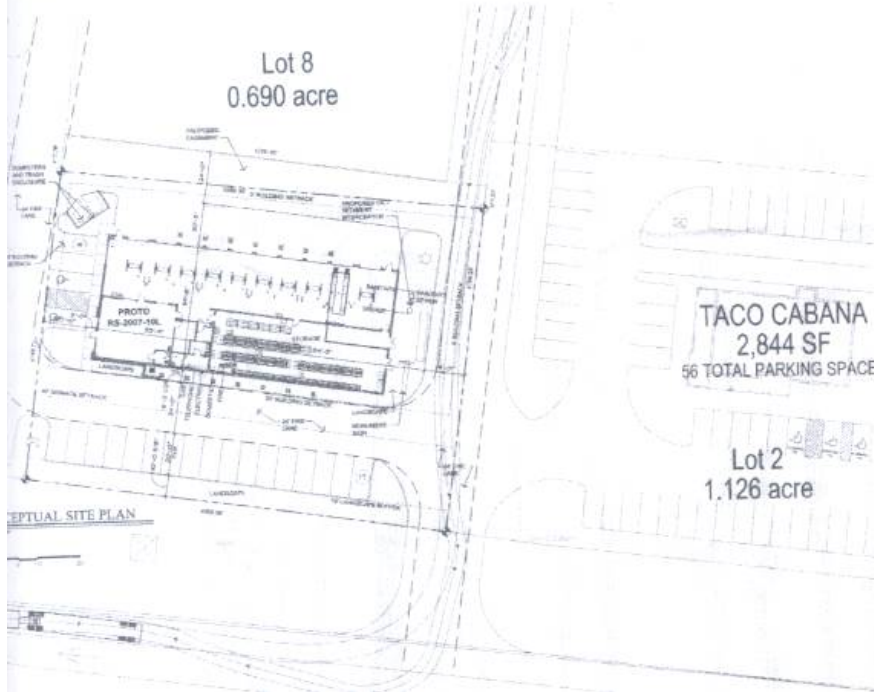
SITE DATA



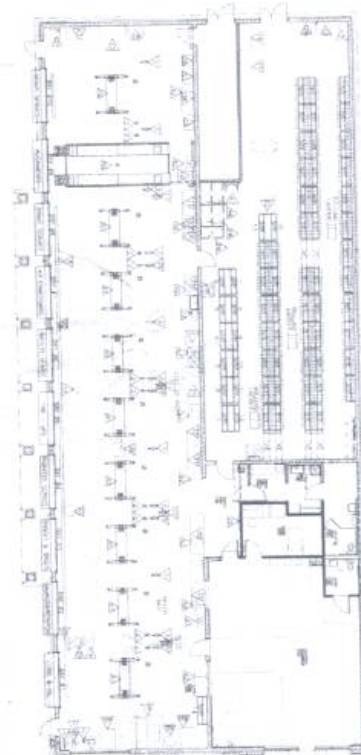
MONUMENT SIGN DETAIL



VICINITY MAP

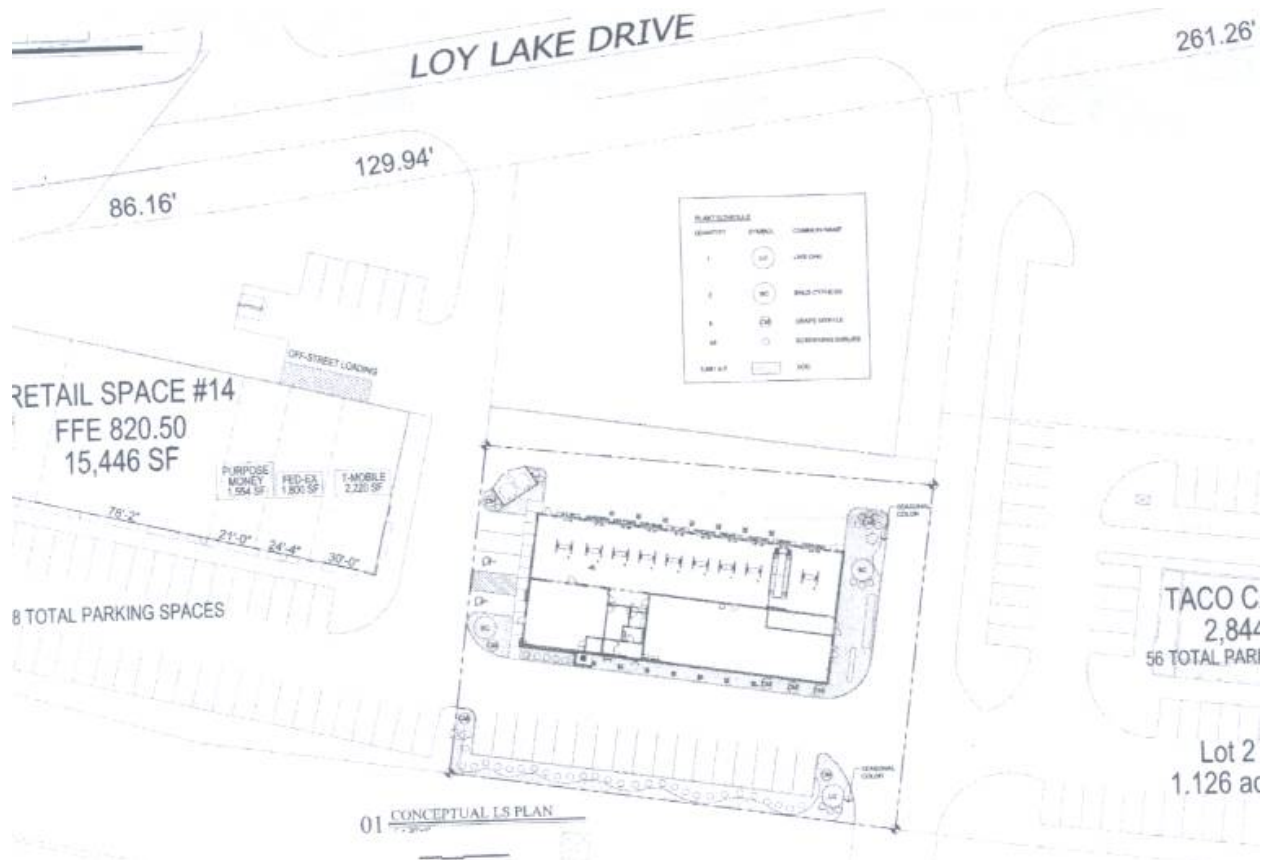


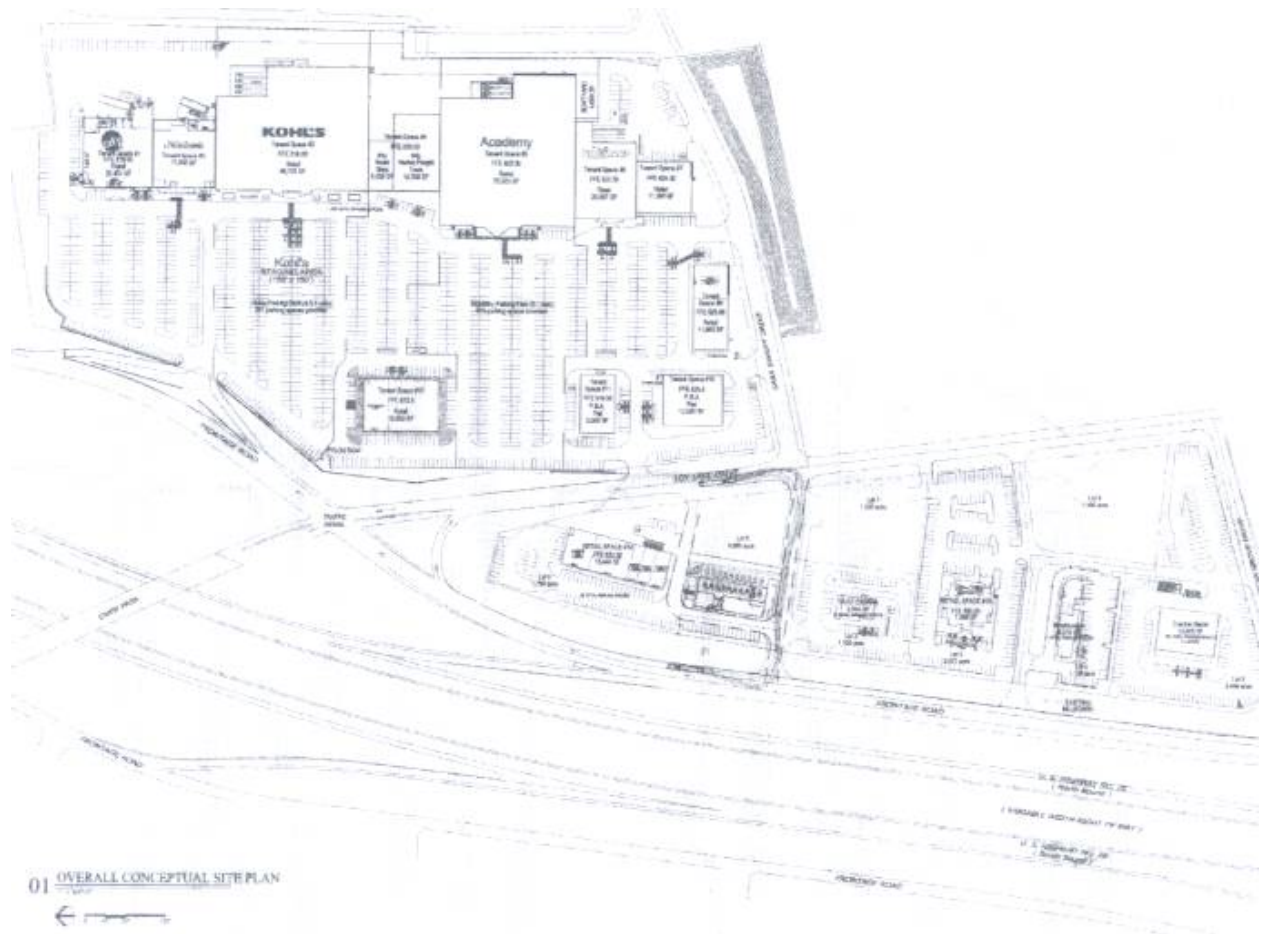
DEPTUAL SITE PLAN



FIXTURE PLAN

TACO CABANA
2,844 SF
56 TOTAL PARKING SPACE







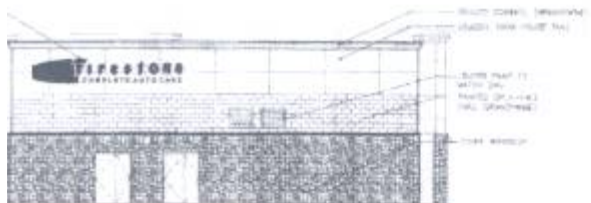
(EAST) ELEVATION



(WEST) ELEVATION



(NORTH) ELEVATION



City of Sherman
Planning and Zoning Commission
Board of Adjustments
Agenda Communication Form
August 19, 2008
Jason Sofey, Chairman

Jim Jacobs, Vice Chairman
Robin Atherton, Commissioner
Lawrence Davis, Commissioner
Brad Morgan, Commissioner

John Nix, Commissioner
Steve Jones, Commissioner
David Plyler, Commissioner
Darren Tankersley, Commissioner

3801 U.S. Highway 75 North
Being Lot 1, Block C of the Sherman Commons Addition, Replat of Block C
Zone Change & SUP

Requested Action/Proposed Use:

Zone change from a C-1 (Retail Business) District to a C-2 (General Commercial) District and Specific Use Permit and site plan approval to allow a tire sales business and an automobile service and repair business, including sales, service, repair and installation of tires, motor vehicle parts and accessories, oil and its derivatives, automobile supplies and furnishings in a C-2 (General Commercial) District and O-1 (75 & 82 Overlay) District.

Background

The property is located at 3801 U.S. Highway 75 North in the Sherman Commons Addition between Taco Cabana and a retail center at the intersection of Loy Lake Road and Highway 75. The applicant would like to construct a Firestone Tire –Complete Auto Care Store at this location.

Adjacent Zoning:

C-1 (Retail Business) District

Origination:

Woodmont Sherman, L.P. (Owners) and Mays & Company (Prospective Buyer)

Master Plan Designation:

Retail/Commercial

Number of notices mailed:

2

Objections received:

0

Attachments:

Location map, Photos, Site Plan, Staff Review

Prepared by:

Patsy Reeves,
Development Services Secretary

Approved by:

Scott Shadden,
Director of Development Services

STAFF REVIEW LETTER

August 13, 2008

Woodmont Sherman, LP
2100 W. 7th Street
Ft. Worth, TX 76107

Mays & Company
5949 Sherry Lane, Ste. 1570
Dallas, TX 75225

NCArchitecture
12160 N. Abrams Rd.
Suite 200
Dallas, TX 75243

Dear Applicants,

Your request for approval of a zone change from a C-1 (Retail Business) District to a C-2 (General Commercial) District and Specific Use Permit and site plan approval to allow a tire sales business and an automobile service and repair business, including sales, service, repair and installation of tires, motor vehicle parts and accessories, oil and its derivatives, automobile supplies and furnishings in a C-2 (General Commercial) District and O-1 (75 & 82 Overlay) District located at 3801 U.S. Highway 75 North has been scheduled to be heard by the Planning and Zoning Board on the day of Tuesday, August 19, 2008 at 5:00 p.m., in the City Council Chambers, City Hall at 220 W. Mulberry.

City staff has reviewed your request with regards to zoning, engineering and development guidelines and finds the following items need to be addressed:

Zoning:

1. All aspects of the C-2 (General Commercial) District, the O-1 (75 & 82) Overlay District, the Commercial Tree and Landscaping Ordinance and Sign Ordinance must be followed.
2. Outside storage and display of products will not be allowed.
3. Fire lanes and codes shall be coordinated with the Fire Marshal, (903.892.7267)
4. Overhead doors/service bays shall not be located on the parkway side of any building without variance approval.

Any other changes made to the site plan prior to the final fulfillment of the conditions of the staff review, must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

You are hereby notified to be present, either in person or by your authorized representative to present your request on the date and time stated above.

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

Respectfully,

Scott Shadden,
Secretary, Planning and Zoning Board and Board of Adjustment

CC: George Olson, City Manager Danny Fuller, Fire Marshal
 Mark Gibson, Director Utilities & Engineering Services Jeff Miller, Director of Public Works
 Doreen E. McGookey, City Attorney
 Rita Gaither, Development Coordinator



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. B.3

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5559

Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Woodmont Sherman, L.P. (Owners) and Mays & Company (Prospective Buyer) to Allow a Tire Sales Business and an Automobile Service and Repair Business, including Sales, Service, Repair and Installation of Tires, Motor Vehicle Parts and Accessories, Oil and its Derivatives, Automobile Supplies and Furnishings in a C-2 (General Commercial) District and O-1 (75 & 82 Overlay) District at 3801 U.S. Highway 75 North, being Lot 1, Block 1 of the Sherman Commons Addition, Replat of Block C; Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000

Issue

To consider granting a Specific Use Permit to Woodmont Sherman, L.P. (Owners) and Mays & Company (Prospective Buyer) to allow a tire sales business and an automobile service and repair business, including sales, service, repair and installation of tires, motor vehicle parts and accessories, oil and its derivatives, automobile supplies and furnishings in a C-2 (General Commercial) District and O-1 (75 & 82 Overlay) District at 3801 U.S. Highway 75 North, being Lot 1, Block C of the Sherman Commons Addition, Replat of Block C

Background

The property is located at 3801 U.S. Highway 75 North between Taco Cabana and a retail center at the intersection of Loy Lake Road and Highway 75. The owners would like to construct a Firestone Tire - Complete Auto Care Store at this location.

Origination

Woodmont Sherman, L.P. (Owners) and Mays & Company (Prospective Buyer)

Board Recommendation

At the August 19, 2008 regular meeting, the Planning and Zoning Board voted 5/0 to recommend to the City Council that the Specific Use Permit be approved subject to solid doors with the same coordinating finish and color on the rear of the building and the staff review letter.

Attachments

Ordinance No. 5559, Location Map, Photograph, Site Plan, Letters, P&Z Communication Form, Staff Review Letter

Prepared by:
Scott Shadden, Development Services Director

Approved by:
George Olson, City Manager

ORDINANCE NO. 5559

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO WOODMONT SHERMAN, L.P. (OWNERS) AND MAYS & COMPANY (PROSPECTIVE BUYER) TO ALLOW A TIRE SALES BUSINESS AND AN AUTOMOBILE SERVICE AND REPAIR BUSINESS, INCLUDING SALES, SERVICE, REPAIR AND INSTALLATION OF TIRES, MOTOR VEHICLE PARTS AND ACCESSORIES, OIL AND ITS DERIVATIVES, AUTOMOBILE SUPPLIES AND FURNISHINGS IN A C-2 (GENERAL COMMERCIAL) DISTRICT AND O-1 (75 & 82 OVERLAY) DISTRICT AT 3801 U.S. HIGHWAY 75 NORTH, BEING LOT 1, BLOCK 1 OF THE SHERMAN COMMONS ADDITION, REPLAT OF BLOCK C; PROVIDING FOR A REPEALER; PROVIDING THAT THIS SPECIFIC USE PERMIT SHALL BE GRANTED SUBJECT TO CERTAIN CONDITIONS; PROVIDING A PENALTY NOT TO EXCEED \$2,000; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

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

WHEREAS, the City Council finds that it is in the public interest to grant this specific use permit, subject to certain conditions;

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

SECTION 1. That from and after the passage of this ordinance, Woodmont Sherman, L.P. (Owners) and Mays & Company (Prospective Buyer) are granted a Specific Use Permit to allow a tire sales business and an automobile service and repair business, including sales, service, repair and installation of tires, motor vehicle parts and accessories, oil and its derivatives, automobile supplies and furnishings in a C-2 (General Commercial) District and O-1 (75 & 82 Overlay) District at 3801 U.S. Highway 75 North, and that Section 8, Subsection (5)(a), Ordinance No. 2280 is hereby amended so as to hereafter include the following described property:

Being Lot 1, Block 1 of Sherman Commons Addition, Replat of Block C.

SECTION 2. That this specific use permit is granted on the following conditions:

1. All aspects of the C-2 (General Commercial) District, the O-1 (75 & 82) Overlay District, the Commercial Tree and Landscaping Ordinance and Sign Ordinance must be followed.
2. Outside storage and display of products will not be allowed.
3. Fire lanes and codes shall be coordinated with the Fire Marshal, (903.892.7267)
4. Overhead doors/service bays shall not be located on the parkway side of any building without variance approval.
5. Solid doors that match the exterior color of the stone surface are required.

SECTION 3. That this ordinance shall not become effective until entered upon the official zoning map as provided in Section 8, Subsection (5)(a), Ordinance No. 2280.

SECTION 4. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

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

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

INTRODUCED on this the _____ day of _____, 2008.

ADOPTED on this the _____ day of _____, 2008.

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

CITY OF SHERMAN, TEXAS

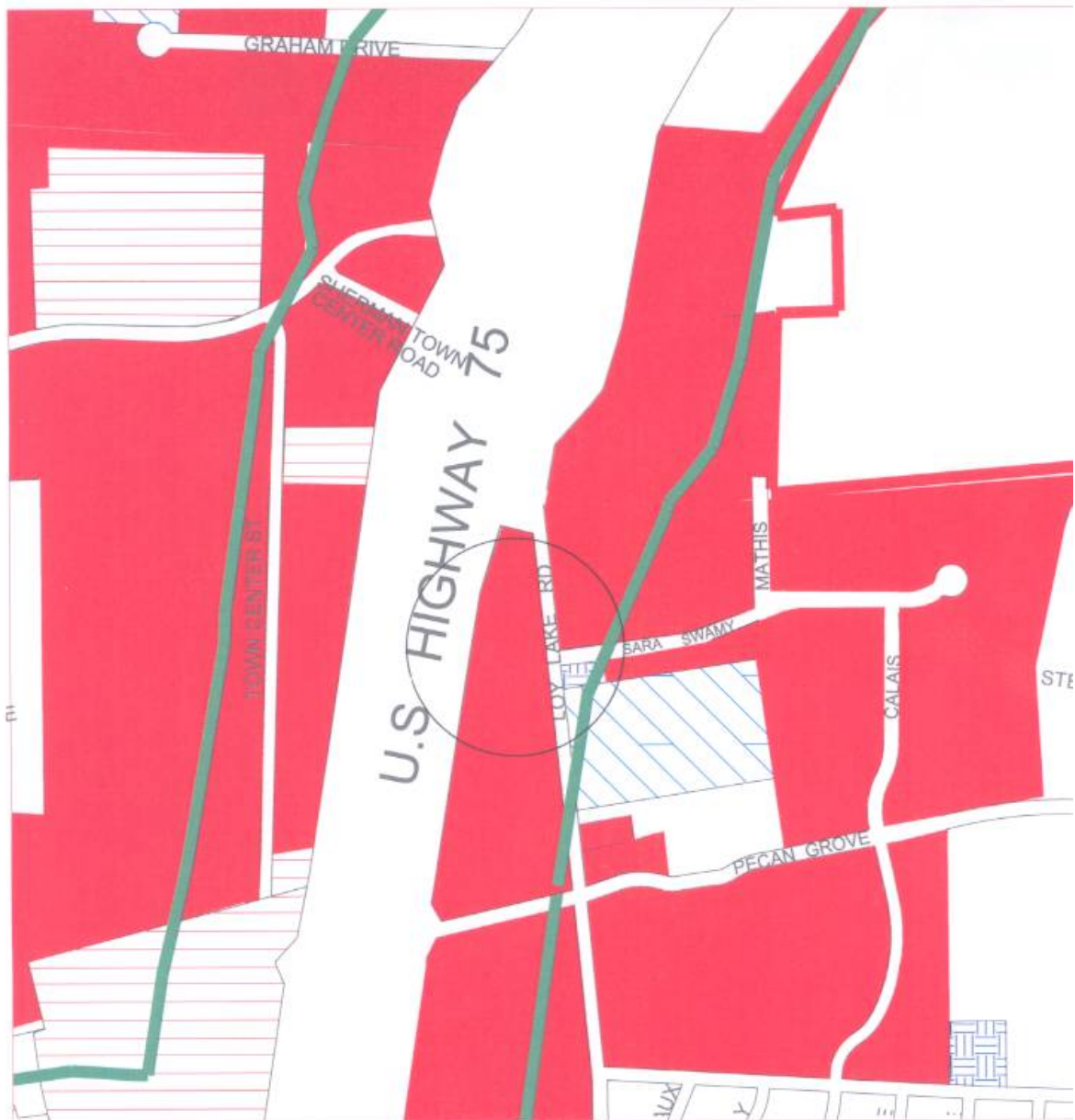
ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
BILL MAGERS, MAYOR

**APPROVED AS TO FORM
AND CONTENT:**

**DOREEN E. MCGOOKEY,
CITY ATTORNEY**



LEGEND

R-A	SINGLE FAMILY AGRICULTURAL DISTRICT	M-2	HEAVY MANUFACTURING DISTRICT
SF-1	SINGLE FAMILY RESIDENTIAL DISTRICT	M H	MANUFACTURED HOUSING DISTRICT
R-1	ONE AND TWO FAMILY RESIDENTIAL DISTRICT	BIALOCK INDUSTRIAL PARK	
R-2	MULTI-FAMILY RESIDENTIAL DISTRICT	O-1	OVERLAY DISTRICT - 75 & 82
C-1	RETAIL BUSINESS DISTRICT	O-1.1	OVERLAY DISTRICT - 1417
C-2	GENERAL COMMERCIAL DISTRICT	O-1.2	OVERLAY DISTRICT - SAM RAYBURN FREEWAY
C.O	OFFICE DISTRICT	CPO	COLLEGE PARK OVERLAY
M-1	LIGHT MANUFACTURING DISTRICT	A&C	ARTS & CULTURAL OVERLAY DISTRICT
M-1.5	MEDIUM MANUFACTURING DISTRICT	CBD	CENTRAL BUSINESS DISTRICT



3801 U.S. HWY. 75 N. ZONE CHANGE

Department of Developmental Services





wy
75

Taco Cabana

3801 Hwy 75 N.





PROFILE

TIRE CAPACITY:	1,200 TIRES
PAINTS SHELVES:	630 L.F.
BUILDING AREAS	
CUSTOMER WAITING	1010 S.F.
SERVICE AREA	8,175 S.F.
INVENTORY	2,243 S.F.
USED INVENTORY	247 S.F.
OTHERS	487 S.F.
TOTAL	9,142 S.F.
SITE AREA	435,187 SF (10.00 AC)
LOT COVERAGE	27.5%
PARKING REQUIRED (MIN)	18 SPACES
PARKING PROVIDED	21 SPACES

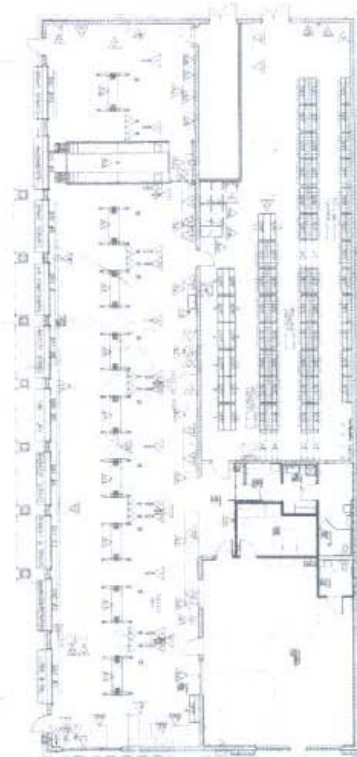
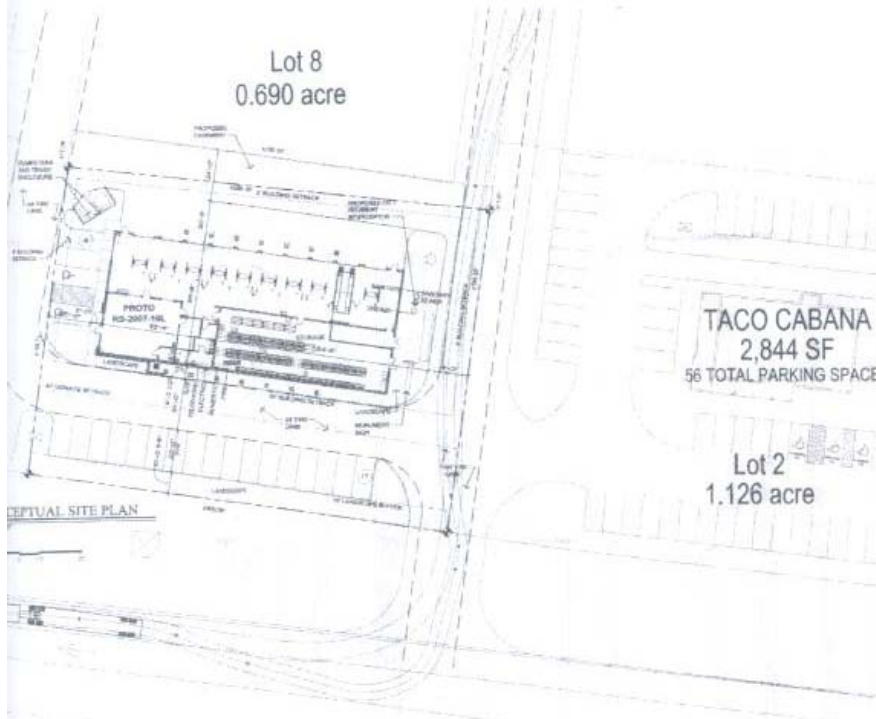
SITE DATA



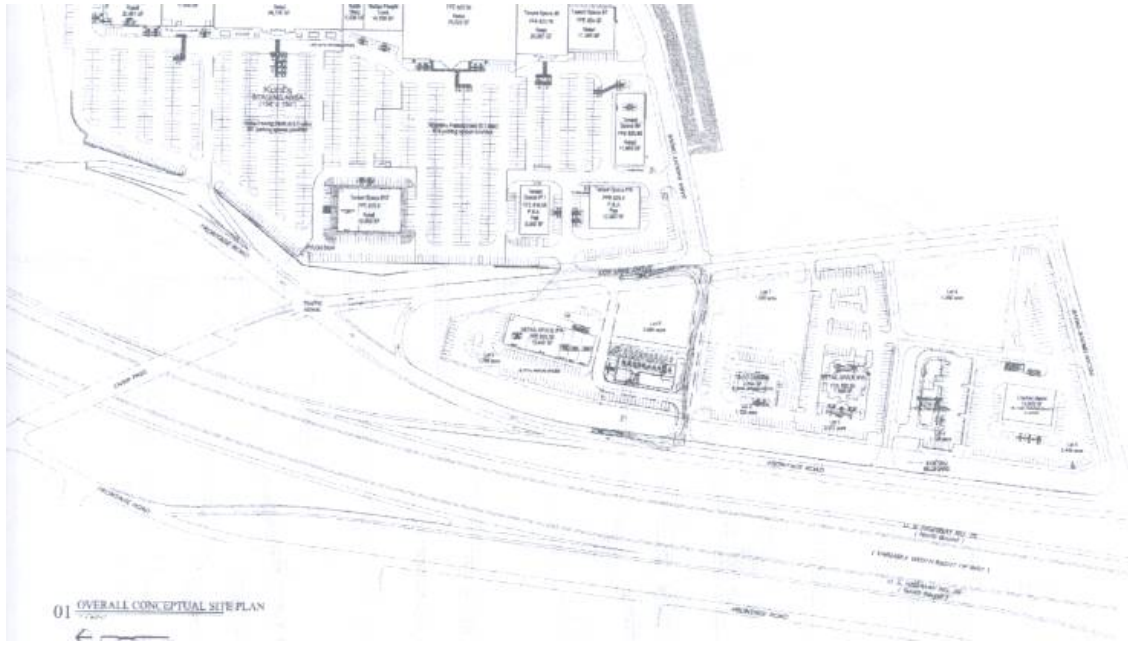
MONUMENT SIGN DETAIL



VICINITY MAP



02 FLOOR PLAN

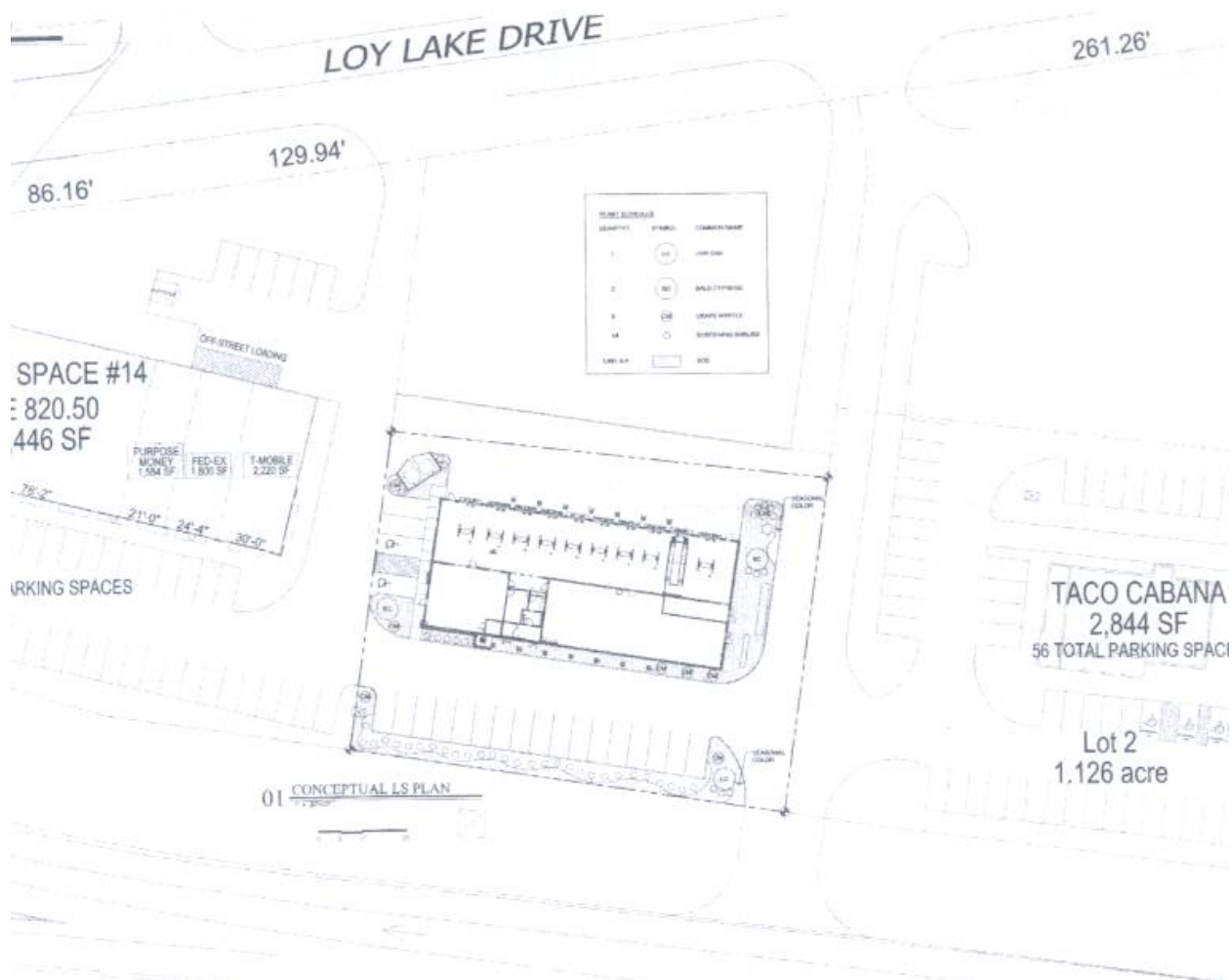


01 OVERALL CONCEPTUAL SITE PLAN

NEW FCAC STORE
 100,000 SQ. FT. AND
 100,000 SQ. FT. AND
 100,000 SQ. FT. AND

Firestone
 COMPLETE AUTO CARE

NCA
 NORTH CAROLINA ASSOCIATION OF REALTORS



City of Sherman
Planning and Zoning Commission
Board of Adjustments
Agenda Communication Form
August 19, 2008
Jason Sofey, Chairman

Jim Jacobs, Vice Chairman
Robin Atherton, Commissioner
Lawrence Davis, Commissioner
Brad Morgan, Commissioner

John Nix, Commissioner
Steve Jones, Commissioner
David Plyler, Commissioner
Darren Tankersley, Commissioner

3801 U.S. Highway 75 North
Being Lot 1, Block C of the Sherman Commons Addition, Replat of Block C
Zone Change & SUP

Requested Action/Proposed Use:

Zone change from a C-1 (Retail Business) District to a C-2 (General Commercial) District and Specific Use Permit and site plan approval to allow a tire sales business and an automobile service and repair business, including sales, service, repair and installation of tires, motor vehicle parts and accessories, oil and its derivatives, automobile supplies and furnishings in a C-2 (General Commercial) District and O-1 (75 & 82 Overlay) District.

Background

The property is located at 3801 U.S. Highway 75 North in the Sherman Commons Addition between Taco Cabana and a retail center at the intersection of Loy Lake Road and Highway 75. The applicant would like to construct a Firestone Tire –Complete Auto Care Store at this location.

Adjacent Zoning:

C-1 (Retail Business) District

Origination:

Woodmont Sherman, L.P. (Owners) and Mays & Company (Prospective Buyer)

Master Plan Designation:

Retail/Commercial

Number of notices mailed:

2

Objections received:

0

Attachments:

Location map, Photos, Site Plan, Staff Review

Prepared by:
Patsy Reeves,
Development Services Secretary

Approved by:
Scott Shadden,
Director of Development Services

STAFF REVIEW LETTER

August 13, 2008

Woodmont Sherman, LP
2100 W. 7th Street
Ft. Worth, TX 76107

Mays & Company
5949 Sherry Lane, Ste. 1570
Dallas, TX 75225

NCArchitecture
12160 N. Abrams Rd.
Suite 200
Dallas, TX 75243

Dear Applicants,

Your request for approval of a zone change from a C-1 (Retail Business) District to a C-2 (General Commercial) District and Specific Use Permit and site plan approval to allow a tire sales business and an automobile service and repair business, including sales, service, repair and installation of tires, motor vehicle parts and accessories, oil and its derivatives, automobile supplies and furnishings in a C-2 (General Commercial) District and O-1 (75 & 82 Overlay) District located at 3801 U.S. Highway 75 North has been scheduled to be heard by the Planning and Zoning Board on the day of Tuesday, August 19, 2008 at 5:00 p.m., in the City Council Chambers, City Hall at 220 W. Mulberry.

City staff has reviewed your request with regards to zoning, engineering and development guidelines and finds the following items need to be addressed:

Zoning:

1. All aspects of the C-2 (General Commercial) District, the O-1 (75 & 82) Overlay District, the Commercial Tree and Landscaping Ordinance and Sign Ordinance must be followed.
2. Outside storage and display of products will not be allowed.
3. Fire lanes and codes shall be coordinated with the Fire Marshal, (903.892.7267)
4. Overhead doors/service bays shall not be located on the parkway side of any building without variance approval.

Any other changes made to the site plan prior to the final fulfillment of the conditions of the staff review, must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

You are hereby notified to be present, either in person or by your authorized representative to present your request on the date and time stated above.

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

Respectfully,

Scott Shadden,
Secretary, Planning and Zoning Board and Board of Adjustment

CC:	George Olson, City Manager	Danny Fuller, Fire Marshal
	Mark Gibson, Director Utilities & Engineering Services	Jeff Miller, Director of Public Works
	Doreen E. McGookey, City Attorney	
	Rita Gaither, Development Coordinator	



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. B.4

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5560

Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Mida Elizabeth Skipworth Estate (Owners), Charlie Skipworth (Executor), Mark and Lisa Malone (Prospective Buyers), and Sartin & Associates (Surveyor) to Allow a Two-Family Dwelling (Duplex) on the Proposed Lot 1, Block 1 of Malone's Addition in an R-1 (One Family Residential) District at 1523-1531 East Thomas Street, being 0.36 Acres in the G.B. Pilant Survey, Abstract No. 963; Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000

Issue

To consider granting a Specific Use Permit to Mida Elizabeth Skipworth Estate (Owners), Charlie Skipworth (Executor), Mark and Lisa Malone (Prospective Buyers), and Sartin & Associates (Surveyor) to allow a two-family dwelling (duplex) on the proposed Lot 1, Block 1 of Malone's Addition in an R-1 (One Family Residential) District at 1523-1531 East Thomas Street

Background

The property is located at 1523-1531 East Thomas Street between Loving and Dewey Avenues, across from Hawn Park. The applicant would like to construct one duplex on the lot. The exterior finishes will be red brick with white trim. Each side of the duplex will have two bedrooms for a total of four bedrooms. Four off street parking spaces will be provided for the duplex.

Origination

Mida Elizabeth Skipworth Estate (Owners), Charlie Skipworth (Executor), Mark and Lisa Malone (Prospective Buyers), and Sartin & Associates (Surveyor)

Board Recommendation

At the August 19, 2008 regular meeting, the Planning and Zoning Board voted 5/0 to recommend to the City Council that the Specific Use Permit be approved subject to the staff review letter. The request was amended at the meeting from two duplexes to one duplex on one lot.

Attachments

Ordinance No. 5560; Location Map; Photograph; Site Plan; Letters; P&Z Communication Form; Staff Review Letter

Prepared by:
Scott Shadden, Development Services Director

Approved by:
George Olson, City Manager

ORDINANCE NO. 5560

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO MIDA ELIZABETH SKIPWORTH ESTATE (OWNERS), CHARLIE SKIPWORTH (EXECUTOR), MARK AND LISA MALONE (PROSPECTIVE BUYERS), AND SARTIN & ASSOCIATES (SURVEYOR) TO ALLOW A TWO-FAMILY DWELLING (DUPLEX) ON THE PROPOSED LOT 1, BLOCK 1 OF MALONE'S ADDITION IN AN R-1 (ONE FAMILY RESIDENTIAL) DISTRICT AT 1523-1531 EAST THOMAS STREET, BEING 0.36 ACRES IN THE G.B. PILANT SURVEY, ABSTRACT NO. 963; PROVIDING FOR A REPEALER; PROVIDING THAT THIS SPECIFIC USE PERMIT SHALL BE GRANTED SUBJECT TO CERTAIN CONDITIONS; PROVIDING A PENALTY NOT TO EXCEED \$2,000; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

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

WHEREAS, the City Council finds that it is in the public interest to grant this specific use permit, subject to certain conditions;

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

SECTION 1. That from and after the passage of this ordinance, Mida Elizabeth Skipworth Estate (Owners), Charlie Skipworth (Executor), Mark and Lisa Malone (Prospective Buyers) and Sartin & Associates (Surveyor) are granted a Specific Use Permit to allow a two-family dwelling (duplex) on the proposed Lot 1, Block 1 of Malone's Addition in an R-1 (One Family Residential) District at 1523-1531 East Thomas Street, and that Section 8, Subsection (5)(a), Ordinance No. 2280 is hereby amended so as to hereafter include the following described property:

SITUATED in the City of Sherman, County of Grayson, State of Texas, being a part of the G.B. Pilant Survey, Abstract No. 963, being a part of a 2.616 acre tract of land described in deed from Edna Mulder to Clifton L. Mulder, et al, dated July

27, 1978, recorded in Volume 1442, Page 39, Deed Records, Grayson County, Texas, being the same 104.15 x 144 foot tract of land conveyed by C.J. Skipworth and Mida Elizabeth Skipworth to Mida Elizabeth Skipworth by deed dated December 21, 1987, recorded in Volume 1953, Page 795, Real Property Records, Grayson County, Texas, and being more particularly described by metes and bounds as follows to-wit:

BEGINNING at a found ½ inch rebar in an old wire fence maintaining the Northwest corner of said 104.15 x 144 foot tract, the Northeast corner of Lot Two (2) of Fuller's Hawn Addition to the City of Sherman, Texas as shown by plat of record in Volume 15, Page 68, Plat Records, Grayson County, Texas, on a North line of said 2.616 acre tract;

THENCE North 72 deg. 45 min. 39 sec. East, with the general line of said wire fence, a North line of said 2.626 acre tract, a distance of 146.28 feet to a set ½ inch capped rebar stamped SARTIN – 3694 at the base of a Bois d' Arc corner post on the West line of an 0.495 acre tract of land described in Tract No. 1 in deed from Val Lyndon Mulder, et ux to Richard Dennis Mutz, et ux by deed dated May 26, 1978, recorded in Volume 1435, Page 501, Deed Records, Grayson County, Texas;

THENCE South 16 deg. 24 min. 32 sec. East, with the West line of said Mutz 0.495 acre tract, at a distance of 67.09 feet passing a set ½ inch capped rebar stamped SARTIN – 3694 for its Southwest corner on the North line of Thomas Street and continuing for a total distance of 107.09 feet to the Southeast corner of the herein described tract on the South line of said 2.616 acre tract in said Thomas Street;

THENCE South 73 deg. 54 min. 39 sec. West, with the South line of said 2.616 acre tract, a distance of 146.84 feet to the Southeast corner of said Fuller's Hawn Addition in said Thomas Street;

THENCE North 16 deg. 05 min. 21 sec West, with the East line of said Fuller's Hawn Addition, at a distance of 40.00 feet passing the Southeast corner of the above mentioned Lot Two of said Addition at a point in a 14 inch dia. Hackberry tree and continuing with the East line of said Lot Two for a total distance of 104.15 feet to the PLACE OF BEGINNING and containing 0.36 ACRES OF LAND more or less.....

SECTION 2. That this specific use permit is granted on the following conditions:

Zoning:

1. All requirements of the R-1 (One Family Residential) District and the Residential Tree Preservation and Landscaping Ordinance shall be followed.

Engineering:

2. City of Sherman ordinances requirements regarding floodplains shall be followed.

SECTION 3. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

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

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

INTRODUCED on this the _____ day of _____, 2008.

ADOPTED on this the _____ day of _____, 2008.

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

CITY OF SHERMAN, TEXAS

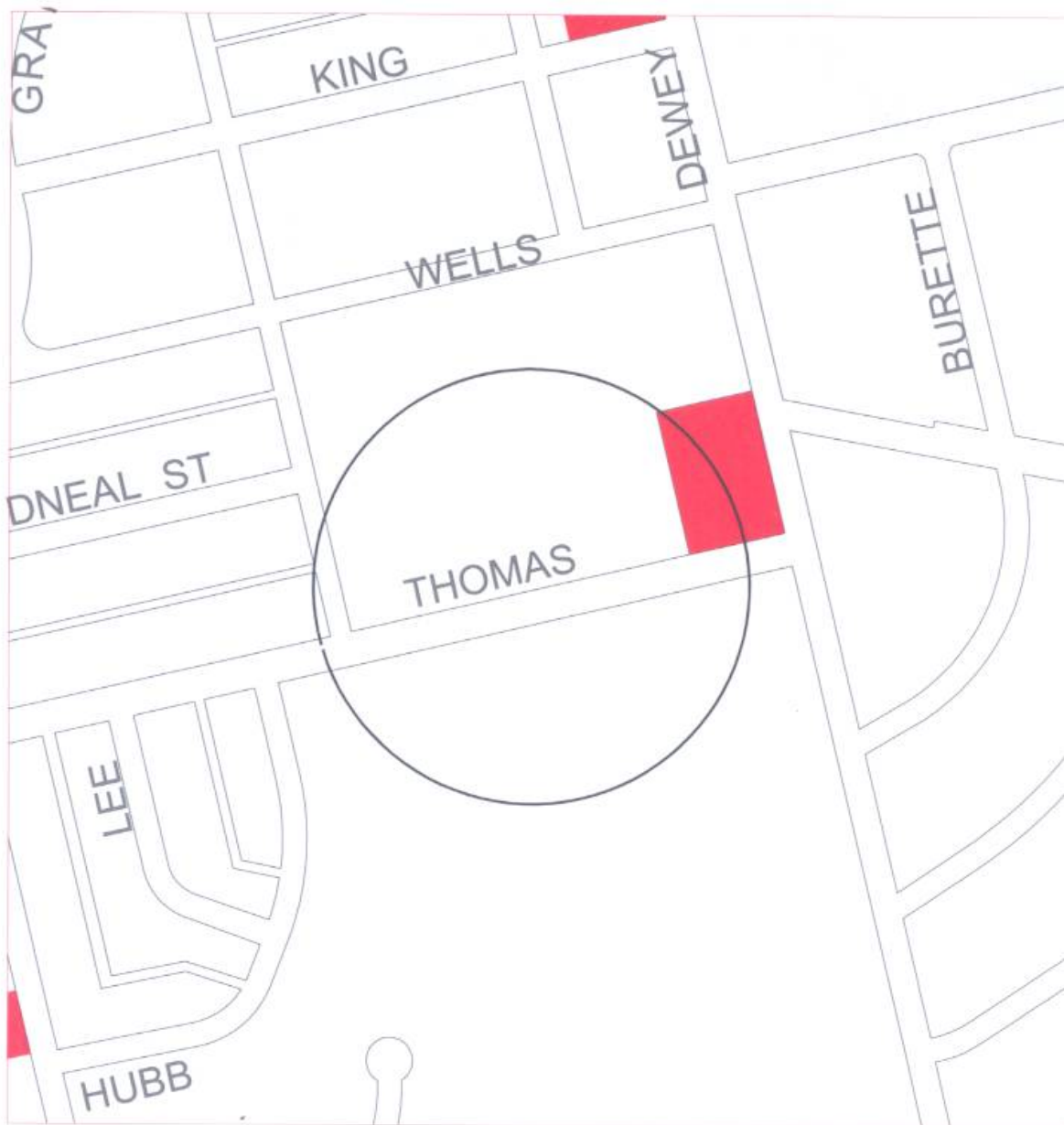
BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

**DOREEN E. MCGOOKEY,
CITY ATTORNEY**



LEGEND

R-A	SINGLE FAMILY AGRICULTURAL DISTRICT	M-2	HEAVY MANUFACTURING DISTRICT
SF-1	SINGLE FAMILY RESIDENTIAL DISTRICT	M H	MANUFACTURED HOUSING DISTRICT
R-1	ONE AND TWO FAMILY RESIDENTIAL DISTRICT	BLA	BLACK INDUSTRIAL PARK
R-2	MULTI-FAMILY RESIDENTIAL DISTRICT	O-1	OVERLAY DISTRICT - 75 & 82
C-1	RETAIL BUSINESS DISTRICT	O-1.1	OVERLAY DISTRICT - 1417
C-2	GENERAL COMMERCIAL DISTRICT	O-1.2	OVERLAY DISTRICT - SAM RAYBURN FREEWAY
CO	OFFICE DISTRICT	CPO	COLLEGE PARK OVERLAY
M-1	LIGHT MANUFACTURING DISTRICT	A&C	ARTS & CULTURAL OVERLAY DISTRICT
M-1.5	MEDIUM MANUFACTURING DISTRICT	CBD	CENTRAL BUSINESS DISTRICT



1523-1531 E. THOMAS STREET SPECIFIC USE PERMIT

Department of Developmental Services





1523-1531 E. Thomas



City of Sherman
Planning and Zoning Commission
Board of Adjustments
Agenda Communication Form
August 19, 2008
Jason Sofey, Chairman

Jim Jacobs, Vice Chairman
Robin Atherton, Commissioner
Lawrence Davis, Commissioner
Brad Morgan, Commissioner

John Nix, Commissioner
Steve Jones, Commissioner
David Plyler, Commissioner
Darren Tankersley, Commissioner

1523-1531 East Thomas Street
Being 0.36 acres in the G.B. Pilant Survey, Abstract No. 963
SUP & Site Plan

Requested Action/Proposed Use:

- a) Specific Use Permit and Site Plan Approval to allow a Two-family dwelling (duplex) on the proposed Lot 1, Block 1 of Malone's Addition in an R-1 (One Family Residential) District.
- b) Specific Use Permit and Site Plan Approval to allow a Two-family dwelling (duplex) on the proposed Lot 2, Block 1 of Malone's Addition in an R-1 (One Family Residential) District.

Background

The property is located at 1523-1531 East Thomas Street between Loving and Dewey Avenues; across from Hawn Park. The applicant would like to construct two duplexes on the lots. The exterior finishes will be red brick with white trim. Each side of the duplex will have 2 bedrooms for a total of 4 bedrooms per duplex. Four off street parking spaces will be provided per duplex.

Adjacent Zoning:

R-1 (One Family Residential) District

Origination:

Mida Elizabeth Skipworth Estate (Owners), Charlie Skipworth (Executor), Mark and Lisa Malone (Prospective Buyers) and Sartin & Associates (Surveyor)

Master Plan Designation:

Residential

Number of notices mailed:

4

Objections received:

0

Attachments:

Location map, Photos, Site Plan, Staff Review Letter

Prepared by:
Patsy Reeves,
Development Services Secretary

Approved by:
Scott Shadden,
Director of Development Services

STAFF REVIEW LETTER

August 13, 2008

Mida Elizabeth Skipworth Estate
Charlie Skipworth, Executor
PO Box 317
Gunter, TX 75058-0317

Mark & Lisa Malone
26616 S.H. 56
Whitesboro, TX 76273

Sartin & Associates, Inc.
PO Box 1843
Sherman, Texas 75091
Dear Applicants,

Your request for approval of a Specific Use Permit and site plan approval to allow a Two-family dwelling (duplex) on the proposed Lots 1 and 2, Block 1 of Malone's Addition in an R-1 (One Family Residential) District located at 1523-1531 East Thomas Street has been scheduled to be heard by the Planning and Zoning Board on the day of Tuesday, August 19, 2008 at 5:00 p.m., in the City Council Chambers, City Hall at 220 W. Mulberry.

City staff has reviewed your request with regards to zoning, engineering and development guidelines and finds the following items need to be addressed:

Zoning:

1. All requirements of the R-1 (One Family Residential) District and the Residential Tree Preservation and Landscaping Ordinance shall be followed.

Engineering:

2. City of Sherman ordinances requirements regarding floodplains shall be followed.

Any other changes made to the site plan prior to the final fulfillment of the conditions of the staff review, must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

You are hereby notified to be present, either in person or by your authorized representative to present your request on the date and time stated above.

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

Respectfully,

Scott Shadden,
Secretary, Planning and Zoning Board and Board of Adjustment

CC: George Olson, City Manager
Mark Gibson, Director Utilities & Engineering Services
Doreen E. McGookey, City Attorney
Rita Gaither, Development Coordinator

Danny Fuller, Fire Marshal
Jeff Miller, Director of Public Works



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. B.5

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5561

Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Terry SC Wong (Owner), Dean Gilbert, Jr. (Property Manager) and Evergreen Presbyterian Ministries, Inc., Theresa Garrett (Tenant) to Allow a Day Habilitation Program/School and Training Center for Adults with Developmental Disabilities in a C-1 (Retail Business) District and O-1.1 (FM 1417 Overlay) District at 2001 Skyline Drive, Suite A-145, being Lot 3, Block 1 of the Skyline Business Park Replat; Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000

Issue

To consider granting a Specific Use Permit to Terry SC Wong (Owner), Dean Gilbert, Jr. (Property Manager) and Evergreen Presbyterian Ministries, Inc., Theresa Garrett (Tenant) to allow a day habilitation program/school and training center for adults with developmental disabilities in a C-1 (Retail Business) District and O-1.1 (FM 1417 Overlay) District

Background

The property is located at 2001 Skyline Drive, Suite A-145 in Sherman. Evergreen Employment Enterprises of Texas is a day service program for mentally challenged adults. The program is a class room setting. The clients will engage in learning and creative activities including food preparation, medical needs, housekeeping, grooming and hygiene, dealing with their behaviors, shopping, money management and finance, etc. They help them to become more involved in the community by attending church regularly, participating in community activities, going to the movies, bowling, eating out and finding employment.

Origination

Terry SC Wong (Owner), Dean Gilbert, Jr. (Property Manager) and Evergreen Presbyterian Ministries, Inc., Theresa Garrett (Tenant)

Board Recommendation

At the August 19, 2008 regular meeting, the Planning and Zoning Board voted 5/0 to recommend to the City Council that the Specific Use Permit be approved subject to the hours of operation being 8 a.m. to 5 p.m. for a total of sixteen clients, and per the information in the letter dated July 30, 2008 from Evergreen Presbyterian Ministries, Inc. and the staff review letter.

Attachments

Ordinance No. 5561; Location Map; Photograph; Site Plan; Letters; P&Z Communication Form; Staff Review Letter

Prepared by:
Scott Shadden, Development Services Director

Approved by:
George Olson, City Manager

ORDINANCE NO. 5561

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO TERRY SC WONG (OWNER), DEAN GILBERT, JR. (PROPERTY MANAGER) AND EVERGREEN PRESBYTERIAN MINISTRIES, INC., THERESA GARRETT (TENANT) TO ALLOW A DAY HABILITATION PROGRAM/SCHOOL AND TRAINING CENTER FOR ADULTS WITH DEVELOPMENTAL DISABILITIES IN A C-1 (RETAIL BUSINESS) DISTRICT AND O-1.1 (FM 1417 OVERLAY) DISTRICT AT 2001 SKYLINE DRIVE, SUITE A-145, BEING LOT 3, BLOCK 1 OF THE SKYLINE BUSINESS PARK REPLAT; PROVIDING FOR A REPEALER; PROVIDING THAT THIS SPECIFIC USE PERMIT SHALL BE GRANTED SUBJECT TO CERTAIN CONDITIONS; PROVIDING A PENALTY NOT TO EXCEED \$2,000; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

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

WHEREAS, the City Council finds that it is in the public interest to grant this specific use permit, subject to certain conditions;

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

SECTION 1. That from and after the passage of this ordinance, Terry SC Wong (Owner), Dean Gilbert, Jr. (Property Manager) and Evergreen Presbyterian Ministries, Inc., Theresa Garrett (Tenant) are granted a Specific Use Permit to allow a day habilitation program/school and training center for adults with developmental disabilities in a C-1 (Retail Business) District and O-1.1 (FM 1417 Overlay) District at 2001 Skyline Drive, Suite A-145, and that Section 8, Subsection (5)(a), Ordinance No. 2280 is hereby amended so as to hereafter include the following described property:

Being Lot 3, Block 1 of Skyline Business Park Replat.

SECTION 2. That this specific use permit is granted on the following conditions:

1. All aspects of the C-1 (Retail Business) District must be followed.
2. Fire lanes and codes shall be coordinated with the Fire Marshal, (903.892.7267)
3. Hours of operation limited to 8 a.m. to 5 p.m.
4. Limit the number of clients to 16
5. As agreed to by the applicant at the Planning and Zoning Commission meeting on August 19, 2008, the operation of the business will be as set forth in the letter dated July 30, 2008 from Evergreen Presbyterian Ministries, Inc, to the City of Sherman Building and Zoning and attached hereto as Exhibit A, and incorporated into this ordinance for all purposes.

SECTION 3. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

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

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

INTRODUCED on this the _____ day of _____, 2008.

ADOPTED on this the _____ day of _____, 2008.

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

CITY OF SHERMAN, TEXAS

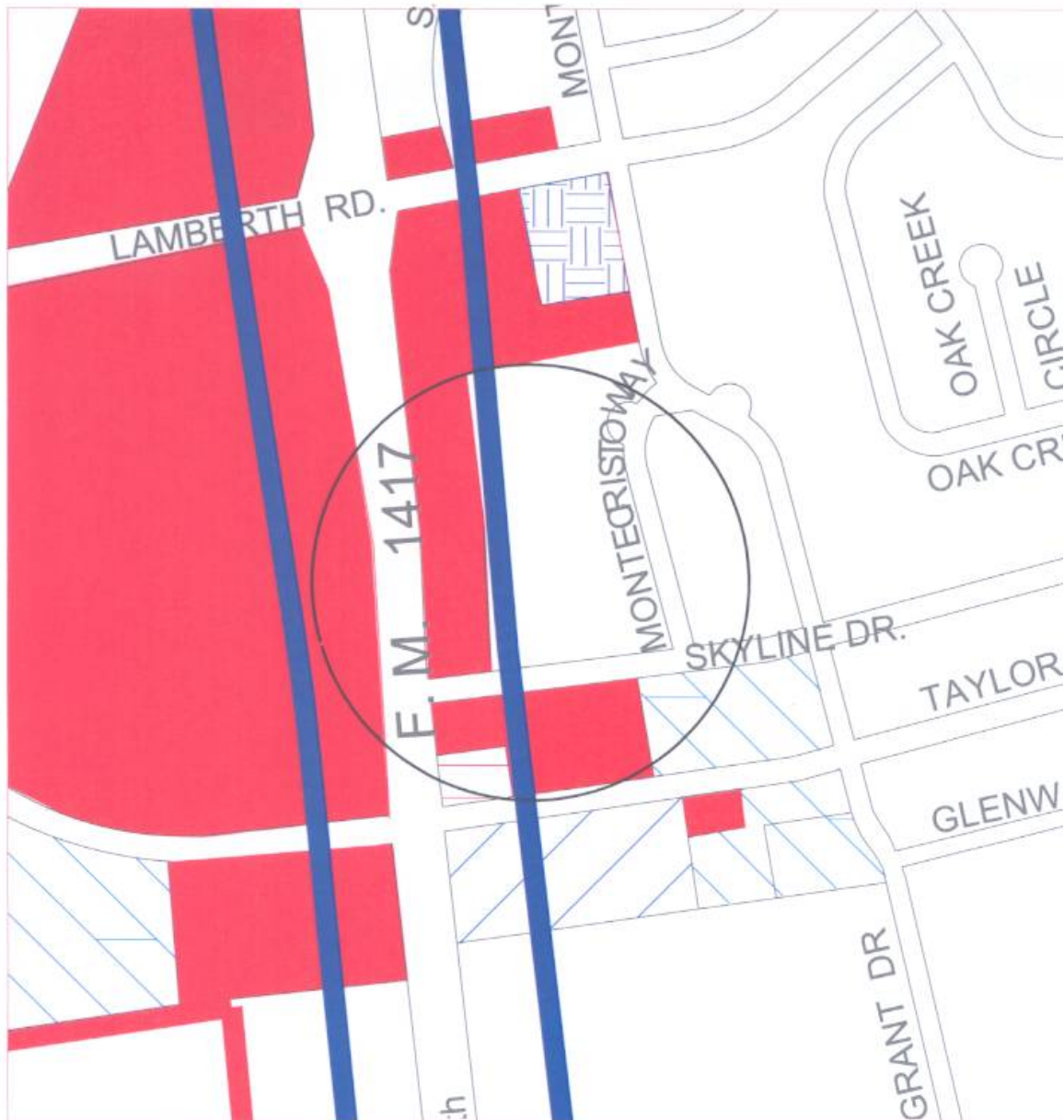
ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
BILL MAGERS, MAYOR

**APPROVED AS TO FORM
AND CONTENT:**

**DOREEN E. MCGOOKEY,
CITY ATTORNEY**



LEGEND

	R-A	SINGLE FAMILY AGRICULTURAL DISTRICT		M-2	HEAVY MANUFACTURING DISTRICT
	SF-1	SINGLE FAMILY RESIDENTIAL DISTRICT		M-H	MANUFACTURED HOUSING DISTRICT
	R-1	ONE AND TWO FAMILY RESIDENTIAL DISTRICT			BLALOCK INDUSTRIAL PARK
	R-2	MULTI-FAMILY RESIDENTIAL DISTRICT		O-1	OVERLAY DISTRICT - 75 & 82
	C-1	RETAIL BUSINESS DISTRICT		O-1.1	OVERLAY DISTRICT - 1417
	C-2	GENERAL COMMERCIAL DISTRICT		O-1.2	OVERLAY DISTRICT - SAM RAYBURN FREEWAY
	CO	OFFICE DISTRICT		CPO	COLLEGE PARK OVERLAY
	M-1	LIGHT MANUFACTURING DISTRICT		A&C	ARTS & CULTURAL OVERLAY DISTRICT
	M-1.5	MEDIUM MANUFACTURING DISTRICT		CBD	CENTRAL BUSINESS DISTRICT



2001 SKYLINE SPECIFIC USE PERMIT AND SITE PLAN

Department of Developmental Services





2001 Skyline Dr. Ste A-145



From: Humberto Garcia [mailto:bgarcia@npwlawfirm.com]
Sent: Tuesday, September 02, 2008 10:46 AM
To: bmagers@cableone.net
Cc: fpent@wildblue.net
Subject: Evergreen Employment Enterprises of Sherman

Honorable Mayor Magers and Esteemed Council:

I hereby speak in favor of the change of zoning the Planning and Zoning Board has approved for Evergreen Employment Enterprises of Sherman at 2001 Skyline Drive, Suite A-145. I am a member of the Regional Board of Directors for Evergreen Presbyterian Ministries and am enthusiastic about their mission to provide health care and sanitary living accommodations for the challenged. That Evergreen has two group homes in Sherman is just additional reason to be proud of what Evergreen is doing.

The change of zoning to allow for specific use for an Adult Day Care for the Evergreen work-center at 2001 Skyline Drive (right next to the Evergreen offices in Sherman) would allow one more step in meeting our client's needs to improve their living skills and thereby become just a little more independent. Additionally, supervision for the work-center would be more than adequately provided by the on-site supervisor, Brandi Mack, and by the Sherman supervisor, Alicia Johnson, who, as I mention, will be in the adjoining office with a connecting door to the Center. The 12 to 16 clients of the center would benefit greatly from the training and Sherman would do one more thing to benefit its citizens in need.

I might add that in fulfilling my duties as a board member with Evergreen I have visited some of these work-centers in other cities and they work extremely well in adding life skills to its clients and provide them some income to add to their independence and sense of pride. I think they are invaluable.

For these reasons I enthusiastically ask that the Council approve the recommendation from the Planning and Zoning Board that the change of zoning for the Evergreen work-center be approved and that the change be allowed. Should you or any council member have any questions I invite you to call me and I will do my best to provide an answer.

H.S. (Bert) Garcia
707 West Washington St.
Sherman, TX 75092

(903) 893-8177

09/02/2008

July 30, 2008

City of Sherman Building and Zoning
405 N. Rusk
Sherman, TX 75090

To Whom It May Concern:

In support of the further Evergreen Employment Enterprises of Texas developed by Evergreen Presbyterian Ministries Inc., of Texas. I would like to share a bit of information about Evergreen; past, present and future with the board members of the building and zoning department in efforts to help each of them better understand how Evergreen plans to contribute to the City of Sherman by supporting those in our community with developmental disabilities.

Evergreen began in Minden, Louisiana, 1959, by four young men with developmental disabilities and behavior problems. Since then we have expanded our services into six states: Louisiana, Texas, Oklahoma, Arkansas, Tennessee and Kentucky. Evergreen stands at the top in Louisiana as the largest nonprofit provider of services to those with developmental disabilities and is among the top ten in the nation. Evergreen has become a leader in its field.

Our Sherman branch is part of the North Central Texas division, which also consists of Dallas and Fort Worth. The divisional office is in Dallas, where our division director, Alicia Johnson, offices. Together Dallas and Fort Worth have a combined number of fifteen group homes and two Day Programs which support the residents we serve for both areas as well as people outside of Evergreen.

Evergreen has been a part of Sherman only for a short time. In 2003 we bought the large nursing home/rehabilitation center at 315 W. McClain, Sherman. Better known as Sherman Habilitation Center which is now owned by MHMR. At the time when Evergreen took over the facility, there were close to sixty residents with a wide range of developmental disabilities and behavior problems. Evergreen's mission was to shut down the large facility and to relocate the residents into community homes or group homes. They began by evaluating each resident and placing those with severe behaviors in other state facilities where they were better suited. Family members also had the option to relocate their loved ones themselves if they wished. With the twenty-four residents remaining, twelve were moved to the Dallas/Ft. Worth area, six male and six female. Twelve remained in Sherman and were moved to the two community homes here. We have a female home with six residents and a male home with six residents. The homes they live in are located in residential areas, one at Northbrook and one at Carriage Ests. Rd. We have twenty-four hour staff at each home with an assigned house

manger, an LVN that cares for both homes, a QMRP (qualified mental retardation professional) that cares for both homes and a business office manager.

The Evergreen program is designed to help the residents we serve become more independent in all areas of their lives through formal and informal training in the community home. We train in areas of; food preparation, medical needs, housekeeping, grooming and hygiene, dealing with their behaviors, shopping, money management and finance, ect. We also help them to become more involved in the community; attending church regularly, participating in community activities, going to the movies, bowling, eating out, and finding employment.

Outside the group home we seek to provide training in a workshop or day program setting. Our residents have attended workshops/day programs offered by outside providers in the past. In those programs we were not fully satisfied by the services our residents were receiving. Looking into the future of Evergreen in the Sherman area we are now at a point to provide those services ourselves, which will meet our standards. The plan is to lease the office space just next door to our current business office, 2001 Skyline Dr., St. A155, Sherman. The two spaces will be adjoined by an open passage way.

The following information will provide a more detailed program plan for the new branch of Evergreen in Sherman.

Evergreen Employment Enterprises Of Texas

A Day Habilitation Program / Training Center
For Adults with Developmental Disabilities

Address:	2001 Skyline Dr., Suite A145, Sherman, TX 75092
Business Hours:	8:00am-4:00pm Monday-Friday
Occupants:	3 staff 12 Evergreen residents plans to provide services to the community with needs
Program Requirements:	An individual must have a developmental disability, with proof of the diagnosis and a physician's order. Each individual seeking service that is not part of Evergreen will be evaluated by Evergreen according to our

ability to provide services that will be beneficial to that person. Evergreen will evaluate the medical needs of this person and behavioral needs.

Staff Involvement:

A facility nurse will be available during business hours to supervise and provide medical assistance for any needs she is capable or trained to handle.

The program supervisor/QMRP will be available during business hours to supervise and provide assistance in all program planning; she will also monitor and assist with behavioral needs she is capable or trained to handle.

There will be three trainers/staff available during business hours to provide formal training as planned by the program supervisor; they will also assist with medical and behavioral needs as well as meal time and other planned activities.

Program Design:

The program Evergreen will provide in the Day Habilitation Program / Training Center will consist of learning in a class room setting; the facility will have three class rooms with four clients and one trainer in each room.

Program Plan:

The program supervisor will be in charge of establishing the daily program plan. Each trainer will have a schedule of topics to review daily which will be fifteen minutes to one hour long. You may review the topics on the following pages. The schedule includes a one hour lunch period, bathroom and water breaks are as needed. We will have planned outings and scheduled guest speakers periodically.

The topics that will be reviewed will teach daily life skills, aid in developing their mental capabilities, create group interaction and promote community involvement.

The clients that wish to seek employment in the community will receive training in the areas of their interest along with job coaching.

Future Plans:

Evergreen looks to expand the services we provide in our Day Habilitation Program/Training Center. By expanding or renovating our current space we could offer the clients the chance to earn money for themselves by doing contract work for business in the area.

Closing:

We hope the information provided gives you a greater understanding of what Evergreen business is about and how we plan to contribute and provide a much needed service to the community. Evergreen is ran with the highest of standards, we are regulated by the state agency, DADS (department of aging and disability services) as well as our own set of standards which is to help our clients have a normal and rewarding life, that's what we strive to have. If you have any further questions please contact me, information below.

Sincerely,

A handwritten signature in cursive script that reads "Theresa Garrett".

Theresa Garrett
Administrative Assistant
Evergreen Presbyterian Ministries
2001 Skyline Dr., St. A155
Sherman, TX 75092
903-893-0149

Workshop Hours Monday-Friday 8:30am-4pm

Group A-LaTasha Hooper

Debbie

Darcie

Charles

Matthew

8:30-8:45	Arrival /Set Up
8:45-9:15	Coffee / Currents Events / Weather (Group)
9:15-9:45	Exercise (Group)
9:45-10:00	Hygiene
10:00-10:30	Games
10:30-11:00	Health / Medicine
11:00-11:30	Math
11:30-12:30	Lunch
12:30-1:00	Money Management
1:00-1:30	Matching & Sorting
1:30-2:00	Time Management
2:00-2:30	Problem Solving
2:30-3:00	Writing
3:00-3:30	Arts & Crafts
3:30-3:45	Reading
3:45-4:00	Clean Up / Departure

*Scheduled classroom times are subject to change due to outings and unplanned activities that might occur.

Workshop Hours Monday-Friday 8:30am-4pm

Group B-Cheryl & Brandy

Kamla Jeanna Russell Eddy

8:30-8:45	Arrival / Set Up
8:45-9:15	Coffee / Current Events / Weather (Group)
9:15-9:45	Exercise (Group)
9:45-10:00	Sign Language
10:00-10:30	Games
10:30-11:00	Money Management
11:00-11:30	Health / Medicine
11:30-12:30	Lunch
12:30-1:00	Math
1:00-1:30	Social Skills
1:30-2:00	Matching & Sorting
2:00-2:30	Writing
2:30-3:00	Emotions
3:00-3:30	Arts & Crafts
3:30-3:45	Bible Study
3:45-4:00	Pick Up / Departure

*Scheduled classroom times are subject to change due to outings and unplanned activities that might occur.

Workshop Hours Monday-Friday 8:30am-4pm

Group C-Marcus

Juanita Denice Steven Doyle

8:30-8:45	Arrival / Set Up
8:45-9:15	Coffee / Current Events / Weather (Group)
9:15-9:45	Exercise (Group)
9:45-10:00	Matching & Sorting
10:00-10:30	Games
10:30-11:00	Writing
11:00-11:30	Math
11:30-12:30	Lunch
12:30-1:00	Money Management
1:00-1:30	Safety Skills
1:30-2:00	Assembly / Collating
2:00-2:30	Health / Medicine
2:30-3:00	Grammar
3:00-3:30	Arts & Crafts
3:30-3:45	Bible Study
3:45-4:00	Pick Up / Departure

*Scheduled classroom times are subject to change due to outings

Welcome to Evergreen

An Introduction to the Evergreen Family
"Building Better Lives"



Welcome to Evergreen Presbyterian Ministries, Inc. Evergreen has enjoyed a proud history of providing excellent

services and supports to individuals with mental retardation dating back to 1959.

Over 40 years ago, a Presbyterian Minister, a hand full of staff, and four young men who had both mental retardation and behavioral disorders, moved to an abandoned school



house out in the pinewoods of Northwest Louisiana. From 1959 to the late 1970s, an institution was born and grew to a capacity of

240 people served.

In 1980, Evergreen began its conversion from the institutional setting to the community with the opening of two group homes. The movement away from the institution setting culminated with the closing of the institution in



the summer of 1994. Today, Evergreen supports and serves over 750 individuals in Louisiana, Texas, Arkansas, Oklahoma and Tennessee. While the

majority of these individuals are served in ICF/MR homes, recent years have seen an

increasing emphasis on the development of supported and independent living programs. In addition to these residential services,

Evergreen is offering respite, family support, personal care attendant services, crisis intervention and a wide variety of vocational programs emphasizing supported employment.

The key to Evergreen's successful growth includes a progressive and dedicated Board of Directors appointed by the Presbyterian Church U.S.A., and a committed staff.

Evergreen employees consistently express high levels of job satisfaction on anonymous questionnaires and demonstrate a dedication to the mission through longevity with the Evergreen Family.

We invite you to learn more about our existing ministry of love and compassion by personally visiting one of our more than 300 different program sites in our five state area.

To visit a home or for more information, please contact:



**EVERGREEN PRESBYTERIAN
MINISTRIES OF TEXAS, INC.**
NORTH CENTRAL DIVISION

Alicia Johnson
Division Director

10810 Sanden Road
Dallas, TX 75238
ajohnson@epmi.org
www.epmi.org

Phone: 972-386-4834 e
Fax: 972-386-4834

Evergreen Presbyterian Ministries, Inc.

Evergreen At-A-Glance

**R. S. Martin, Jr. Resource Center
(Corporate Office)**
4400 Viking Drive
Bossier City, LA 71172-2360
318-742-8440

Central Louisiana
920 Main Street
Pineville, LA 71360
318-445-4470

North Central Louisiana
1412 Sibley Road
P.O. Box 1177
Minden, LA 71055
318-371-1961

Northwest Louisiana
3907 Shed Road
Bossier City, LA 71111
318-747-9855

Southeast Louisiana
2570 SW Railroad Ave., Suite A-1, Box 6
Hammond, LA 70403
985-370-8811

Southwest Louisiana
1146 Hodges Street
Lake Charles, LA 70601
337-433-9495

Dallas/Fort Worth
10810 Sanden Rd.
Dallas, TX 75238
972-386-4834

Northeast Texas and Arkansas
1319 Magnolia
Texarkana, TX 75501
903-794-0517

Sherman Development Center
315 McLain
Sherman, TX 75092
903-893-0149

Oklahoma
7725 West Britton Rd.
Oklahoma City, OK 73162
405-720-1192

East Tennessee
8044 Ray Mears Blvd. Suite 106
Knoxville, TN 37919
865-692-9559

Middle Tennessee
2603 Elm Hill Pike
Nashville, TN 37214
615-889-2622

Mission Statement

Evergreen's mission is to support people with disabilities to build better life.

Vision Statement

Evergreen's vision is to provide the highest quality supports and services.

Values

We are committed to the following values:

- ...helping people achieve the highest possible quality of life.
- ...providing a network of excellent services and supports.
- ...providing services and supports that are person-centered and choice driven.
- ...providing a wide variety of experiences in order to make truly informed choices.
- ...listening with compassion and sensitivity.
- ...helping persons served and supported have valued status and full membership in the community.
- ...making the community aware of the contributions and gifts of people with disabilities.
- ...protecting and advocating for dignity and rights.
- ...Christian concern and expression of individual spirituality.
- ...serving people in the smallest appropriate setting.
- ...employee competence.

Fact Sheet

General Information

- Established in 1959.
- A not-for-profit service agency (mission) of the Synod of the Sur Presbyterian Church (USA). Synod includes churches in Louisiana, Texas, Oklahoma and Arkansas.
- Governed by a 19-member Board of Directors, elected by the Synod, Presbyterian Church (USA).

Services for Persons with Functional Disabilities Include

- Over 750 people currently served in Louisiana, Texas, Arkansas, Oklahoma, and Tennessee.
- Seventy-one ICF/MR community homes located throughout Louisiana and Texas, each serving 6 people.
- Supported Living services for over 300 people.
- Vocational Programs that emphasize supported and integrate employment.
- A 5-year plan which will increase the number of persons served to 1400.

Financial Information

- Yearly operating budget of \$40 million, main funding source—Medicaid.
- Staff of about 1200 full time equivalents.

History of Evergreen

The story of Evergreen is like a kaleidoscope—a story that constantly changes. It is a story of a health care facility in the rolling, pine-studded hills of North Louisiana. Not the usual kind of health care facility, but one for people with mental retardation. It is the story of a crusade to free people with developmental disabilities from an age-old accumulation of misunderstanding, fear, ignorance and prejudice. It is the story of a campaign for the rights of individuals with handicaps to be treated with dignity and respect.

It is the story of a revolution to develop methods of training so that persons with mental retardation can return to society as responsible and useful citizens. It is the story of countless men and women who have dedicated their time, energy and resources to make its ministry possible. It is the story of despair and struggle, excitement and rejoicing, failures and successes. It is the story of anguished parents and a concerned society who are searching for answers to problems related to mental retardation and other functional disabilities.

It is the story of opportunity and service through which the church witnesses and ministers to persons with special needs. But most of all, it is a story of hope, faith and vision.

The story begins in the 1950's with three unrelated happenings. First, the Webster Parish School Board consolidated its school system and closed the modern public school in the Evergreen community. This was a school consisting of a typical one-story, eight-classroom building, a five-room residence, a duplex residence, a gymnasium, and 76 acres of land.

For many years, the Presbyterian Synods of Louisiana and Mississippi had co-sponsored Palmer Orphanage in Columbus, Mississippi, and when this relationship severed, the Synod of Louisiana felt the need to begin a similar type institution within its own geographical bounds.



Evergreen Developmental Center Campus

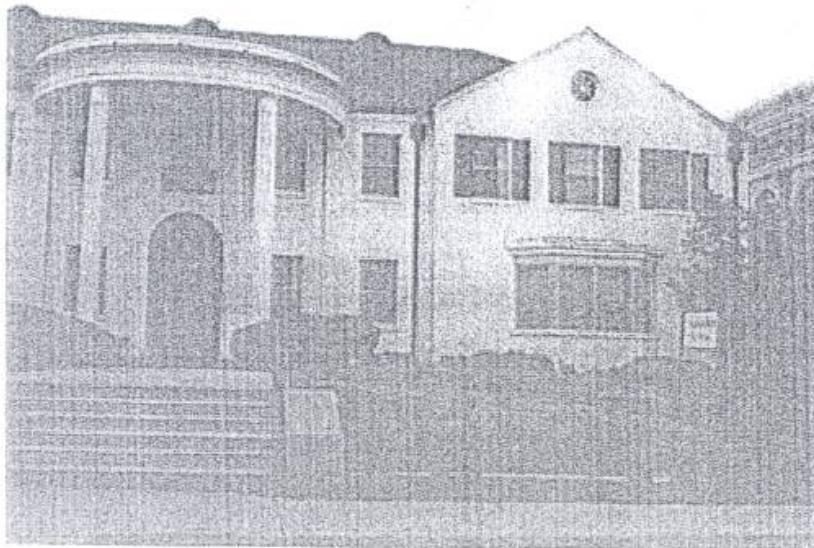
Finally, there was a group of parents of children with mental retardation in Northwest Louisiana who were searching for a site for a summer camping program for their children. One of these parents knew of the closing of the Evergreen School and recommended its use to the group. Another member of the Northwest Louisiana parent group became President of the Presbyterian Foundation of Louisiana. Another parent, a Presbyterian layman, was responsible for bringing the parent group and the church group together.

The Presbyterian Foundation of Louisiana was soon authorized to survey areas of need and service and to act as the agency through which financial support could be administered. The commission entered into agreement to lease the Evergreen School property and later, to purchase it.



Evergreen students sit outside the classroom during breaks.

With little more than hope, faith and a vision, Evergreen School officially opened on October 15, 1959, when four students were enrolled.

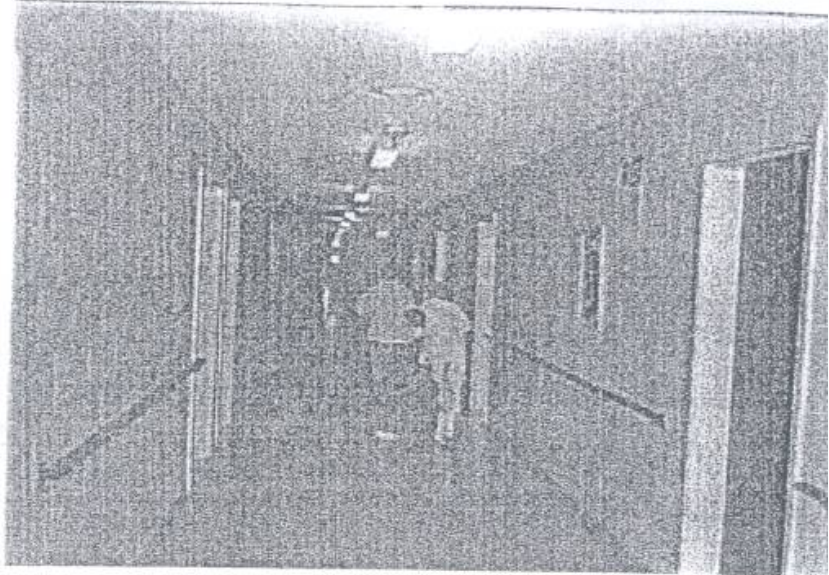


Evergreen House in downtown Shreveport

The year 1974 represented another milestone in Evergreen history when Evergreen House was established in Shreveport, LA. Evergreen House served as a large "half-way" group home for individuals who had achieved the satisfactory level of vocational competence and adaptive behavior needed to function in such setting. Job placement or gradual assimilation into community life were the goals of Evergreen House. Its success was demonstrated by more than one hundred and fifty persons who "flowed through" the program. About half of these were successful to the degree that they were able to live independently, supporting lives in various communities.

In spite of its success, funding difficulties led to the closing of Evergreen House in 1986.

The third phase of Evergreen's development was Evergreen Manor, opened in 1978. Located on 20 acres adjoining the Evergreen School campus, the Manor was a 96-bed intermediate care facility for people with mental retardation (ICF/MR) specializing in serving persons with severe and profound retardation. The Manor subsequently renamed Green Hall, earned an excellent reputation for providing innovative, compassionate care to its clients. The Manor and the School were combined into a single operating unit, the Evergreen Developmental Center, in 1983. At one point, as many as 240 residents lived on the Evergreen Developmental Center campus.



Helping Hands is what Green Hall was all about...

The fourth chapter in Evergreen's growth was the emphasis on serving people in the community as characterized by the opening of community homes in typical residential areas beginning in 1981. In these homes, training is provided to prepare them to participate as fully as possible in available community activities. By 1995, Evergreen had established 76 community homes in Louisiana and Texas, five vocational programs, several supported living programs, a Boarding home, and 3 supervised apartment complexes. This fourth chapter in the Evergreen story has generally seen the service base shift



from institution to community. In 1980, over 90% of Evergreen's 30 served persons received service in an institutional setting. By 1995, over 90% of Evergreen's served 450 persons received services in the community. In July of 1992, the shift from institution to community was completed with the movement of the last of the people we served and supported out of the Evergreen Developmental Center campus. In 2002, almost 800 people are served and receive their services in a variety of community settings.

Haven't we come a long way!

Evergreen Programs At-A-Glance

Central Louisiana
920 Main Street
Pineville, LA 71360
318-445-4470

Community Homes, Supported Living, Family Support, Respite, Personal Care Attendants, Crisis Intervention, Supported Employment, Vocational and Pre-Vocational Training, Supervised Apartments

Dallas/Fort Worth
10810 Sanden Rd.
Dallas, TX 75238
972-386-4834

Community Homes, Supported Employment, Respite Care, Home Community Support Programs, Vocational Training

North Central Louisiana
1412 Sibley Road
Minden, LA 71055
318-371-1961

Community Homes, Supported Living, Supported Employment, Vocational and Pre-Vocational Training

Northeast Texas and Arkansas
1319 Magnolia
Texarkana, TX 75501
903-794-0517

Community Homes, Supported Employment, Vocational and Pre-Vocational Training. They also head up the Arkansas program.

Northwest Louisiana
3907 Shed Road
Bossier City, LA 71111
318-747-9855

Community Homes, Supported Living, Respite, Supported Employment, Vocational and Pre-Vocational Training, Supervised Apartments, Personal Care Attendants

Oklahoma
7725 West Britton Road
Oklahoma City, OK 73162
405-720-1192

Supported and Assisted Living, Supported Employment, Family Support

Southeast Louisiana
906 C.M. Fagan Dr., Suite 6-A
Hammond, LA 70403
985-543-6591

Community Homes, Supported Living, Supported Employment, Respite, Personal Care Attendants

Southwest Louisiana
1146 Hodges Street
Charles, LA 70601
318-433-9495

Community Homes, Supported Living, Supported Employment, Vocational and Pre-Vocational Training, Personal Care Attendants

East Tennessee
8044 Ray Mears Blvd., #106
Knoxville, TN 37919
865-692-9559

Supported Living, Supported Employment, Respite

Middle Tennessee
2603 Elm Hill Pike
Nashville, TN 37214
615-889-2622

Supported Living, Supported Employment Respite

Vocational Programs

Evergreen provides for the people we serve various opportunities for employment. Each person earns money regardless of his or her skills or level of ability.

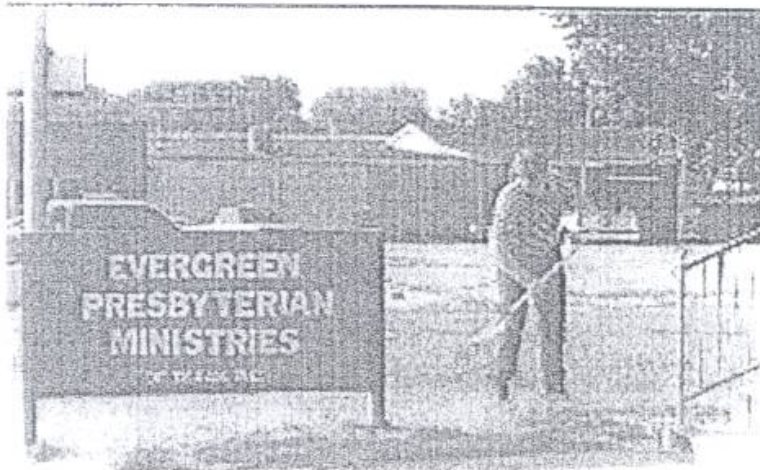
In the Evergreen Day Habilitation and Vocational Programs, training is provided in various areas. This would include training in social skills, pre-vocational skills and contract work. The work provided is carefully planned to meet the needs of each individual. They are taught the skills necessary to apply for, obtain and retain a job in the community.



Our lawn crews keep our community looking good!

Contract work involves contracts secured from the community.

For example, one program had a fishing lure contract where the lures were assembled and packaged by the people in the program. Another example is a contract where the people packaged spices and other food products that would be sold to the public. Yet another contract consisted of counting and sorting plastic knives, forks and spoons, packaging them and having them sold in grocery stores all around the country. As a matter of fact, that last box of plastic utensils you bought may have been packaged at Evergreen.



They also keep US looking good!

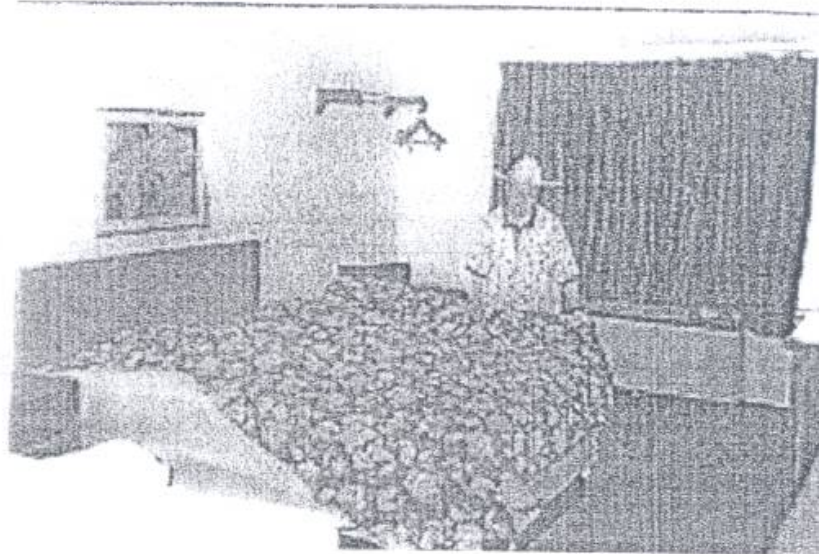
various jobs. This includes lawn care crews, business office and home cleaning crews. We also have a very elite group of workers who clean Shreveport's Fairground Field and the Independence Stadium following major events.

Our "employees" take great pride in their work while improving the quality of their lives by being productive citizens.

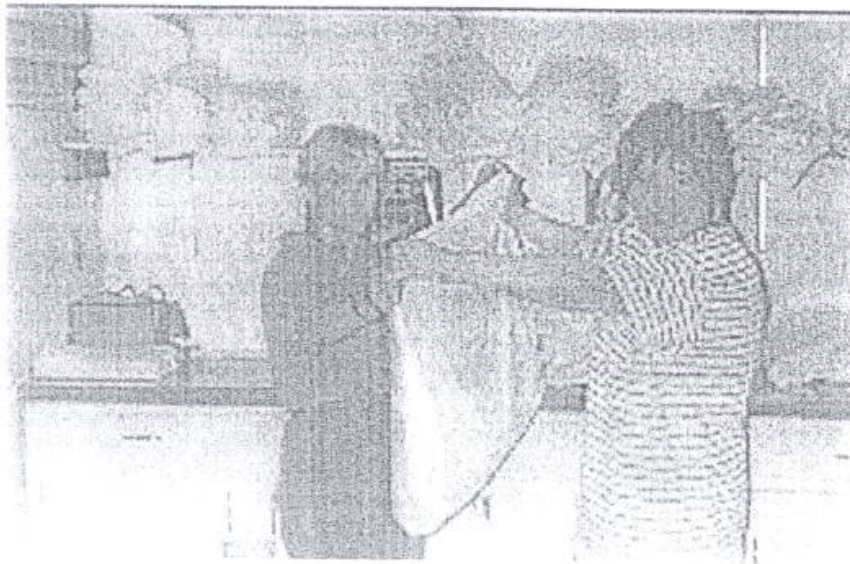
Beyond this is Supported Employment. In this program, trained staff help the person find a job in the community suitable for his or her skills and work with him on that job until such a time as he or she is capable of working alone. Although some potential employers may be hesitant to join the program at first, they soon learn that our folks make wonderful employees.

Jobs in this program include working in restaurants, office buildings, hospitals, private homes, etc. We also have work crews that perform

If you are interested in learning more about our vocational training programs, please contact the District Director nearest you.



Making beds at a local hotel is more fun than making your own!



Doing hotel laundry is a good way to make money!

ADDN. 2263

155709
S015 226300501

155757
S015 2379001
.6488Ac.

REPLAT LT. 1

SKYLINE BUSINESS PARK

155758
S015 2379002 . 2379

1.40Ac.

155712
S015 236200301

220.3'

252.42'

1395.01-ft

541V

SKYLINE BUS

155719
S015 2374003

145.23

30.00'

155722
S015 2374006

155723
S015 2374007

155726
S015 2374010

155727
S015 2374011

155728
S015 2374013

155729
S015 237401501

155730
S015 2374016

110.74'

588.19'

155707
S015 2263004

200' S015 226300401

CANYON CREEK

2374

MONTE CRISTO

FM 1417

300.67'



Evergreen
2001 Skyline A145



Evergreen
2001 Skyline A145



Evergreen
2001 Skyline A145



Evergreen
2001 Skyline A145

City of Sherman
Planning and Zoning Commission
Board of Adjustments
Agenda Communication Form
August 19, 2008
Jason Sofey, Chairman

Jim Jacobs, Vice Chairman
Robin Atherton, Commissioner
Lawrence Davis, Commissioner
Brad Morgan, Commissioner

John Nix, Commissioner
Steve Jones, Commissioner
David Plyler, Commissioner
Darren Tankersley, Commissioner

2001 Skyline Drive, Suite A-145
Being Lot 3, Block 1, Skyline Business Park Replat
Specific Use Permit & Site Plan

Requested Action/Proposed Use:

Specific Use Permit and site plan approval to allow a day habilitation program/school and training center for adults with developmental disabilities in a C-1 (Retail Business) District and the O-1.1 (FM 1417) District.

Background

The property is located at 2001 Skyline Drive, Suite A-145. Evergreen Employment Enterprises of Texas is a day service program for mentally challenged adults. The program is a class room setting, the clients will engage in learning and creative activities including food preparation, medical needs, housekeeping, grooming and hygiene, dealing with their behaviors, shopping, money management and finance, etc. They help them to become more involved in the community by attending church regularly, participating in community activities, going to the movies, bowling, eating out and finding employment. **As this item was tabled at the July 22nd Planning and Zoning Commission Meeting, a motion and order are required to remove it from the table for consideration at this meeting.**

Adjacent Zoning:

C-1 (Retail Business) District and R-1 (One Family Residential) District

Origination:

Terry SC Wong (Owner), Dean Gilbert, Jr. (Property Manager) and Evergreen Presbyterian Ministries, Inc., Theresa Garrett (Tenant)

Master Plan Designation:

Retail/Commercial

Number of notices mailed:

27

Objections received:

1

Attachments:

Location map, Photos, Site Plan, Staff Review Letter

Prepared by:
Patsy Reeves,
Development Services Secretary

Approved by:
Scott Shadden,
Director of Development Services

STAFF REVIEW LETTER

August 13, 2008

Terry S C Wong
C/O Dean Gilbert, Jr.
801 E. Taylor
Sherman, Texas 75090

Theresa Garrett
2001 Skyline Dr., Ste. A-155
Sherman, Texas 75092

Dear Applicants,

Your request for approval of Specific Use Permit and site plan approval to allow a day habilitation program/school and training center for adults with developmental disabilities in a C-1 (Retail Business) District and the O-1.1 (FM 1417) District located at 2001 Skyline Drive, Suite A-145 has been scheduled to be heard by the Planning and Zoning Board on the day of Tuesday, August 19, 2008 at 5:00 p.m., in the City Council Chambers, City Hall at 220 W. Mulberry.

City staff has reviewed your request with regards to zoning, engineering and development guidelines and finds the following items need to be addressed:

Zoning:

1. All aspects of the C-1 (Retail Business) District must be followed.
2. Fire lanes and codes shall be coordinated with the Fire Marshal, (903.892.7267)

Any other changes made to the site plan prior to the final fulfillment of the conditions of the staff review, must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

You are hereby notified to be present, either in person or by your authorized representative to present your request on the date and time stated above.

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

Respectfully,

Scott Shadden,
Secretary, Planning and Zoning Board and Board of Adjustment

CC: George Olson, City Manager
Mark Gibson, Director Utilities & Engineering Services
Doreen E. McGookey, City Attorney
Rita Gaither, Development Coordinator

Danny Fuller, Fire Marshal
Jeff Miller, Director of Public Works



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. B.6

ADOPTION OF ORDINANCES

Consider Adoption of Ordinance Numbers: 5556, 5558, 5559, 5560 and 5561

B.1 INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5556

Providing for the Levy of Ad Valorem Taxes for the City of Sherman, Texas, for the Tax Year 2008; 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

B.2 INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5558

Amending Section 12, Ordinance No. 2280, so as to Include Certain Properties within the C-2 (General Commercial) District at 3801 U.S. Highway 75 North, being Lot 1, Block C of the Sherman Commons Addition, Replat of Block C (Woodmont Sherman, L.P., Owners, and Mays & Company, Prospective Buyer)

B.3 INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5559

Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Woodmont Sherman, L.P. (Owners) and Mays & Company (Prospective Buyer) to Allow a Tire Sales Business and an Automobile Service and Repair Business, including Sales, Service, Repair and Installation of Tires, Motor Vehicle Parts and Accessories, Oil and its Derivatives, Automobile Supplies and Furnishings in a C-2 (General Commercial) District and O-1 (75 & 82 Overlay) District at 3801 U.S. Highway 75 North, being Lot 1, Block 1 of the Sherman Commons Addition, Replat of Block C; Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000

B.4 INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5560

Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Mida Elizabeth Skipworth Estate (Owners), Charlie Skipworth (Executor), Mark and Lisa Malone (Prospective Buyers), and Sartin & Associates (Surveyor) to Allow a Two-Family Dwelling (Duplex) on the Proposed Lot 1, Block 1 of Malone's Addition in an R-1 (One Family Residential) District at 1523-1531 East Thomas Street, being 0.36 Acres in the G.B. Pilant Survey, Abstract No. 963; Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000

B.5 INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5561

Amending Section 8, Subsection (5)(a), Ordinance No. 2280, so as to Grant a Specific Use Permit to Terry SC Wong (Owner), Dean Gilbert, Jr. (Property Manager) and Evergreen Presbyterian Ministries, Inc., Theresa Garrett (Tenant) to Allow a Day Habilitation Program/School and Training Center for Adults with Developmental Disabilities in a C-1 (Retail Business) District and O-1.1 (FM 1417 Overlay) District at 2001 Skyline Drive, Suite A-145, being Lot 3, Block 1 of the Skyline Business Park Replat; Providing that this Specific Use Permit Shall be Granted Subject to Certain Conditions; Providing a Penalty Not to Exceed \$2,000



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. B.7

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. 5259

Revoking and Replacing Resolution No. 5081; Establishing Salary Structures and Incentive/Certification Pay Schedules for Firefighters and Police Officers

C.2 * RESOLUTION NO. 5260

Approving and Adopting Amendment Number ONE to the Flexible Spending Account Plan for the City of Sherman's Employees and Dependents effective October 1, 2008

C.3 * RESOLUTION NO. 5261

Authorizing Execution of an Interlocal Agreement between the City of Sherman and the City of Fort Worth for Household Hazardous Waste Services

C.4 * RESOLUTION NO. 5262

Authorizing the Purchase of Replacement Residential Recycling Carts through the Houston-Galveston Area Council of Governments (H-GAC) for the Solid Waste Services Department

C.6 * RESOLUTION NO. 5263

Authorizing Execution of an Encroachment License Agreement with Overland Group, LLC for a Multi-Tenant Sign in the Utility Easement along F.M. 1417 and Overland Trail in the O'Hanlon Ranch Addition, Phase 2 to the City of Sherman

C.7 * RESOLUTION NO. 5264

Authorizing Execution of an Agreement with Barton Capital, LTD for the Abatement of Ad Valorem Property Taxes for the Construction of a New Single-Family Residence at 608 East Sycamore Street

C.8 * RESOLUTION NO. 5265

Authorizing Execution of an Agreement with Barton Capital, LTD for the Abatement of Ad Valorem Property Taxes for the Construction of a New Single-Family Residence at 612 East Sycamore Street

C.9 * RESOLUTION NO. 5266

Designating Code Enforcement Officials for the Purposes of Obtaining Administrative Search Warrants

C.10 * RESOLUTION NO. 5267

Awarding a Bid to and Authorizing Execution of a Contract with Eagle Underground Utility Supply, Inc. d/b/a Mainline Supply Company for an Annual Supply of Water and Sewer Distribution and Collection Miscellaneous Parts and Materials

C.11 * RESOLUTION NO. 5268

Authorizing Execution of an Amendment to the Developer's Agreement with Sherman Hills Country Club, LTD. for the Construction of Public Facilities in Sunrise Tract, Phase I of the Sherman Hills Addition to the City of Sherman

D.2 * CHANGE ORDER NO. 1

Ross Avenue Sewer Main Replacement; \$14,400.00, Increase

D.3 * OTHER BUSINESS

Consider Request of the Sherman Independent School District and the Sherman High School Student Council to Temporarily Close Certain Streets for the 2008 Sherman High School Homecoming Parade on Monday, September 29, 2008

D.4 * OTHER BUSINESS

Final Plat Approval of the Malone's Addition; Mida Elizabeth Skipworth Estate, Owner; Mark and Lisa Malone, Prospective Buyers (1523-1531 East Thomas Street)

D.5 * OTHER BUSINESS

Final Plat Approval of the RJ Spencer Investments Addition; R.J. Spencer Investments, LLC, Owner (1102 F.M. 1417 NE)



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. C.1

*** RESOLUTION NO. 5259**

Revoking and Replacing Resolution No. 5081; Establishing Salary Structures and Incentive/Certification Pay Schedules for Firefighters and Police Officers

Issue

The City Council is required by state law to establish salary and incentive/certification pay schedules for members of the classified service.

Background

The City Council authorized the salary and incentive/certification pay amounts for firefighters and police officers as part of the recently adopted fiscal year (FY) 2008-2009 budget. This proposed resolution implements the first part (2%) of the 4% pay increase authorized for fiscal year (FY) 2008-2009. In April 2009, the Council will be asked to approve another resolution to implement the second part (2%) of the FY 2008-2009 pay increase.

Origination

City Council

Financial Consideration

Funds were appropriated in the 2008-2009 budget for these pay amounts for Police and Fire Department personnel.

Staff Recommendation

Staff recommends approval.

Alternatives

The City Council could choose not to approve this resolution, leaving unchanged the fire and police pay schedules adopted in September 2007 by Resolution No. 5081.

Attachments

Resolution No. 5259

Resolution No. 5081

Prepared by:

Wayne Blackwell, H.R. Administrator

Approved by:

George Olson, City Manager

RESOLUTION NO. 5259

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, REVOKING AND REPLACING RESOLUTION NO. 5081; ESTABLISHING SALARY STRUCTURES AND INCENTIVE/ CERTIFICATION PAY SCHEDULES FOR FIREFIGHTERS AND POLICE OFFICERS; PROVIDING FOR AN EFFECTIVE DATE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That Resolution No. 5081, passed and approved on the 17th day of September 2007, is hereby revoked.

SECTION 2. That, from and after the effective date of this resolution, the following salary structures and incentive/certification pay schedules will be adopted for the Sherman Fire Department and Sherman Police Department:

CLASSIFICATION	MONTHLY BASE SALARY	MONTHLY SENIORITY PAY	TOTAL
FIREFIGHTER			
Entry	\$2,991.15	N/A	\$2,991.15
1 Year	\$2,991.15	\$346.80	\$3,337.95
2 Year	\$2,991.15	\$396.86	\$3,388.01
3 Year	\$2,991.15	\$447.70	\$3,438.85
4 Year	\$2,991.15	\$499.29	\$3,490.44
5 Year	\$2,991.15	\$551.65	\$3,542.80
DRIVER			
Entry	\$3,641.40	N/A	\$3,641.40
1 Year	\$3,641.40	\$54.65	\$3,696.05
2 Year	\$3,641.40	\$110.08	\$3,751.48
LIEUTENANT			
Entry	\$3,988.20	N/A	\$3,988.20
1 Year	\$3,988.20	\$59.84	\$4,048.04
CAPTAIN			
Entry	\$4,291.65	N/A	\$4,291.65
1 Year	\$4,291.65	\$85.85	\$4,377.50

FIRE MARSHAL			
Entry	\$4,941.90	N/A	\$4,941.90
1 Year	\$4,941.90	\$98.86	\$5,040.76
PATROLMAN			
Entry – Non-Certified	\$3,165.91	N/A	\$3,165.91
Entry – Certified	\$3,337.95	N/A	\$3,337.95
1 Year	\$3,337.95	\$166.94	\$3,504.89
2 Year	\$3,337.95	\$412.25	\$3,750.20
3 Year	\$3,337.95	\$862.24	\$4,200.19
4 Year	\$3,337.95	\$925.22	\$4,263.17
5 Year	\$3,337.95	\$989.23	\$4,327.18
CORPORAL			
Entry	\$4,421.70	N/A	\$4,421.70
1 Year	\$4,421.70	\$88.40	\$4,510.10
2 Year	\$4,421.70	\$178.67	\$4,600.37
SERGEANT			
Entry	\$4,768.50	N/A	\$4,768.50
1 Year	\$4,768.50	\$95.37	\$4,863.87
2 Year	\$4,768.50	\$192.61	\$4,961.11
LIEUTENANT			
Entry	\$5,115.30	N/A	\$5,115.30
1 Year	\$5,115.30	\$102.34	\$5,217.64
CAPTAIN			
Entry	\$5,375.40	N/A	\$5,375.40
1 Year	\$5,375.40	\$107.53	\$5,482.93

SECTION 3. That, from and after the effective date of this resolution, the following incentive/certification pay schedules shall be adopted for the Sherman Fire Department:

- (a) Each employee certified by the Texas Department of State Health Services as an Emergency Medical Technician (E.M.T.) shall receive \$130.00 per month Incentive/Certification Pay.
- (b) Each employee certified by the Texas Department of State Health Services as a Paramedic and who meet the Sherman Medical Director's prescribed Medical Standards for Medical Authorization shall receive an additional \$375.00 per month Incentive/Certification Pay.
- (c) The total amount of Incentive/Certification Pay acquired by an employee for certification as an Emergency Medical Technician (E.M.T.) and Paramedic shall be \$505.00 per month.

- (d) Each employee who is certified by the Texas Commission on Fire Protection Personnel Standards and Education as an Intermediate Firefighter shall receive \$104.00 per month Incentive/Certification Pay.
- (e) Each employee who is certified by the Texas Commission on Fire Protection Personnel Standards and Education as an Advanced Firefighter shall receive an additional \$114.40 per month Incentive/Certification Pay.
- (f) Each employee who is certified by the Texas Commission on Fire Protection Personnel Standards and Education as a Master Firefighter shall receive an additional \$100.00 per month Incentive/Certification Pay.
- (g) The total amount of Incentive/Certification Pay that may be acquired by an employee for attainment of the above three certifications shall be \$318.40 per month.
- (h) Each employee who holds an Associates Degree from an accredited college or university shall receive \$75.00 per month Incentive/Certification Pay.
- (i) Each employee who holds a Bachelors Degree from an accredited college or university shall receive an additional \$100.00 per month Incentive/Certification Pay.
- (j) Each employee who holds a Masters Degree from an accredited college or university shall receive an additional \$75.00 per month Incentive/Certification Pay.
- (k) The total amount of Incentive/Certification Pay that may be acquired by an employee for attainment of the above three degrees shall be \$250.00 per month.
- (l) It is understood and agreed that all Certifications shall be kept current to receive Incentive/Certification Pay.

SECTION 4. That, from and after the effective date of this resolution, the following incentive/certification pay schedules shall be adopted for the Sherman Police Department:

- (a) Each employee certified by the Texas Commission on Law Enforcement Officer Standards and Education as an Intermediate Peace Officer shall receive \$75.00 per month Incentive/Certification Pay.
- (b) Each employee certified by the Texas Commission on Law Enforcement Officer Standards and Education as an Advanced Peace Officer shall receive an additional \$100.00 per month Incentive/Certification Pay.
- (c) Each employee certified by the Texas Commission on Law Enforcement Officer Standards and Education as a Master Peace Officer shall receive an additional \$100.00 per month Incentive/Certification Pay.

- (d) The total amount of Incentive/Certification Pay that may be acquired by an employee for attainment of the above three certifications shall be \$275.00 per month.
- (e) Each employee who holds an Associates Degree from an accredited college or university shall receive \$75.00 per month Incentive/Certification Pay.
- (f) Each employee who holds a Bachelors Degree from an accredited college or university shall receive an additional \$100.00 per month Incentive/Certification Pay.
- (g) Each employee who holds a Masters Degree from an accredited college or university shall receive an additional \$75.00 per month Incentive/Certification Pay.
- (h) The total amount of Incentive/Certification Pay that may be acquired by an employee for attainment of the above three degrees shall be \$250.00 per month.
- (i) Each employee who speaks Spanish as a second language, as certified and designated by the Police Chief shall receive \$100.00 per month Incentive/Certification Pay.
- (j) It is understood and agreed that all Certifications shall be kept current to receive Incentive/Certification Pay.

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

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

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
BILL MAGERS, MAYOR

**APPROVED AS TO FORM
AND CONTENT:**

BY: _____
**DOREEN E. MCGOOKEY,
CITY ATTORNEY**

RESOLUTION NO. 5081

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, REVOKING AND REPLACING RESOLUTION NO. 4874; ESTABLISHING SALARY STRUCTURES AND INCENTIVE/ CERTIFICATION PAY SCHEDULES FOR FIREFIGHTERS AND POLICE OFFICERS; PROVIDING FOR AN EFFECTIVE DATE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That Resolution No. 4874, passed and approved on the 18th day of September 2006, is hereby revoked.

SECTION 2. That, from and after the effective date of this resolution, the following salary structures and incentive/certification pay schedules will be adopted for the Sherman Fire Department and Sherman Police Department:

CLASSIFICATION	MONTHLY BASE SALARY	MONTHLY SENIORITY PAY	TOTAL
FIREFIGHTER			
Entry	\$2,932.50	N/A	\$2,932.50
1 Year	\$2,932.50	\$340.00	\$3,272.50
2 Year	\$2,932.50	\$389.08	\$3,321.58
3 Year	\$2,932.50	\$438.92	\$3,371.42
4 Year	\$2,932.50	\$489.50	\$3,422.00
5 Year	\$2,932.50	\$540.83	\$3,473.33
DRIVER			
Entry	\$3,570.00	N/A	\$3,570.00
1 Year	\$3,570.00	\$53.58	\$3,623.58
2 Year	\$3,570.00	\$107.92	\$3,677.92
LIEUTENANT			
Entry	\$3,910.00	N/A	\$3,910.00
1 Year	\$3,910.00	\$58.67	\$3,968.67
CAPTAIN			
Entry	\$4,207.50	N/A	\$4,207.50
1 Year	\$4,207.50	\$84.17	\$4,291.67

FIRE MARSHAL			
Entry	\$4,845.00	N/A	\$4,845.00
1 Year	\$4,845.00	\$96.92	\$4,941.92
PATROLMAN			
Entry – Non-Certified	\$3,103.83	N/A	\$3,103.83
Entry – Certified	\$3,272.50	N/A	\$3,272.50
1 Year	\$3,272.50	\$163.67	\$3,436.17
2 Year	\$3,272.50	\$404.17	\$3,676.67
3 Year	\$3,272.50	\$845.33	\$4,117.83
4 Year	\$3,272.50	\$907.08	\$4,179.58
5 Year	\$3,272.50	\$969.83	\$4,242.33
CORPORAL			
Entry	\$4,335.00	N/A	\$4,335.00
1 Year	\$4,335.00	\$86.67	\$4,421.67
2 Year	\$4,335.00	\$175.17	\$4,510.17
SERGEANT			
Entry	\$4,675.00	N/A	\$4,675.00
1 Year	\$4,675.00	\$93.50	\$4,768.50
2 Year	\$4,675.00	\$188.83	\$4,863.83
LIEUTENANT			
Entry	\$5,015.00	N/A	\$5,015.00
1 Year	\$5,015.00	\$100.33	\$5,115.33
CAPTAIN			
Entry	\$5,270.00	N/A	\$5,270.00
1 Year	\$5,270.00	\$105.42	\$5,375.42

SECTION 3. That, from and after the effective date of this resolution, the following incentive/certification pay schedules shall be adopted for the Sherman Fire Department:

- (a) Each employee certified by the Texas Department of State Health Services as an Emergency Medical Technician (E.M.T.) shall receive \$130.00 per month Incentive/Certification Pay.
- (b) Each employee certified by the Texas Department of State Health Services as a Paramedic and who meet the Sherman Medical Director's prescribed Medical Standards for Medical Authorization shall receive an additional \$375.00 per month Incentive/Certification Pay.

- (c) The total amount of Incentive/Certification Pay acquired by an employee for certification as an Emergency Medical Technician (E.M.T.) and Paramedic shall be \$505.00 per month.
- (d) Each employee who is certified by the Texas Commission on Fire Protection Personnel Standards and Education as an Intermediate Firefighter shall receive \$104.00 per month Incentive/Certification Pay.
- (e) Each employee who is certified by the Texas Commission on Fire Protection Personnel Standards and Education as an Advanced Firefighter shall receive an additional \$114.40 per month Incentive/Certification Pay.
- (f) Each employee who is certified by the Texas Commission on Fire Protection Personnel Standards and Education as a Master Firefighter shall receive an additional \$100.00 per month Incentive/Certification Pay.
- (g) The total amount of Incentive/Certification Pay that may be acquired by an employee for attainment of the above three certifications shall be \$318.40 per month.
- (h) Each employee who holds an Associates Degree from an accredited college or university shall receive \$75.00 per month Incentive/Certification Pay.
- (i) Each employee who holds a Bachelors Degree from an accredited college or university shall receive an additional \$100.00 per month Incentive/Certification Pay.
- (j) Each employee who holds a Masters Degree from an accredited college or university shall receive an additional \$75.00 per month Incentive/Certification Pay.
- (k) The total amount of Incentive/Certification Pay that may be acquired by an employee for attainment of the above three degrees shall be \$250.00 per month.
- (l) It is understood and agreed that all Certifications shall be kept current to receive Incentive/Certification Pay.

SECTION 4. That, from and after the effective date of this resolution, the following incentive/certification pay schedules shall be adopted for the Sherman Police Department:

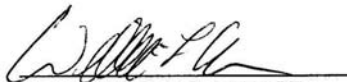
- (a) Each employee certified by the Texas Commission on Law Enforcement Officer Standards and Education as an Intermediate Peace Officer shall receive \$75.00 per month Incentive/Certification Pay.
- (b) Each employee certified by the Texas Commission on Law Enforcement Officer Standards and Education as an Advanced Peace Officer shall receive an additional \$100.00 per month Incentive/Certification Pay.
- (c) Each employee certified by the Texas Commission on Law Enforcement Officer Standards and Education as a Master Peace Officer shall receive an additional \$100.00 per month Incentive/Certification Pay.
- (d) The total amount of Incentive/Certification Pay that may be acquired by an employee for attainment of the above three certifications shall be \$275.00 per month.
- (e) Each employee who holds an Associates Degree from an accredited college or university shall receive \$100.00 per month Incentive/Certification Pay.
- (f) Each employee who holds a Bachelors Degree from an accredited college or university shall receive an additional \$150.00 per month Incentive/Certification Pay.
- (g) Each employee who holds a Masters Degree from an accredited college or university shall receive an additional \$250.00 per month Incentive/Certification Pay.
- (h) The total amount of Incentive/Certification Pay that may be acquired by an employee for attainment of the above three degrees shall be \$500.00 per month.
- (i) Each employee who speaks Spanish as a second language, as certified and designated by the Police Chief shall receive \$100.00 per month Incentive/Certification Pay.

It is understood and agreed that all Certifications shall be kept current to receive Incentive/Certification Pay.

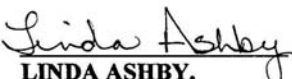
SECTION 5. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public as required by law and that public notice of the time, place, and purpose of said meeting was given as required.

PASSED AND APPROVED on this the 17th day of September,
2007.

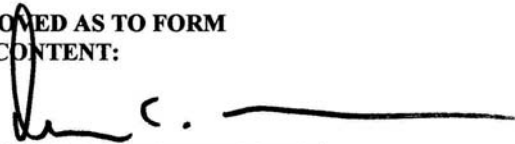
CITY OF SHERMAN, TEXAS

BY: 
BILL MAGERS, MAYOR

ATTEST:

BY: 
LINDA ASHBY,
CITY CLERK

APPROVED AS TO FORM
AND CONTENT:

BY: 
DOREEN E. MCGOOKEY,
CITY ATTORNEY



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. C.2

*** RESOLUTION NO. 5260**

Approving and Adopting Amendment Number ONE to the Flexible Spending Account Plan for the City of Sherman's Employees and Dependents effective October 1, 2008

Issue

Adopting an amendment to the Flexible Spending Account Plan for the City's employees and dependents

Background

As a benefit to employees, the City sponsors a Plan that allows employees to receive pre-tax compensation that can be used for out-of-pocket medical costs and dependent care expenses. The City uses Premier Pension Solutions (PPS) to administer the plan. PPS reviewed the City's existing Plan and, with City staff input, recommended restating the Plan. The amendment increases the maximum pre-tax compensation amount to \$4,800 annually from \$3,600 annually. The Plan conforms to the requirements under IRS Code Section 125.

Origination

Human Resources

Assistant City Manager/CFO

Financial Consideration

There is no cost associated with adopting this amendment. Costs of administration of this Plan by PPS are being funded by appropriations in the current fiscal year.

Staff Recommendation

The staff recommends adoption of this amendment as presented.

Alternatives

The Council could request modifications to the Plan, subject to IRS allowable provisions.

Attachments

Resolution No. 5260

Exhibit A, Amendment Number ONE

Exhibit B, Summary Plan Description – Material Modifications

Prepared by:

Robby Hefton, Assistant City Manager/CFO

Approved by:

George Olson, City Manager

RESOLUTION NO. 5260

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, APPROVING AND ADOPTING AMENDMENT NUMBER ONE TO THE FLEXIBLE SPENDING ACCOUNT PLAN FOR THE CITY OF SHERMAN'S EMPLOYEES AND DEPENDENTS EFFECTIVE OCTOBER 1, 2008; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the undersigned Principal of the City of Sherman (the Employer) hereby certifies that the following resolutions were duly adopted by the Employer on the 15th day of September, 2008; and

WHEREAS, such resolutions have not been modified or rescinded as of the date hereof;

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

SECTION 1. That Amendment Number ONE to the Flexible Spending Account Plan effective October 1, 2008, presented to this meeting is hereby approved and adopted and that the duly authorized agents of the Employer are hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more counterparts of the amendment.

SECTION 2. That the duly authorized agents of the Employer shall act as soon as possible to notify the employees of the Employer of the adoption of this Amendment Number ONE to the Flexible Spending Account Plan by delivering to each employee a copy of the summary description of the changes to the Plan in the form of the Summary Plan Description – Material Modification presented to this meeting, which form is hereby approved.

SECTION 3. That the undersigned further certifies that, attached hereto as Exhibits A and B, respectively, are true copies of Amendment Number ONE to Flexible Benefits Plan for the Employees of the City of Sherman and Summary Plan Description – Material Modifications approved and adopted in the foregoing resolutions.

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

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

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
DOREEN E. MCGOOKEY,
CITY ATTORNEY

EXHIBIT A

AMENDMENT NUMBER ONE TO FLEXIBLE BENEFITS PLAN FOR THE EMPLOYEES OF THE CITY OF SHERMAN

BY THIS AGREEMENT, Flexible Benefits Plan for the Employees of the City of Sherman (herein referred to as the "Plan") is hereby amended as follows, effective as of October 1, 2008:

1. The definition of "Medical Expenses" in the Health Care Reimbursement Plan or Health Flexible Spending Account is amended to read as follows:

"Medical Expenses" means any expense for medical care within the meaning of the term "medical care" as defined in Code Section 213(d) and as allowed under Code Section 105 and the rulings and Treasury regulations thereunder, and not otherwise used by the Participant as a deduction in determining his tax liability under the Code. "Medical Expenses" can be incurred by the Participant, his or her spouse and his or her Dependents.

A Participant may not be reimbursed for the cost of other health coverage such as premiums paid under plans maintained by the employer of the Participant's spouse or individual policies maintained by the Participant or his spouse or Dependent.

A Participant may not be reimbursed for "qualified long-term care services" as defined in Code Section 7702B(c).

2. The Section in the Health Care Reimbursement Plan or Health Flexible Spending Account entitled "Limitation on Allocations" is amended to read as follows:

Notwithstanding any provision contained in this Health Care Reimbursement Plan or Health Flexible Spending Account to the contrary, no more than \$4,800 may be allocated to the Health Care Reimbursement Fund or Health Flexible Spending Account by a Participant in or on account of any Plan Year.

EXHIBIT B

FLEXIBLE BENEFITS PLAN FOR THE EMPLOYEES OF THE CITY OF SHERMAN

SUMMARY PLAN DESCRIPTION MATERIAL MODIFICATIONS

I INTRODUCTION

City of Sherman has amended your Flexible Spending Account Plan as of October 1, 2008.

This is merely a summary of the most important changes to the Plan. It is presented to you as an addition to the Summary Plan Description. If you have any questions, contact the Administrator. A copy of the Plan, including this amendment, is available for your inspection. If there is any discrepancy between the terms of the Plan or the amendment itself and this summary of material modifications, the provisions of the Plan, as amended, will control.

II GENERAL INFORMATION ABOUT THE PLAN

There is certain general information which you may need to know about Amendment Number ONE to the Plan. This information has been summarized for you in this Section.

1. General Plan Information

Flexible Benefits Plan for the Employees of the City of Sherman is the name of the Plan.

The amended provisions of the Plan become effective on October 1, 2008, unless otherwise provided.

Your Employer has assigned Plan Number 501 to your Plan.

2. Employer Information

Your Employer's name, address and identification number are:

City of Sherman
405 North Rusk
Sherman, Texas 75090
75-6000669

3. Administrator Information

The name, address and business telephone number of the Administrator are:

City of Sherman
405 North Rusk
Sherman, Texas 75090
(903) 892-7218

The Administrator has the complete power, in its sole discretion to determine all questions arising in connection with the administration, interpretation, and application of the Plan (and any related documents and underlying policies). Any such determination by the Administrator is conclusive and binding upon all persons.

III
SUMMARY OF CHANGES

1. Health Flexible Spending Account

The Health Flexible Spending Account enables you to pay for expenses allowed under Sections 105 and 213(d) of the Internal Revenue Code which are not covered by our insured medical plan and save taxes at the same time. The Health Flexible Spending Account allows you to be reimbursed by the Employer for out-of-pocket medical, dental and/or vision expenses incurred by you and your dependents.

Drug costs, including "over the counter" drugs may be reimbursed.

You may not, however, be reimbursed for the cost of other health care coverage maintained outside of the Plan, or for long-term care expenses. A list of covered expenses is available from the Administrator.

The most that you can contribute to your Health Flexible Spending Account each Plan Year is \$4,800. In order to be reimbursed for a health care expense, you must submit to the Administrator an itemized bill from the service provider. Amounts reimbursed from the Plan may not be claimed as a deduction on your personal income tax return. Reimbursement from the fund shall be paid at least once a month.



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. C.3

*** RESOLUTION NO. 5261**

**Authorizing Execution of an Interlocal Agreement between the City of Sherman
and the City of Fort Worth for Household Hazardous Waste Services**

Issue

To provide for the renewal of an Interlocal Agreement with the City of Fort Worth for the proper disposal of household hazardous waste to combat illegal dumping

Background

Providing a consistent and efficient outlet for the proper disposal of household hazardous waste for Sherman residents has been a challenge. The City of Sherman adopted this Interlocal Agreement in December of 2006 and, since then, Fort Worth has hosted two household hazardous waste collection events each year servicing approximately 100 households at each event.

Origination

Department of Public Works

Financial Consideration

Funds have been budgeted and approved to host household hazardous waste collection events in fiscal year 2008-2009. The cost to the City of Sherman for such an event is \$47.00 per collection vehicle.

Staff Recommendation

Approve an Interlocal Agreement with the City of Fort Worth; and partner with them to provide Sherman residents with a consistent, year-round opportunity to dispose of household hazardous waste.

Alternatives

As may be directed by the City Council

Attachments

Resolution No. 5261

Standard Interlocal Agreement from the City of Fort Worth

Prepared by:
Jeffrey R. Miller, Public Works Director

Approved by:
George Olson, City Manager

RESOLUTION NO. 5261

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF SHERMAN AND THE CITY OF FORT WORTH FOR HOUSEHOLD HAZARDOUS WASTE SERVICES; 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, subject to all contract documents being properly completed and approved as to form by the City Attorney, to execute an Interlocal Agreement with the City of Fort Worth for household hazardous waste services, in accordance with the terms and provisions of the contract document attached hereto and incorporated herein for all purposes.

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

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

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
DOREEN E. MCGOOKEY,
CITY ATTORNEY

INTERLOCAL AGREEMENT FOR PARTICIPATION IN FORT WORTH'S
ENVIRONMENTAL COLLECTION CENTER
HOUSEHOLD HAZARDOUS WASTE PROGRAM

THIS AGREEMENT is entered into by and between the City of Fort Worth, Texas, a home-rule municipal corporation situated in Tarrant, Denton and Wise Counties, Texas, hereinafter called "Fort Worth," acting herein by and through Charles W. Daniels, its duly authorized Assistant City Manager, and City of _____, a municipality situated in _____ County, Texas, hereinafter called "Participating City," acting herein by and through _____ its duly authorized _____.

WITNESSETH

WHEREAS, Texas Government Code, Chapter 791, authorizes the formulation of interlocal cooperation agreements between and among local governments; and

WHEREAS, Texas Government Code, §791.011 provides that a local government may contract with another to perform governmental functions and services, and §791.003(3)(H) defines waste disposal as a governmental function and service; and

WHEREAS, Texas Government Code, §791.025 provides that a local government may agree with another local government to purchase services; and

WHEREAS, Fort Worth and Participating City desire to enter into an interlocal agreement whereby Fort Worth will purchase the services of a waste disposal/recycling firm or firms and will administer a household hazardous waste collection program; and

WHEREAS, Fort Worth and Participating City mutually desire to be subject to the provisions of Texas Government Code, Chapter 791, also known as the Interlocal Cooperation Act.

NOW THEREFORE, it is agreed as follows:

1.

DEFINITIONS

- A. Unless a provision in this Agreement explicitly states otherwise, the following terms and phrases, as used in this Agreement, shall have the meanings hereinafter designated.

Act of God means an act occasioned by the direct, immediate, and exclusive operation of the forces of nature, uncontrolled or uninfluenced by the power of humans and without human intervention.

Bill of Lading lists the contents of the mobile collection unit.

Environmental Collection Center (ECC) means the City of Fort Worth Department of Environmental Management facility located at 6400 Bridge Street, Fort Worth, Texas, which is to be used by Fort Worth for the aggregation of household hazardous wastes that have been brought to the facility by participating cities' households for subsequent recycling, disposal, and/or reuse.

Environmental damages means all claims, judgments, damages, losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs, and expenses of investigation and defense of any claim, whether or not such claim is ultimately defeated, and of any good faith settlement or judgment, of whatever kind or nature, contingent or otherwise, matured or un-matured, foreseeable or unforeseeable, including without limitation reasonable attorney's fees and disbursements and consultant's fees, any of which are incurred subsequent to the execution of this Agreement as a result of the handling, collection, transportation, storage, disposal, treatment, recovery, and/or reuse of waste pursuant to this Agreement, or the existence of a violation of environmental requirements pertaining to same, and including without limitation:

- (a) Damages for personal injury and death, or injury to property or natural resources;
- (b) Fees incurred for the services of attorneys, consultants, contractors, experts, laboratories and all other costs incurred in connection with the investigation or remediation of such wastes or violation of environmental requirements including, but not limited to, the preparation of any feasibility studies or reports or the performance of any cleanup, remediation, removal, response, abatement, containment, closure, restoration or monitoring work required by any federal, state or local governmental agency or political subdivision, or otherwise expended in connection with the existence of such wastes or violations of environmental requirements, and including without limitation any attorney's fees, costs and expenses incurred in enforcing this Agreement or collecting any sums due hereunder; and
- (c) Liability to any third person or governmental agency to indemnify such person or agency for costs expended in connection with the items referenced in subparagraph (b) herein.

Environmental requirements means all applicable present and future statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises, and similar items, of all governmental agencies, departments, commissions, boards, bureaus, or instrumentalities of the United States, states, and political subdivisions thereof and all applicable judicial, administrative, and regulatory decrees, judgments, and orders relating to the protection of human health or the environment, including without limitation:

- (a) All requirements, including but not limited to those pertaining to reporting, licensing, permitting, investigation, and remediation of emissions, discharges, releases, or threatened releases of hazardous materials, pollutants, contaminants, or hazardous or toxic substances, materials, or wastes whether solid, liquid, or gaseous in nature, into the air, surface water, groundwater, storm water, or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of pollutants, contaminants, or hazardous or toxic substances, materials, or wastes, whether solid, liquid, or gaseous in nature; and
- (b) All requirements pertaining to the protection of the health and safety of employees or the public.

Force majeure means decrees of or restraints by a governmental instrumentality, acts of God, work stoppages due to labor disputes or strikes, failure of Fort Worth's contractor(s) to perform pursuant to their agreements with Fort Worth for the conduct of the collection of household hazardous waste, fires, explosions, epidemics, riots, war, rebellion, and sabotage.

Household hazardous waste (HHW) means any solid waste generated in a household by a consumer which, except for the exclusion provided for in 40 CFR § 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261.

Manifest means the uniform hazardous waste manifest form(s) furnished by the TCEQ to accompany shipments of municipal hazardous waste or Class 1 industrial solid waste for waste transported to a site in Texas, or the comparable manifest of the receiving state if the waste is transported out of Texas.

Mobile collection event means a household hazardous waste collection event by Participating City utilizing a mobile collection unit.

Fort Worth Mobile collection unit (MCU) means a non-self-propelled vehicle used for the periodic collection of household hazardous waste by Participating City, off-site of the ECC, which is transported to the ECC to dispose of the household hazardous waste collected at the mobile collection event. The Fort Worth Mobile Collection Unit is designed to hold the hazardous waste of approximately 50 to 75 households.

Participating Cities, when used in the plural, means Fort Worth, Participating City, and all other entities which have entered into interlocal agreements with Fort Worth for the ECC household hazardous waste collection program.

Person means an individual, corporation, organization, government, or governmental subdivision or agency, business trust, partnership, association, or any other legal entity.

Waste has the same meaning as "solid waste" as that term is defined in Texas Health and Safety Code §361.003, and including hazardous substances.

- B. Unless a provision in this Agreement explicitly states otherwise, the following abbreviations, as used in this Agreement, shall have the meanings hereinafter designated.

CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act.

CPR - cardiopulmonary resuscitation.

DOT - United States Department of Transportation.

ECC - Environmental Collection Center.

EPA - United States Environmental Protection Agency.

HAZCAT - hazardous categorization.

HAZWOPER - hazardous waste operations and emergency response.

HM - hazardous materials.

HHW - household hazardous waste.

MCU - Mobile Collection Unit.

2.
PURPOSE

The purpose of this interlocal agreement (hereafter "Agreement") is the provision of services by Fort Worth to Participating City whereby, subject to the terms and conditions specified below, Fort Worth will administer and supervise a regional household hazardous waste collection program, which will be available to households within Participating City as described herein.

3.
TERM

This Agreement shall be effective from the date the last party has signed this Agreement through September 30, 2009.

4.
SERVICES OF FORT WORTH

Fort Worth agrees to perform the following services for Participating City in connection with the ECC household hazardous waste collection program:

- A. Fort Worth will administer a regional household hazardous waste collection program. This program will include the operation of the Environmental Collection Center, which will accept for disposal and/or recycling household hazardous waste from households located within Participating City. Fort Worth shall not accept compressed flammable gas containers; radioactive materials; explosives or potentially shock sensitive materials; biological, etiologic, and infectious materials; wastes from businesses; and any other wastes that Fort Worth has determined are unacceptable.
- B. Fort Worth will employ or retain personnel to provide the services necessary to perform Fort Worth's obligations in this Agreement.
- C. Fort Worth will enter into a contract(s) with waste disposal/recycling firm(s) for the handling, collection, transportation, storage, disposal, treatment, recovery, and/or reuse of household hazardous waste, which is collected at the ECC.
- D. Fort Worth will, if requested in writing by Participating City, provide Participating City with copies of waste manifests for shipments of waste from the ECC.

-
- E. Fort Worth will, if requested in writing by Participating City, provide Participating City a monthly report of the Participating City's households who disposed of household hazardous waste at the Environmental Collection Center or a Mobile Collection Event.
- F. Fort Worth will issue a report and a bill at the end of each quarter detailing the number of Participating City's households that disposed of household hazardous waste at the Environmental Collection Center or at a mobile collection event.
- G. Fort Worth will act under this Agreement in accordance with all applicable state and federal laws.
- H. Non-Fort Worth Mobile Collection Unit
1. Fort Worth agrees to accept household hazardous waste from Participating City's MCU in accordance with Section 5, of this Agreement.
 2. Fort Worth agrees to restock the items it removes from Participating City's MCU, however, Fort Worth shall only restock items listed in Exhibit "A", attached and incorporated herein as if set forth.
- I. Mobile Collection Events—Using Fort Worth's Unit
1. Participating City may schedule one mobile collect event each contract year. If Participating City would like to schedule a mobile collection event with the Fort Worth Mobile Collection Unit, the Participating City shall contact the ECC as soon as possible for a list of available dates. The time and location shall be agreeable to both parties.
 - (a) Location

If Participating City chooses to hold the Mobile Collection Event on private property, Participating City shall obtain a signed waiver from the owner of the property one (1) week prior to the event. The waiver shall be in the form of Exhibit B or similar form approved by Fort Worth. The signed waiver must be sent to Fort Worth one (1) week before the Mobile Collection Event. If the signed waiver is not sent to Fort Worth one (1) week before the Mobile Collection Event, Fort Worth will not send the Fort Worth Mobile Collection Unit to the event and Participating City will, in no event, be entitled to any damages or recovery of any costs, except as provided herein.
 - (b) Available Dates

Participating City acknowledges that Fort Worth contracts with other municipalities and that Fort Worth will be accommodating each Participating City's request on a first come first served basis. Therefore, Participating City acknowledges that its chosen date to schedule a mobile collection event may be reserved by another City and Participating City will have to then choose another date. Participating City will, in no event, be entitled to any damages or recovery of any costs, except as provided herein.

2. At the Mobile Collection Event, Participating City acknowledges and agrees that Fort Worth shall accept household hazardous waste from the first 50 households that show proof of residency at the Mobile Collection Event. After the first 50 households, Fort Worth will determine in its sole discretion how much more waste it can accept and store properly. If more households arrive at the event than Fort Worth can accept, Participating City will in no event be entitled to any damage of recovery of any costs, except as provided herein.
3. Due to the lack of storage space at the ECC, Participating City acknowledges and agrees that if it requests the Fort Worth Mobile Collection Unit at a mobile collection event, a Participating City's Non-Fort Worth Mobile Collection Unit shall not also be at the event.
4. City, in its sole discretion, will determine whether to send the Fort Worth Mobile Collection Unit to Participating City's Collection Event during adverse weather or the threat of adverse weather including but not limited to sleet, snow, rain, mist or hail. In the event Fort Worth determines not to send the Fort Worth Mobile Collection Unit, Fort Worth shall notify persons listed in Section 5, Paragraph A and shall send a Fort Worth employee to the Participating City's event to tell any residents that come to dispose of household hazardous waste; 1) that the Fort Worth Mobile Collection Unit will not be coming to the event, and, 2) that the resident can go to the ECC to dispose of the waste and provide a map to the ECC.

J. Loan of the Special Mobile Collection Unit

1. Participating City may request the loan of Fort Worth's Special Mobile Collection Unit, which is a specially designed and equipped thirty-six (36) foot gooseneck box-trailer and one (1) ton pickup, free of charge for use in a Household Hazardous Waste collection event when available. Participating City may use the Special Mobile Collection Unit to transport HHW to Fort Worth's ECC or another collection center which may lawfully receive HHW. Participating City shall provide Fort Worth with a written request, facsimile or e-mail at least thirty (30) days prior to the HHW Collection Event for which the request is made. Fort Worth shall have sole determination whether the Special Mobile Collection Unit is available for use by Participating City and shall notify Participating City as soon as is reasonably practicable of such decision. Fort Worth shall not participate nor be responsible for any part of the Participating City's HHW Collection Event unless and except by written mutual agreement.
2. The Special Mobile Collection Unit shall be in good working condition and Fort Worth shall disclose any known problems the Special Mobile Collection Unit may have in performing the tasks necessary for the HHW Collection Event. Prior to issuance of the Special Mobile Collection Unit, a pre-trip inspection for potential maintenance problems will be performed by Fort Worth. Also, both parties will complete a pre-aesthetic assessment. Participating City shall be responsible for all certifications, and insurance necessary for the proper operation of the Special Mobile Collection Unit.

3. Participating City agrees to maintain and return the Special Mobile Collection Unit in as good condition as it was in when Participating City took possession for use. Participating City shall return the Special Mobile Collection Unit to Fort Worth in a timely manner and as mutually agreed upon.
4. Participating City shall be responsible for all work-related property damage, personal injury or death caused by Participating City's employees or volunteers and arising out of the use of the Special Mobile Collection Unit during the term of this Agreement.
5. It is expressly understood and agreed that, in the execution of this Agreement, neither of the parties waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement the parties do not intend to create any obligations, expressed or implied, other than those set forth herein and this Agreement shall not create any rights in parties not signatories hereto.

5.
DUTIES OF PARTICIPATING CITY

Participating City agrees to perform the following duties in connection with the household hazardous waste collection program:

- A. Participating City will designate one of its employees, and another as an alternate, to act as its household hazardous waste collection coordinator to interact with Fort Worth.

Designated person is: _____ telephone number: _____
Pager number or 24-hour number where he or she can be reached: _____

Alternate person is _____ telephone number: _____
Pager number or 24-hour number where he or she can be reached: _____
- B. Participating City will coordinate and fund all program advertising targeted to its own citizens, as it deems necessary. Such advertising shall include the type of wastes that will be accepted at the ECC, the requirement of proof of residency and weather cancellation information.
- C. Participating City shall notify its residents of the ECC hours of operation and dates it is closed as provided in Section 9 "The Environmental Collection Center Hours of Operation."
- D. Participating City may choose to utilize a voucher system for its residents in order for them to bring HHW to the ECC. If Participating City chooses to use such a system, it shall notify Fort Worth of the decision, and shall provide Fort Worth with a copy of the official voucher. In addition, if a citizen from a Participating City that utilizes a voucher system comes to the ECC or a mobile collection event without a voucher, Participating

City acknowledges and agrees that Fort Worth will not accept the household hazardous waste until Participating City authorizes the acceptance in writing.

- E. Participating City may submit a written request for a monthly report listing the number of its city's households that have disposed of household hazardous waste at the ECC or a mobile collection event.
- F. Participating City shall provide traffic control and signage for the mobile collection event, and shall provide personnel to assist Fort Worth with the survey and screening of persons dropping off household hazardous waste. The parties prior to the event shall agree upon the details of the traffic control, signage, and personnel assistance.
- G. Participating City's Mobile Collection Units Collecting Household Hazardous Waste
 - 1. Participating City shall advise the ECC program manager at least 72 hours in advance of its mobile collection events. Participating City shall collect only HHW during a mobile collection event. Wastes from commercial, agricultural, and industrial sources shall not be accepted. Participating City shall not accept compressed flammable gas containers; radioactive materials; explosives or potentially shock sensitive materials; biological, etiologic, and infectious materials; and any other wastes that Fort Worth has determined are unacceptable.
 - 2. In accordance with the latest DOT requirements, Participating City's MCU operators will properly categorize, package, mark, label, and load into the MCU, all wastes received at the mobile collection event. Recyclable products (used oil, used oil filters, latex paint, recyclable anti-freeze, lead-acid batteries, and fluorescent lights) will be segregated into containers for recyclables.
 - 3. After accepting wastes, Participating City's MCU operators shall thoroughly check each container for proper labeling and identification. If a container is properly identified, the material will be segregated according to hazard class and prepared for packaging. If a container does not have adequate labeling to permit identification, the MCU operators shall then attempt to identify the material from its physical characteristics using HAZCAT analysis and from information provided by the household presenting the waste.
 - 4. The Participating City's MCU operators shall package all hazardous materials in accordance with United States Department of Transportation (DOT) requirements, United States Environmental Protection Agency (EPA) requirements, and all other applicable federal and state requirements. After all the wastes have been properly identified and segregated, the MCU operators will reexamine the wastes for compatibility, list them on the container content sheets, and pack them into drums. Oil-based paints and latex paints shall be bulked separately in 55-gallon drums, or if the paint is left in its container, the paint can be packed in a lined cubic yard box, and packed and labeled according to federal and state regulations. Participating City shall not transport waste that is not HHW to the ECC. Participating City agrees to make its own arrangements to dispose of any non-HHW waste collected at the event.

5. Prior to transporting the HHW from the collection event site, Participating City's MCU operators shall complete a Bill of Lading, and shall keep the Bill of Lading in the cab of the truck hauling the MCU during transportation of the HHW to the ECC. Participating City shall require that a minimum of one copy of the latest North American Emergency Response Guidebook be kept within the cab of the truck.
6. During transportation, Participating City's MCU operators shall placard the MCU for transportation of hazardous waste in accordance with federal and state law.
7. Upon the return of the MCU to the ECC, Participating City's MCU operators shall follow the instructions of Fort Worth regarding the placement of the MCU for unloading. Fort Worth shall take possession of the MCU from Participating City after the MCU has been properly parked for unloading in accordance with Fort Worth's instructions and all required documents have been delivered to the ECC program manager or his designee at the ECC. Fort Worth shall, within a reasonable amount of time, unload the HHW from the non-Fort Worth MCU and store the HHW at the ECC.
8. If Fort Worth, in its sole discretion, determines that Participating City's MCU operators improperly packaged any of the HHW delivered to the ECC, Fort Worth shall repackage such waste, and Participating City shall reimburse Fort Worth as set forth in Section 10., Paragraph B.
9. If a spill occurs at the ECC while the MCU is still in Participating City's possession, Fort Worth shall take control of the spill response and Participating City will reimburse Fort Worth for its response costs as set forth in Section 10., Paragraph C.

6.

USE OF WASTE DISPOSAL/RECYCLING FIRMS FOR HOUSEHOLD HAZARDOUS WASTE

- A. Fort Worth will enter into a contract(s) with waste disposal/recycling firm(s) for the handling, collection, transportation, storage, disposal, treatment, recovery, and/or reuse of household hazardous waste, which is collected at the ECC.
- B. Such firm(s) shall be required pursuant to the contract(s) to assume generator status for the waste collected, (excluding used oil, lead-acid batteries and antifreeze) to choose a disposal site for the waste subject to Fort Worth's approval, and to indemnify Fort Worth and participating cities against any and all environmental damages and the violation of any and all environmental requirements resulting from the handling, collection, transportation, storage, disposal, treatment, recovery, and/or recycling of waste collected pursuant to this agreement, when said environmental damages or the violation of said environmental requirements was the result of any act or omission of contractor, its officers, agents, employees, or subcontractors, or the joint act or omission of contractor, its officers, agents, employees, or subcontractors and any other person or entity.

-
- C. **THE PARTIES RECOGNIZE THAT ALTHOUGH THE FIRM (S) WILL BE REQUIRED TO ASSUME GENERATOR STATUS, THIS ASSUMPTION WILL NOT RELIEVE PARTICIPATING CITY OF LIABILITY FOR THE WASTE UNDER FEDERAL LAW AND STATE LAW.** Fort Worth will arrange for recycling vendors for used oil, batteries, antifreeze, and other materials, as it deems appropriate.

7.

REUSE OF COLLECTED MATERIALS

- A. From time-to-time Fort Worth will make available to residents and businesses of Fort Worth, as well as, Participating City and residents and businesses of Participating City for their use, collected household hazardous waste materials that are suitable for reuse, such as paint, fertilizer, motor oil, and antifreeze. Fort Worth shall not charge for any materials that are picked up for reuse.
- B. Some materials made available for reuse may have been consolidated and filtered by Fort Worth prior to being made available. Used antifreeze will have been consolidated in a barrel, filtered, and pH balanced, and new antifreeze may have been added to the barrel.
- C. In regards to materials accepted by Participating City, **FORT WORTH MAKES NO REPRESENTATIONS, WARRANTIES OR GUARANTIES THAT:**
1. the container contents are what the label indicates;
 2. the container contents are those originally placed into the container by the manufacturer;
 3. the product is of the quality intended for its use;
 4. the contents of the container have been stored properly;
 5. the instructions on the container label for use, storage, and first aid are current or correct;
 6. the container is in unimpaired condition;
 7. the product is still approved for use (i.e., it has not been banned or recalled); and
 8. the product can be used without risk to persons, property or the environment.

FURTHERMORE, ALL WARRANTIES, EXPRESS AND IMPLIED, ARE SPECIFICALLY DENIED.

- D. Participating City shall contact the ECC program manager to arrange a pickup time to obtain materials. Participating City agrees that it shall not return to Fort Worth, directly or indirectly, any materials it obtains from Fort Worth under this paragraph.

E. IN REGARDS TO MATERIALS ACCEPTED BY PARTICIPATING CITY, PARTICIPATING CITY DOES HEREBY WAIVE ALL CLAIMS, INCLUDING PRODUCTS LIABILITY CLAIMS, AND RELEASES, AND HOLDS HARMLESS THE CITY OF FORT WORTH, AND ALL OF ITS OFFICIALS, OFFICERS, EMPLOYEES, AGENTS, AND VOLUNTEERS, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM ANY AND ALL LIABILITY, CLAIMS, SUITS, DEMANDS, EXPENSES OF LITIGATION, OR CAUSES OF ACTION WHICH MAY ARISE BY REASON OF INJURY TO PERSONS, LOSS OF PROPERTY, DAMAGE TO PROPERTY, OR LOSS OF USE OF ANY PROPERTY , OCCASIONED BY THE TRANSPORTATION, STORAGE, HANDLING, USE, AND DISPOSAL BY PARTICIPATING CITY OF ANY MATERIALS ACCEPTED BY PARTICIPATING CITY UNDER THIS AGREEMENT FROM FORT WORTH.

F. In regards to materials accepted by residents or businesses of Participating Cities, **FORT WORTH MAKES NO REPRESENTATIONS, WARRANTIES OR GUARANTIES THAT:**

1. the container contents are what the label indicates;
2. the container contents are those originally placed into the container by the manufacturer;
3. the product is of the quality intended for its use;
4. the contents of the container have been stored properly;
5. the instructions on the container label for use, storage, and first aid are current or correct;
6. the container is in unimpaired condition;
7. the product is still approved for use (i.e., it has not been banned or recalled); and
8. the product can be used without risk to persons, property or the environment.

FURTHERMORE, ALL WARRANTIES, EXPRESS AND IMPLIED, ARE SPECIFICALLY DENIED.

G. Participating City shall attempt to inform its residents and businesses that if they go to the Environmental Collection Center to pick up household hazardous waste for reuse, a release of liability must be signed to accept the household hazardous waste for reuse.

8.
RIGHT TO REFUSE WASTE

Participating City agrees that Fort Worth shall have the right to refuse to accept waste at the ECC from Participating City's resident and to eject such individual from the premises of the ECC, if in the reasonable judgment of Fort Worth:

-
- A. The waste is not household hazardous waste;
 - B. The waste fails to meet other established criteria established by this Agreement, or that have been established by Fort Worth subsequent to the execution of the Agreement;
 - C. The individual does not have sufficient identification to establish that he/she is in fact a resident of Participating City;
 - D. Participating City has implemented a voucher system for its residents to dispose of waste, and the individual does not have a valid voucher; or
 - E. The waste or the individual presents a hazard to the ECC or to persons or property at the ECC.

9.
ENVIRONMENTAL COLLECTION CENTER HOURS AND DAYS
OF OPERATION

A. Hours of Operation

During the term of the Agreement, the ECC's hours of operation are as follows:
Thursday and Friday 11:00 a.m. – 7:00 p.m.
Saturday 9:00 a.m. – 3:00 p.m.

B. Days the Environmental Collection Center will be closed

During the term of the agreement, the ECC will be closed on the following days:
Thanksgiving Holiday, November 27-28, 2008
Christmas Holiday, December 25, 2008
New Year's Day, January 1, 2009
M.L.K. Day, January 19, 2009
Memorial Day, May 25, 2009
Independence Day, July 4, 2009
Labor Day, September 7, 2009

C. Notifying Residents

Participating City agrees to notify its residents of the ECC's hours of operation and dates it will be closed. Participating City may advertise the 24-hour Environmental Collection Center telephone number to give its residents the Environmental Collection Center's hours. The number is: (817) 871-5257.

10.
COMPENSATION

As fair compensation for the services provided by Fort Worth pursuant to this Agreement:

-
- A. Participating City agrees to pay Fort Worth the sum of **\$47.00** per household per visit to the ECC or per household for participation in a Mobile Collection Event to dispose of household hazardous waste.
 - B. If Fort Worth determines that Participating City's MCU operators improperly packaged any of the HHW delivered to the ECC, Fort Worth shall repackage such waste, and Participating City shall reimburse Fort Worth for its staff time at \$20.00 an hour and the cost of supplies.
 - C. If a spill occurs at the ECC while the Non- Fort Worth MCU is still in Participating City's possession, Fort Worth shall take control of the spill response and Participating City will reimburse Fort Worth for its response costs of \$60.00 per hour staff time and the cost of supplies.
 - D. The amount due to Fort Worth for services provided under this Section, Paragraphs A, B, and C, shall be billed to Participating City quarterly. Participating City shall pay Fort Worth within 30 days of receiving a bill from Fort Worth. If Fort Worth does not receive payment within 30 days, Fort Worth shall inform Participating City in writing that it will not accept any household hazardous waste from Participating City's residents and that Fort Worth will not participate in a mobile collection event or provide a mobile collection unit until paid.
 - E. At the end of the term of this Agreement, Fort Worth shall provide a final accounting to Participating City, which will include the total number of Participating City's households which participated in the program, repackaging fees, if any, and the total cost of spill response charged to Participating City, if any.
 - F. Pursuant to the requirements of Government Code §791.011 (a)(3), the amount due to Fort Worth under Subparagraph D. above shall be paid from revenues currently available to Participating City in the present fiscal year.

11.

ARTWORK, "CAPTAIN CRUD AND THE CRUDDIES," AND PROMOTIONAL MATERIALS
LICENSE AGREEMENT

Fort Worth is the owner of "**Captain Crud**" and the Cruddies ("**Bloomer**," "**Otto**," "**Pestie**," "**Scrub**," and "**Van Goo**") and the recycling buddies ("**Scrappy**," "**Juggles**," and "**Cana Nana**") "**Conquer Your Crud**," and "**Crud Cruiser**", and therefore all ownership rights belong to Fort Worth. Fort Worth has registered these marks as service marks with the Secretary of State.

- A. Fort Worth hereby grants to Participating City a non-transferable, non-exclusive license to use all the artwork and promotional materials that may be provided by Fort Worth to be used solely in the conduct of the business of Participating City's disposal and recycling of household hazardous waste programs. If Participating City wishes to use to Licensed Art and/or Promotional Materials in other limited situations, Participating City must first obtain express written consent from Fort Worth.

-
- B. Fort Worth may provide licensed Artwork and Promotional Materials to Participating City pursuant to the terms of this Agreement. Participating City acknowledges that by virtue of this License, Participating City acquires only the right to use the original and permitted duplicate copies of the Licensed Artwork and Promotional Materials and does not acquire any rights of ownership in the Licensed Artwork and Promotional Materials, which rights shall remain exclusively with Fort Worth. If Participating City wants to modify or change the artwork and/or promotional materials in any manner, Participating City hereby agrees to contact Fort Worth in writing to obtain written consent before modifying or changing any artwork and/or promotional materials.
- C. If Participating City desires an actor to portray "Captain Crud" for an event, Participating City shall use actors approved by Fort Worth to portray "Captain Crud" since "Captain Crud" is owned by Fort Worth. Participating City shall be solely responsible for compensating actor for the services provided to Participating City. Participating City will contact Fort Worth as soon as possible with the date and time of the event agreeable to both parties to obtain approval for the chosen actor and to request and pickup the "Captain Crud" costume for its events. Fort Worth will provide the "Captain Crud" costume. However, Participating City agrees to be liable to Fort Worth for any damage to the costume or if Participating City fails to return the entire costume to Fort Worth or if the costume is not returned in the same condition as received.

12.
IMMUNITY

It is expressly understood and agreed that, in the execution of this Agreement, none of the Participating Cities waives, nor shall be hereby deemed to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions, and that the services described in this Agreement are a governmental function.

13.
FORCE MAJEURE

A delay or failure of Fort Worth to perform services pursuant to this Agreement shall be excused to the extent that the delay or failure to perform resulted from a force majeure event, and the delay or failure was beyond the control of Fort Worth and not due to its fault or negligence. Participating City shall not have, and hereby waives, any claim whatever for any damages resulting from delays or failure to perform caused by a force majeure event.

14.
TERMINATION

The parties shall each have the right to terminate the Agreement for any reason, with or without cause, upon thirty (30) days written notice to the other party. Upon termination, the parties shall be released from all contractual obligations to the other party excluding "USE OF WASTE DISPOSAL/RECYCLING FIRMS FOR HOUSEHOLD HAZARDOUS WASTE" (Paragraph 6) "REUSE OF COLLECTED MATERIALS" (Paragraph 7) and "ARTWORK, "CAPTAIN CRUD AND THE CRUDDIES," AND PROMOTIONAL MATERIALS LICENSE AGREEMENT" (Paragraph 11).

15.
NOTICE

Any notices required to be given under this Agreement shall be delivered as follows:

If to Fort Worth:

Brian Boerner, CHMM, Director
Department of Environmental Management
City of Fort Worth
1000 Throckmorton
Fort Worth, Texas 76102

If to Participating City:

16.
ENTIRETY

This Agreement contains all commitments and Agreements of the parties hereto, and no other oral or written commitments shall have any force or effect if not contained herein, except that this Agreement can be amended or modified by the parties if such amendment or modification is in writing and signed by Participating City and Fort Worth.

17.
SEVERABILITY

In the event anyone or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein.

18.
VENUE

Should any action, real or asserted, at law or in equity, arise out of the terms and conditions of this Agreement, venue for said action shall be in Tarrant County, Texas.

19.
AUTHORITY

This Agreement is made for Fort Worth and Participating City as an Interlocal Agreement, pursuant to Texas Government Code, Chapter 791.

20.
AUTHORIZATION

The undersigned officers and/or agents of the parties hereto are properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions extending such authority have been duly passed and are now in full force and effect.

EXECUTED IN TRIPLICATE

CITY OF FORT WORTH

CITY OF _____

By:

By:

Charles W. Daniels
Assistant City Manager
Date: _____

Printed name: _____
Title: _____
Date: _____

APPROVED AS TO FORM
AND LEGALITY:

APPROVED AS TO FORM
AND LEGALITY:

Assistant City Attorney

Assistant City Attorney

ATTEST:

ATTEST:

Marty Hendrix
City Secretary

City Secretary

Contract authorization

Date

Exhibit "A"

RESTOCKING LIST FOR THE MOBILE COLLECTION UNIT

Material	Amount Restocked	Special Needs	Remarks
55 gallon open top drums (open top for loose packs)	Amount taken off the trailer		
55 gallon drums (closed top) (oil, antifreeze, bulk flammable materials and one extra)	Amount taken off the trailer		
Fiber drums (55 or 30 gallon) Aerosols, acids, bases and oxidizers)	Amount taken off the trailer		
Gaylord box liners (plastic)	Amount taken off the trailer		
55 gallon drum liners	Amount taken off the trailer		
5 gallon buckets (filters/haz chemicals)	Amount taken off the trailer		
Survey Forms	Amount taken off the trailer		
Labels/drum placard	Amount taken off the trailer		
Gaylord boxes	Amount taken off the trailer		
Absorbent pads	Amount taken off the trailer		
Vermiculite	Amount taken off the trailer		
Oil dry	Amount taken off the trailer		
Promotional Materials & Brochures	Amount needed		

Exhibit "B"

WAIVER AND RELEASE OF LIABILITY FOR COLLECTION OF HOUSEHOLD
HAZARDOUS WASTE

I being the owner of property located at _____
have been asked by the City of _____ to allow a mobile collection
event on my property to collect household hazardous waste on the _____, 20____.
I hereby give my permission to the City of _____ and the City of Fort
Worth, to hold a household hazardous waste collection event on my property in which the City
of _____ has asked the City of Fort Worth to send its mobile
collection unit to collect the household hazardous waste that is brought to the event.

Therefore, I hereby RELEASE, DISCHARGE, HOLD HARMLESS, INDEMNIFY the City of
Fort Worth or its officers, agents, and employees and the City of
_____ and its officers, agents, and/or employees for any and
all claims, demands, liability, causes of action, actions or suits of any character that I may have
against the City of Fort Worth or its officers, agents, and/or employees and the City of
_____ or its officers, agents, and/or employees for any property loss or
damage, for any and all personal injury including death or any other damage of any kind or
character which may arises or that arises from allowing the City of _____ to
hold a household hazardous waste collection event, in which the City of Fort Worth sends its
mobile collection unit on my property.

I have read this Waiver and Release and fully understand its terms and conditions. I have not
been influenced in any extent whatsoever by any representation or statements not contained in
this Agreement.

Signature

Date

Witness



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. C.4

*** RESOLUTION NO. 5262**

**Authorizing the Purchase of Replacement Residential Recycling Carts
through the Houston-Galveston Area Council of Governments (H-GAC)
for the Solid Waste Services Department**

Issue

To consider approval of a resolution to purchase replacement residential recycling carts through the Houston-Galveston Area Council of Governments (H-GAC) for use within the Solid Waste Services Department

Background

Maintaining and periodically replacing residential automated recycling carts is an important part of the solid waste program, both for our residents and to assure more efficient collection. The typical life of an automated cart is about ten (10) years, but can be shorter based upon a number of factors, including exposure to the elements and collection equipment mechanical malfunctions. As we enter the eighth year of our automated commingle recycling collection program, we need to continue our replacement program for aging or broken carts. It is also important to maintain a supply of carts for new homes and accommodate requests for extra carts. As explained earlier this year, we are now purchasing recycling carts in the universal blue color due to the high cost of continuing with the manufacturer of teal recycling carts. Purchasing automated carts from H-GAC conforms to the requirements of Texas statutes that are applicable to competitive bids and competitive proposals. No product or service is offered by H-GAC that has not been subjected to either competitive bid or competitive proposal process.

Origination

Department of Public Works

Financial Consideration

Funds for the purchase of new 100-gallon automated recycling carts were appropriated in the 2007-2008 fiscal year operating budget. Toter, Inc. was the H-GAC vendor that offered the lowest bid price for the type of cart used by the City.

Staff Recommendation

It is recommended that the staff be authorized to acquire residential recycling carts through H-GAC.

Alternatives

Those as may be recommended by the City Council

Attachments

Resolution No. 5262; Bid Tabulation; H-GAC Interlocal Agreement

Prepared by:

Jeff Miller, Director of Public Works

Approved by:

George Olson, City Manager

RESOLUTION NO. 5262

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE PURCHASE OF REPLACEMENT RESIDENTIAL RECYCLING CARTS THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (H-GAC) FOR THE SOLID WASTE SERVICES DEPARTMENT; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the City Manager be and is hereby authorized and directed to purchase, through the Houston-Galveston Area Council of Governments (H-GAC), Residential Recycling Roll Out Carts at a purchase price of Forty-Six Dollars and Thirty Nine Cents (\$46.39) per cart, in accordance with the terms and conditions of the Interlocal Participation Agreement attached hereto and made a part hereof for all purposes. Any agreements related to the purchase must be approved by the City Attorney.

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

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

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
DOREEN E. MCGOOKEY,
CITY ATTORNEY

BID TAB
SOLID WASTE RECYCLING CARTS
September 2008

	Toter	Otto	Rehrig
H – GAC	\$46.39 *	\$47.25	
Buy Board		\$47.00	\$51.08

* Toter prices include shipping and stamping. All other manufacture prices do not include shipping and stamping

THIS INTERLOCAL AGREEMENT ("Agreement"), made and entered into pursuant to the Interlocal Cooperation Act (Article 4413(32c) V.T.C.S.) by and between the Houston-Galveston Area Council, hereinafter referred to as H-GAC, having its principal place of business at 3555 Timmons Lane, Suite 500, Houston, Texas 77027 and CITY OF SHERMAN, hereinafter referred to as the local government having its principal place of business at 400 N. RUSK, SHERMAN, TX 75090.

WITNESSETH:

WHEREAS, H-GAC is a regional planning commission created under Acts of the 59th Legislature, Regular Session, 1965, recodified as Chapter 391 Texas Local Government Code; and

WHEREAS, H-GAC has entered into an agreement with the local government on the 18TH day of MARCH, 1991 and

WHEREAS, the local government desires to purchase certain governmental administrative functions, goods or services; and

WHEREAS, H-GAC hereby agrees to perform the scope of services outlined in Article 5 as hereinafter specified in accordance with the Agreement, and

NOW, THEREFORE, H-GAC and the local government do hereby agree as follows:

ARTICLE 1 LEGAL AUTHORITY

The local government warrants and assures H-GAC that it possesses adequate legal authority to enter into this Agreement. The local government's governing body has authorized the signatory official(s) to enter into this Agreement and bind the local government to the terms of this Agreement and any subsequent amendments hereto.

ARTICLE 2 APPLICABLE LAWS

H-GAC and the local government agree to conduct all activities under this Agreement in accordance with all applicable rules, regulations, ordinances and laws in effect or promulgated during the term of this Agreement.

ARTICLE 3 WHOLE AGREEMENT

The Interlocal Agreement and Attachments, as provided herein, constitute the complete Agreement between the parties hereto, and supersedes any and all oral and written agreements between the parties relating to matters herein. Except as otherwise provided herein, this Agreement cannot be modified without written consent of the parties.

ARTICLE 4 PERFORMANCE PERIOD

The period of this Interlocal Agreement shall be for the (balance of) fiscal year of the local government which begins 10/31/90, 1991 and ends 10/31/91, 1991. This contract shall thereafter automatically be renewed annually for each succeeding fiscal year, provided that such renewal shall not have the effect of extending the period in which the local government may make any payment due H-GAC beyond the fiscal year in which such obligation was incurred under this Agreement.

H-GAC or the local government may cancel this Agreement at any time upon 30 days written notice to the other party to this Agreement. The obligations of the local government, including its obligation to pay H-GAC for all costs incurred under this Agreement prior to such notice shall survive such cancellation, as well as any other obligation incurred under this Agreement, until performed or discharged by the local government.

ARTICLE 5 SCOPE OF SERVICES

The local government appoints H-GAC its true and lawful purchasing agent for the purchase of certain materials and services through the Council's Cooperative Purchasing Program, as enumerated through the submission of a duly executed purchase order, order form or resolution. All material purchased hereunder shall be in accordance with specifications established by H-GAC.

The materials and services shall be procured in accordance with procedures governing competitive bidding by H-GAC; and at the unit prices and administrative fee as indicated in the current H-GAC Order Form and Price Lists.

Ownership (title) of material purchased shall transfer directly from the vendor to the local government. The local government agrees to provide H-GAC with documentation of receipt and acceptance of material within five (5) days of acceptance of same.

ARTICLE 6 PAYMENTS

The local government agrees that, upon the presentation by H-GAC of a properly documented, verified proof of performance and a statement of costs H-GAC has incurred in accordance with the terms of this Agreement, it shall pay H-GAC, from current revenues available to the local government during the current fiscal year, on or before the date of the delivery of materials and services to be provided under this agreement.

ARTICLE 7 CHANGES AND AMENDMENTS

Any alterations, additions, or deletions to the terms of this Agreement which are required by changes in Federal and State law or regulations are automatically incorporated into this Agreement without written amendment hereto, and shall become effective on the date designated by such law or regulation.

H-GAC may, from time to time, require changes in the scope of the services offered through the H-GAC Cooperative Purchasing Program to be performed hereunder.

ARTICLE 8 TERMINATION PROCEDURES

Either H-GAC or the local government may cancel or terminate this Agreement upon thirty (30) days written notice by certified mail to the other party. In the event of such termination prior to completion of any purchase provided for herein, the local government agrees to pay for services on a prorated basis for materials and services actually provided and invoiced in accordance with the terms of this Agreement, including penalties, less payment of any compensation previously paid.

ARTICLE 9 SEVERABILITY

All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not effect any other term of this Agreement, which shall continue in full force and effect.

ARTICLE 10 FORCE MAJEURE

To the extent that either party to this Agreement shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, judgement, act of God, or specific cause reasonably beyond the parties' control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed. Determination of force majeure shall rest solely with H-GAC.

ARTICLE 11 VENUE

Venue and jurisdiction of any suit, or cause of action arising under or in connection with the Agreement shall lie exclusively in Harris County, Texas.

This instrument, in duplicate originals, has been executed by the parties hereto as follows:

CITY OF SHERMAN
Local Government
BY [Signature]
TILMADGE M. BUIE
CITY MANAGER
DATE 3/18/91
Name & Title of Signatory
(PLEASE TYPE)

HOUSTON-GALVESTON AREA COUNCIL
BY [Signature] Date 3/27/91
Manager of Cooperative Purchasing
BY [Signature] Date 3/5/91
Jack Steele
Executive Director



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. C.5

RESOLUTION NO. 5258

**Awarding a Bid to and Authorizing Execution of a Contract with VesCor, Inc.
d/b/a Vessels Construction for Construction of Pecan Grove Park Development, Phase I**

Issue

Following a brief presentation by Parks & Recreation Administrator Kevin Winkler, the Council will be asked to consider awarding a contract for construction of Phase I of the Pecan Grove Park Development project

Background

In the 2007-2008 Capital Improvement Program, the Sherman City Council approved \$400,000.00 for Phase I of the Pecan Grove Park Development Project, which includes perimeter fencing, surveying, a picnic pavilion with a small playground area, and an east parking lot. Any other improvements associated with respect to the Master Plan Update will be performed in conjunction with future phases. The request to advertise this project for bid was approved at the July 7, 2008 Council Meeting. Four (4) bidders responded to the request for bids. A bid tabulation is attached.

Origination

Sherman City Council 2007-2008 Capital Improvement Program

Financial Consideration

Adequate funding for this project is included in this year's Capital Improvement Program.

Staff Recommendation

It is recommended that the contract for construction of the Pecan Grove Park Development, Phase I be awarded to the low bidder, VesCor, Inc. d/b/a Vessels Construction of Sherman, Texas, in the amount of \$308,600.00 and that the City Manager be authorized to execute the required contract documents.

Alternatives

As may be directed by the City Council

Attachments

Resolution No. 5258; Contract; Bid Tabulation; Capital Improvement Project with Location Map

Prepared by:
Kevin Winkler, Parks & Recreation Administrator

Approved by:
George Olson, City Manager

RESOLUTION NO. 5258

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH VESCOR, INC. D/B/A VESSELS CONSTRUCTION FOR CONSTRUCTION OF PECAN GROVE PARK DEVELOPMENT, PHASE I; 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 VesCor, Inc. d/b/a Vessels Construction of Sherman, Texas is hereby awarded the bid in the total amount of Three Hundred Eight Thousand Six Hundred Dollars and No Cents (\$308,600.00) for construction of Phase I of the Pecan Grove Park Development project; and that the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form by the City Attorney, to execute a contract with VesCor, Inc. d/b/a Vessels Construction for construction of the Pecan Grove Park Development, Phase I, in accordance with the terms and provisions of all contract documents attached hereto and made a part hereof for all purposes.

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

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

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____

BILL MAGERS, MAYOR

BY: _____

LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____

**DOREEN E. MCGOOKEY,
CITY ATTORNEY**

AIA® Document A101™ – 1997 Instructions

Standard Form of Agreement Between Owner and Contractor

where the basis of payment is a STIPULATED SUM

GENERAL INFORMATION

Purpose. AIA Document A101–1997 is intended for use on construction projects where the basis of payment is a stipulated sum (fixed price). It is suitable for any arrangement between the Owner and Contractor where the cost has been set in advance, either by bidding or by negotiation.

Related Documents. This document has been prepared for use in conjunction with AIA Document A201™–1997, General Conditions of the Contract for Construction, which is adopted into A101–1997 by a specific reference. This integrated set of documents is suitable for most projects; however, for projects of limited scope, use of AIA Document A107™–1997 may be considered.

The A101–1997 document is used as one part of the Contract Documents that memorialize the Contract for Construction between the Owner and the Contractor. The other Contract Documents are:

- General Conditions (i.e., A201–1997)
- Supplementary Conditions
- Drawings
- Specifications
- Modifications

Although the AIA does not produce standard documents for Supplementary Conditions, Drawings or Specifications, a variety of model and guide documents are available, including AIA's MASTERSPEC and AIA Document A511™, Guide for Supplementary Conditions.

AIA Document A101–1997 is published in conjunction with the following related documents:

- A201™–1997, General Conditions of the Contract for Construction
- A401™–1997, Standard Form of Agreement Between Contractor and Subcontractor
- A511, Guide for Supplementary Conditions
- A701™–1997, Instructions to Bidders
- B141™–1997, Standard Form of Agreement Between Owner and Architect
- B151™–1997, Abbreviated Standard Form of Agreement Between Owner and Architect
- C141™–1997, Standard Form of Agreement Between Architect and Consultant
- C142™–1997, Abbreviated Standard Form of Agreement Between Architect and Consultant

Dispute Resolution—Mediation and Arbitration. Through its adoption by reference of AIA Document A201–1997, this document contains provisions for mediation and arbitration of claims and disputes. Mediation is a non-binding process, but is mandatory under the terms of this agreement. Arbitration is mandatory under the terms of this agreement and binding in most states and under the Federal Arbitration Act. In a minority of states, arbitration provisions relating to future disputes are not enforceable but the parties may agree to arbitrate after the dispute arises. Even in those states, under certain circumstances (for example, in a transaction involving interstate commerce), arbitration provisions may be enforceable under the Federal Arbitration Act.

The AIA does not administer dispute resolution processes. To submit disputes to mediation or arbitration or to obtain copies of the applicable mediation or arbitration rules, call the American Arbitration Association at (800) 778-7879, or visit their Web site at www.adr.org.

Why Use AIA Contract Documents. AIA Contract Documents are the product of a consensus-building process aimed at balancing the interests of all parties on the construction project. The documents reflect actual industry practices, not theory. They are state-of-the-art legal documents, regularly revised to keep up with changes in law and the industry—they yet are written, as far as possible, in everyday language. Finally, AIA contract documents are flexible: they are intended to be modified to fit individual projects, but in such a way that modifications are easily distinguished from the original, printed language.

Use of Non-AIA Forms. If a combination of AIA documents and non-AIA documents is to be used, particular care must be taken to achieve consistency of language and intent among documents.

Letter Forms of Agreement. Letter forms of agreement are generally discouraged by the AIA, as is the performance of a part or the whole of the Work on the basis of oral agreements or understandings. The standard AIA agreement forms have been developed through more than 100 years of experience and have been tested repeatedly in the courts. In addition, the standard forms have been carefully coordinated with other AIA documents.

Standard Forms. Most AIA documents published since 1906 have contained in their titles the words "Standard Form." The term "standard" is not meant to imply that a uniform set of contractual requirements is mandatory for AIA members or others in the construction industry. Rather, the AIA standard documents are intended to be used as fair and balanced baselines from which the parties can negotiate their bargains. As such, the documents have won general acceptance within the construction industry and have been uniformly interpreted by the courts. Within an industry spanning 50 states—each free to adopt different, and perhaps contradictory, laws affecting that industry—AIA documents form the basis for a generally consistent body of construction law.

Use of Current Documents. Prior to using any AIA document, the user should consult an AIA component chapter or a current AIA Documents Price List to determine the current edition of each document.

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The AIA hereby grants the purchaser a limited license to reproduce a maximum of ten copies of a completed A101–1997, but only for use in connection with a particular project. The AIA will not permit reproduction outside of the limited license for reproduction granted above, except upon written request and receipt of written permission from the AIA.

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To report copyright violations of AIA Contract Documents, e-mail The American Institute of Architects' legal counsel, copyright@aia.org.

CHANGES FROM THE PREVIOUS EDITION

A101–1997 revises the 1987 edition of A101 to reflect changes made in AIA Document A201–1997. It incorporates alterations proposed by architects, contractors, owners and professional consultants. The following are some of the significant changes made to the contents from the 1987 edition of A101:

Throughout: References in A101–1997 to the General Conditions refer specifically to A201–1997.

Article 2: The blank for exceptions to the Contractor's scope of Work has been eliminated.

Article 3: New emphasis is placed on the need to coordinate the date of commencement with the date of Substantial Completion. Space is also provided for bonus payments for early completion.

Article 5: Both progress payments and final payment are now covered in this article, entitled Payments. Payment of amounts not in dispute under Construction Change Directives is mandatory, as is release of retainage on completed Work at Substantial Completion. Advance payment to suppliers for materials and equipment not yet stored at the site is only permitted with the Owner's approval.

Article 6: Space is provided for identification of the Owner's and Contractor's representatives. Ten days' notice is required before a representative is changed.

USING THE A101–1997 FORM

Notices. Prospective bidders should be informed of any additional provisions which may be included in A101–1997, such as for liquidated damages or for stored materials, by an appropriate notice in the Bidding Documents and the provisions for Supplementary Conditions.

Modifications. Particularly with respect to professional or contractor licensing laws, building codes, taxes, monetary and interest charges, arbitration, indemnification, format and font size, AIA Contract Documents may require modification to comply with state or local laws. Users are encouraged to consult an attorney before completing or modifying a document.

In a purchased paper AIA Contract Document, necessary modifications may be accomplished by writing or typing the appropriate terms in the blank spaces provided on the document, or by attaching Supplementary Conditions, special conditions or referenced amendments. Modifications directly to purchased paper AIA Contract Documents may also be achieved by striking out language. However, care must be taken in making these kinds of deletions.

Under NO circumstances should standard language be struck out to render it illegible. For example, users should not apply blocking tape, correction fluid or Xs that would completely obscure text. Such practices may raise suspicion of fraudulent concealment, or suggest that the completed and signed document has been tampered with. Both parties should initial handwritten changes. Using AIA software, modifications to insert information and revise the standard AIA text may be made as the software permits. By reviewing properly made modifications to a standard AIA Contract Document, parties familiar with that document can quickly understand the essence of the proposed relationship. Commercial exchanges are greatly simplified and expedited, good faith dealing is encouraged, and otherwise latent clauses are exposed for scrutiny. AIA Contract Documents may not be retyped or electronically scanned. Retyping can introduce typographic errors and cloud legal interpretation given to a standard clause. Furthermore, retyping and electronic scanning are not permitted under the user's limited license for use of the document, constitute the creation of a derivative work and violate the AIA's copyright.

Cover Page

Date: The date represents the date the Agreement becomes effective. It may be the date an original oral agreement was reached, the date the Agreement was originally submitted to the Owner, the date authorizing action was taken or the date of actual execution. It will be the date from which the Contract Time is measured unless a different date is inserted under Section 3.1.

Parties: Parties to the Agreement should be identified using the full address and legal name under which this Agreement is to be executed, including a designation of the legal status of both parties (sole proprietorship, partnership, joint venture, unincorporated association, limited partnership or corporation [general, limited liability, closed or professional], etc.). Where appropriate, a copy of the resolution authorizing the individual to act on behalf of the firm or entity should be attached. Other information may be added, such as telephone numbers and electronic addresses.

Project: The proposed Project should be described in sufficient detail to identify: (1) the official name or title of the facility; (2) the location of the site; (3) the proposed building usage; and (4) the size, capacity or scope of the Project.

Architect: As in the other Contract Documents, the Architect's full legal or corporate title should be used.

Article 2 The Work of This Contract. If portions of the Work are to be performed by persons or entities other than the Contractor, these should be indicated in the Supplementary Conditions.

Article 3 Date of Commencement and Substantial Completion. The following items should be included as appropriate:
§ 3.1 The date of commencement of the Work should be inserted if it is different from the date of the Agreement. It should not be earlier than the date of execution (signing) of the Agreement. After the first sentence, enter either the specific date of commencement of the Work, or if a notice to proceed is to be used, enter the sentence, "The date of commencement shall be stipulated by the notice to proceed." When time of performance is to be strictly enforced, the statement of starting time should be carefully weighed.

§ 3.3 The time within which Substantial Completion of the Work is to be achieved may be expressed as a number of days (preferably calendar days) or as a specified date. If a specified date is used and the date of commencement is to be given in a notice to proceed, these dates must be carefully coordinated to allow sufficient time for completion of the Work. Any requirements for earlier Substantial Completion of portions of the Work should be entered here if not specified elsewhere in the Contract Documents.

Optionally, insert any provisions for liquidated damages relating to failure to complete on time, or for bonus payments for early completion. Liquidated damages are not a penalty to be inflicted on the Contractor, but must bear an actual and reasonably estimable relationship to the Owner's loss if construction is not completed on time. There is little or no legal precedent to support the proposition of linking a bonus with a penalty. If liquidated damages are to be assessed because delayed construction will result in actual loss to the Owner, the amount of damages due for each day lost should be entered in the Supplementary Conditions or the Agreement. Factors such as confidentiality or the need to inform subcontractors about the amount of liquidated damages will help determine the placement of such language. If provision for liquidated damages is included, it should be carefully drafted by the Owner's attorney. Such a provision may be based on the following sample language:

"The Contractor and the Contractor's surety, if any, shall be liable for and shall pay the Owner the sums hereinafter stipulated as liquidated damages for each calendar day of delay until the Work is substantially complete: _____ Dollars (\$ _____)."

For further information on liquidated damages, penalties and bonus provisions, see AIA Document A511, Guide for Supplementary Conditions.

Article 4 Contract Sum

§ 4.1 Enter the Contract Sum payable to the Contractor.

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§ 4.2 Identify any alternates described in the Contract Documents and accepted by the Owner. If decisions on alternates are to be made subsequent to execution of A101–1997, attach a schedule showing the amount of each alternate and the date it expires.

§ 4.3 Enter any unit prices, cash allowances or cash contingency allowances. If unit prices are not covered in greater detail elsewhere in the Contract Documents, the following provision for unit prices is suggested:

"The unit prices listed below shall determine the value of extra Work or changes in the Work, as applicable. They shall be considered complete and shall include all material and equipment, labor, installation costs, overhead and profit. Unit prices shall be used uniformly for additions or deductions."

Specific allowances for overhead and profit on Change Orders may be included under this section to forestall disputes over future Change Order costs.

Article 5 Payments

§ 5.1.2 Insert the time period covered by each Application for Payment if it differs from the one given.

§ 5.1.3 Insert the time schedule for presenting Applications for Payment, and indicate due dates for making progress payments. The last day upon which Work may be included in an Application should normally be no less than 14 days prior to the payment date, in consideration of the 7 days required for the Architect's evaluation of an Application and issuance of a Certificate for Payment and the time subsequently accorded the Owner to make Payment in Article 9 of A201. The Contractor may prefer a few additional days to prepare the Application. Due dates for payment should be acceptable to both the Owner and Contractor. They should allow sufficient time for the Contractor to prepare an Application for Payment, for the Architect to certify payment, and for the Owner to make payment. They should also be in accordance with time limits established by this Article and Article 9 of A201–1997.

§ 5.1.6.1 Indicate the percent retainage, if any, to be withheld when computing the amount of each progress payment. The Owner frequently pays the Contractor the bulk of the earned sum when payments fall due, retaining a percentage to ensure faithful performance. These percentages may vary with circumstances and localities. The AIA endorses the practice of reducing retainage as rapidly as possible, consistent with the continued protection of all affected parties. See AIA Document A511, Guide for Supplementary Conditions, for a complete discussion.

§ 5.1.6.2 Insert any additional retainage to be withheld from that portion of the Contract Sum allocable to materials and equipment stored at the site. Payment for materials stored off the site should be provided for in a specific agreement and enumerated in Section 7.6. Provisions regarding transportation to the site and insurance protecting the Owner's interests should be included.

§ 5.1.8 Describe any arrangements to reduce or limit retainages indicated in Sections 5.1.6.1 and 5.1.6.2, if not explained elsewhere in the Contract Documents. A provision for reducing retainage should provide that the reduction will be made only if the Architect judges that the Work is progressing satisfactorily. If the Contractor has furnished a bond, demonstration of the surety's consent to reduction in or partial release of retainage must be provided before such reduction is effected. Use of AIA Document G707A™ is recommended.

§ 5.2.2 Insert the date by which Owner shall make final payment, if it differs from the one stated. When final payment is requested, the Architect should ascertain that all claims have been settled or should define those which remain unsettled. The Architect should obtain the Contractor's certification required by Article 9 of A201–1997 and must determine that, to the best of the Architect's knowledge and belief and according to the Architect's final inspection, the requirements of the Contract have been fulfilled.

Article 7 Miscellaneous Provisions

§ 7.2 Enter any agreed-upon interest rate for overdue payments.

§ 7.3 Identify the Owner's representative and indicate how that person may be contacted.

§ 7.4 Identify the Contractor's representative and indicate how that person may be contacted.

§ 7.6 Insert other provisions here.

Article 8 Enumeration of Contract Documents

A detailed enumeration of all Contract Documents must be made in this article.

EXECUTION OF THE AGREEMENT

The Agreement should be executed in not less than triplicate by the Owner and the Contractor. The persons executing the Agreement should indicate the capacity in which they are acting (i.e., president, secretary, partner, etc.) and the authority under which they are executing the Agreement. Where appropriate, a copy of the resolution authorizing the individual to act on behalf of the firm or entity should be attached.

AIA[®] Document A101[™] – 1997

Standard Form of Agreement Between Owner and Contractor *where the basis of payment is a STIPULATED SUM*

AGREEMENT made as of the _____ day of _____
in the year of _____
(In words, indicate day, month and year)

BETWEEN the Owner:
(Name, address and other information)

and the Contractor:
(Name, address and other information)

The Project is:
(Name and location)

The Architect is:
(Name, address and other information)

The Owner and Contractor agree as follows.

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This document has important legal consequences.

Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201-1997, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

This document has been approved and endorsed by The Associated General Contractors of America.

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 8.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanic's liens and other security interests, the Owner's time requirement shall be as follows:

§ 3.2 The Contract Time shall be measured from the date of commencement.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than _____ days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. Unless stated elsewhere in the Contract Documents, insert any requirements for earlier Substantial Completion of certain portions of the Work.)

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to complete on time or for bonus payments for early completion of the Work.)

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be _____ Dollars

(\$ _____), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires)

§ 4.3 Unit prices, if any, are as follows:

ARTICLE 5 PAYMENTS

§ 5.1 PROGRESS PAYMENTS

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the _____ day of _____ day of a month, the Owner shall make payment to the Contractor not later than the _____ month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than _____ () days after the Architect receives the Application for Payment.

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of percent (%). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.8 of AIA Document A201-1997;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of percent (%);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-1997.

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

- .1 add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
(Section 9.8.5 of AIA Document A201-1997 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)
- .2 add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201-1997.

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 FINAL PAYMENT

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-1997, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

ARTICLE 6 TERMINATION OR SUSPENSION

§ 6.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-1997.

§ 6.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-1997.

ARTICLE 7 MISCELLANEOUS PROVISIONS

§ 7.1 Where reference is made in this Agreement to a provision of AIA Document A201-1997 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. *(Insert rate of interest agreed upon, if any.)*

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

§ 7.3 The Owner's representative is:
(Name, address and other information)

§ 7.4 The Contractor's representative is:
(Name, address and other information)

§ 7.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party.

§ 7.6 Other provisions:

ARTICLE 8 ENUMERATION OF CONTRACT DOCUMENTS

§ 8.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

§ 8.1.1 The Agreement is this executed 1997 edition of the Standard Form of Agreement Between Owner and Contractor, AIA Document A101–1997.

§ 8.1.2 The General Conditions are the 1997 edition of the General Conditions of the Contract for Construction, AIA Document A201–1997.

§ 8.1.3 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated , and are as follows:

Document	Title	Pages
----------	-------	-------

§ 8.1.4 The Specifications are those contained in the Project Manual dated as in Section 8.1.3, and are as follows:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Pages
---------	-------	-------

§ 8.1.5 The Drawings are as follows, and are dated unless a different date is shown below:

(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
--------	-------	------

§ 8.1.6 The Addenda, if any, are as follows:

Number	Date	Pages
--------	------	-------

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 8.

§ 8.1.7 Other documents, if any, forming part of the Contract Documents are as follows:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-1997 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies, of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.

OWNER (Signature)

CONTRACTOR (Signature)

(Printed name and title)

(Printed name and title)

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

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SECTION 00600 -- Supplementary General Conditions

PART 1 - GENERAL

- 1.01 GENERAL CONDITIONS:** The "General Conditions" of the Contract for Construction, AIA Document A201, 1997, Articles 1 through 14 inclusive, is a part of this Contract and is incorporated herein as fully as here set forth.
- 1.02 SUPPLEMENTS:** The following supplements modify, change, delete from or add to the General Conditions. Where any part of the General Conditions is modified or voided by these Articles, the unaltered provisions of that part shall remain in effect.

Article 1: CONTRACT DOCUMENTS:

Add new sub-paragraphs:

"1.1.8 MISCELLANEOUS DEFINITIONS:

1.1.8.1 The term "Product" as used in these Supplementary Documents includes materials, systems and equipment.

1.1.8.2. The term "Project Manual" as used in these Contract Documents includes the bidding documents, Conditions of the Contract and the Specifications.

1.1.8.3. The term "provide" as used in this Project Manual means to furnish and install.

1.1.8.4. The term "architect" as used in these contract documents shall mean either the architect or landscape architect.

1.1.8.5. The term "City" as used in these contract documents shall mean the City referred to in the Advertisement for Bid, Section 00020."

1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

"1.2.1.1. Should the Drawings disagree in themselves or with the Specifications the better quality or the greater quantity of the work or materials shall be estimated upon, and unless otherwise ordered by the Architect in writing, shall be performed or furnished."

"1.2.1.2. The inter-relation of the Specifications, the Drawings and the Schedules is as follows: The specifications determine the nature and setting of the several materials; the Drawings establish the quantities, dimensions and details; and the Schedules give the location."

Article 2: OWNER:

"2.2.3. Delete the first sentence and substitute the following: The Owner will establish lot lines, restrictions and permanent bench marks. All other grades, lines, levels, and bench marks shall be established and maintained by General Contractor, who shall be responsible for same."

Add new sub-paragraphs:

2.2.3.1. Shown or indicated: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site is based on information and data furnished to OWNER or ARCHITECT by the owners of such Underground Facilities or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

AIA Document A201-2007.

Second Set of Supplementary Conditions to AIA Document A-201-2007.

The following supplements modify, delete from and add to the General Conditions of the Contract for Construction, AIA Document A201-2007 and the Supplementary Conditions in the Bid Package. Where any article or section of the General Conditions is modified, or any paragraph, subparagraph, or clause thereof is modified or deleted by these supplements, then the unaltered provisions of the article, paragraph, subparagraph or clause shall remain in effect except to the extent contrary to these supplementary conditions.

ARTICLE 10 – PROTECTION OF PERSONS AND PROPERTY

Delete 10.3.3 in its entirety.

Modify 10.5 to read “If, without negligence on the part of the Contractor, the Contractor is held liable for the cost of remediation of a hazardous material or substance by reason of performing Work as required by the Contract Documents, then to the extent permitted by law, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

ARTICLE 11 – INSURANCE AND BONDS

11.1.2 of both the AIA Document A201-2007 and the Supplemental Conditions in the bid package are deleted and replaced with the following:

11.1.2 Contractor shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons, damages to property, or any errors and omissions relating to the performance of any work by the Contractor, its agents, employees or subcontractors under this Agreement, as follows:

1. Workers' Compensation with the Texas Statutory/ Employer Liability as required by law.
2. Comprehensive General Liability Insurance with minimum limits of \$1,000,000 for injury or death of any one person, \$1,000,000 for each occurrence, \$1,000,000 for each occurrence of damage to or destruction of property, and \$2,000,000 general aggregate.
3. Automobile covering owned, hired, and non-owned vehicles, with minimum combined single limit of \$1,000,000.

Contractor shall require its independent contractors to carry insurance with the following limits:

1. Workmen's Compensation -- Texas Statutory/Employer's Liability - Statutory Limits
2. Comprehensive General Liability --
 - a. Bodily Injury -- each person/each occurrence \$250,000/\$500,000
 - b. Property Damage -- each occurrence/aggregate \$100,000/\$500,000

-
3. Comprehensive Automobile Liability -- per person/per occurrence, including coverage of owned, non-owned and hired vehicles.
 - a. Bodily Injury -- \$100,000/\$300,000
 - b. Property Damage -- \$300,000, each occurrence

11.1.3 of both the AIA and the Supplemental Conditions is hereby replaced with the following:

11.1.3 Contractor shall include the Owner as an additional insured under the policies, with the exception of the Workers' Compensation. Certificates of Insurance and endorsements, along with the Owner's Protective Liability shall be furnished to the Owner and the Architect before work commences that demonstrates that the required coverage, conditions, and limits required by this Contract are in full force and effect. Certificates shall state that coverage shall not be suspended, voided, canceled, and/or reduced in coverage or in limits (Change in Coverage) prior to the receipt of written notice provided to the Owner at least thirty (30) days prior to the effective date of such Change in Coverage.

11.3.3 -- Deleted in its entirety.

Pecan Grove Park Bid Tabulation Sheet

Bidder	MICHAEL ENTERPRISE	WALL ENTERPRISE	J.D.C.CONSTRUCTION	VESSELS CONSTRUCTION
Base Bid	\$359,680.00	\$324,200.00	\$316,000.00	\$259,800.00
Addendum #1	YES	YES	YES	YES
Addendum #2	YES	YES	YES	YES
Length of Construction	150 DAYS	90 DAYS	180 DAYS	120 DAYS
Bidder Qualification Statement				
Bid Bond	YES	YES	YES	YES
Alt. #1 - Playground - Model # 2000-966	Deduct \$8,000.00	Add \$3,000.00	Deduct \$10,000.00	Deduct \$ 9,060.00
Alt. #2 - Shelter - Model # RAM 24 x 44 MR	Deduct \$5,700.00	Deduct \$5,000.00	Deduct \$13,000.00	Deduct \$ 8,500.00
Alt. #3 - Shelter - Model # HETT2444-AS-construct concrete foundation, slab	Deduct \$10,600.00	Deduct \$9,000.00	Deduct \$20,000.00	Deduct \$13,600.00
Alt. #4 - Shelter - Model #HE2444-AS-construct concrete foundation,slab	Deduct \$14,000.00	Deduct \$12,500.00	Deduct \$22,000.00	Deduct \$17,000.00
Alt.#5 - Loop Concrete Trail 8' Wide	Add \$39,100.00	Add \$39,900.00	Add \$37,000.00	Add \$44,000.00
Alt. #6 - Six picnic tables,Model # Webcoat #T6INF HDCP	Add \$4,300.00	Add \$6,900.00	Add \$5,000.00	Add \$4,800.00
Alt. #7 - Furnish & Install 7" thick reinforced paving for parking lot&access drive without lime	0	Add \$2,000.00	Deduct \$7000.00	Add \$1,700.00

PROJECT YEAR: 2007-2008

PROJECT NAME: Pecan Grove Park Development

DESCRIPTION: Phase 1 - Fencing, surveying and parking

ESTIMATED COST: \$400,000

ESTIMATED O&M COST: \$3,500

PROPOSED FINANCING: General Improvement Fund

PROJECT NECESSITY: Recommended in the Parks Master Plan

DEPARTMENT/DIRECTOR: City Manager, George Olson

PROPOSED START DATE: October, 2007

PROPOSED END DATE: March, 2008





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. C.6

*** RESOLUTION NO. 5263**

Authorizing Execution of an Encroachment License Agreement with Overland Group, LLC for a Multi-Tenant Sign in the Utility Easement along F.M. 1417 and Overland Trail in the O'Hanlon Ranch Addition, Phase 2 to the City of Sherman

Issue

To consider an encroachment into a city utility easement for the purpose of constructing a sign

Background

Overland Group, LLC and Kyle Boothe are constructing a total of three multi-tenant office buildings. They request permission to construct a multi-tenant sign in the utility easement along F.M. 1417 and Overland Trail.

Origination

Department of Utilities & Engineering

Financial Consideration

The grantee will be responsible for any damage to utilities located in the easement. The grantee will be responsible for removal and replacement of the sign should utility work within the easement require removal of the sign.

Staff Recommendation

The staff has no objections to the proposed encroachment and recommends approval.

Alternatives

As may directed by City Council

Attachments

Resolution No. 5263

Encroachment License Agreement

Encroachment Sketch with Location of Sign

Plat showing Easement

Utility Letters

Location Map

Prepared by:

Mark Gibson, Director of Utilities and Engineering

Approved by:

George Olson, City Manager

RESOLUTION NO. 5263

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN ENCROACHMENT LICENSE AGREEMENT WITH OVERLAND GROUP, LLC FOR A MULTI-TENANT SIGN IN THE UTILITY EASEMENT ALONG F.M. 1417 AND OVERLAND TRAIL IN THE O'HANLON RANCH ADDITION, PHASE 2 TO THE CITY OF SHERMAN; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the City Manager be and is hereby authorized and directed, subject to all documents being properly completed and approved as to form by the City Attorney, to execute an Encroachment License Agreement with Overland Group, LLC for a multi-tenant sign in the public utility easement located in O'Hanlon Ranch Addition, Phase 2, in substantially the same form with the Encroachment License Agreement, field notes, and the survey, which are attached hereto and incorporated herein for all purposes.

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

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

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
DOREEN E. MCGOOKEY,
CITY ATTORNEY

ENCROACHMENT LICENSE AGREEMENT

This Encroachment License Agreement ("Agreement") is made on this ____ day of _____, 2008, by and between the City of Sherman, Texas (the "City") and Overland Group, LLC ("Licensee").

RECITALS

WHEREAS, the City is the owner of a 25 foot Public Utility and Drainage Easement that borders Lot 1 in the O'Hanlon Ranch Addition Phase 2, as indicated in the attached Exhibit A, which is incorporated hereby reference ("City's right-of-way");

WHEREAS, Licensee is the owner of the real property located at Lot 1 in the O'Hanlon Ranch Addition Phase 2, as depicted in the attached Exhibit B (hereinafter "Property");

WHEREAS, the City will have in the future, or has existing water, gas and sewer pipes and other utilities and conduits in the City's right-of-way, including, but not limited to, other franchisees or users of the City's right-of-way (hereinafter "facilities");

WHEREAS, the Licensee desires to use a portion of the City's right-of-way for the placement of a multi-tenant sign, as indicated in the attached Exhibit C, and as more particularly described in Paragraph 2 of this License Agreement (the "encroachment area");

WHEREAS, the City has agreed to grant to Licensee a revocable license to use the encroachment area described above, all in accordance with, and subject to the terms, conditions and limitations of, this Agreement.

NOW, THEREFORE, it is agreed as follows:

1. **Grant of License.** The City hereby grants to the Licensee a revocable license to enter upon the City's right-of-way and to use the encroachment area for the use described in Paragraph 7 (the "license") subject, however, to the terms, conditions and limitations of this Agreement. The license herein granted shall be subject to all existing and future facilities, if any, located, or to be located, within the City's right-of-way.
2. **Location of License.** This license is granted for use of the following describe encroachment area:

SITUATED in the County of Grayson, State of Texas being a license for a multi-tenant sign over a portion of Lot ONE (1) in Block TWO (2) of O'HANLON RANCH ADDITION, PHASE 2 to the City of Sherman, Texas as shown by plat of record in Volume 19, Page 81, Plat Records, Grayson County, Texas and being more particularly described as follow to-wit:

COMMENCING at the Southeast corner of said Lot One, at the intersection of the North line of Overland Trail with the West right-of-way line of F. M. Highway No. 1417;

THENCE South 84 deg. 45 min. 13 sec. West, with the North line of said Overland Trail, the South line of said Lot One, a distance of 9.51 feet to a point;

THENCE North 05 deg. 14 min. 47 sec. West, a distance of 3.56 feet to the Southeast corner of the herein described easement and the TRUE PLACE OF BEGINNING;;

THENCE South 84 deg. 45 min. 13 sec. West, a distance of 19.00 feet to the Southwest corner of the herein described easement;

THENCE North 05 deg. 14 min. 47 sec. West, a distance of 5.50 feet to the Northwest corner of the herein described easement;

THENCE North 84 deg. 45 min. 13 sec. East, a distance of 19.00 feet to the Northeast corner of the herein described easement;

THENCE South 05. deg. 14 min. 47 sec. East, a distance of 5.50 feet to the PLACE OF BEGINNING.....

3. **Term.** This Agreement and the license granted to Licensee hereunder shall commence as of the date of this Agreement and shall continue until terminated in accordance with the terms of this Agreement.

4. **Consideration.** The consideration to be paid by the Licensee to the City for the privilege granted by this Agreement shall be two hundred dollars (\$200.00) the receipt of which is hereby acknowledged by the City.

5. **No Interest in Land.** Licensee understands, acknowledges and agrees that this Agreement does not create an interest or estate in Licensee's favor in the City's right-of-way. The City retains legal possession of the full boundaries of its right-of-way and this Agreement merely grants to the Licensee the revocable license to use the encroachment area described above throughout the term of this Agreement.

Notwithstanding the expenditure of money, time and labor by the Licensee on or within the encroachment area, this Agreement shall in no event be construed to create an assignment coupled with an interest in favor of the Licensee. Licensee shall expend any time, money or labor on or in the encroachment area at Licensee's own risk and peril.

6. **Agreement Does Not Bind Others.** Licensee understands and acknowledges that this Agreement is for use of the City's right-of-way only and in no way is a grant of a license, permission, or access on behalf of any fee Licensee or any other Licensee of a property interest for any additional properties involved in the installation of the multi-tenant sign.

7. **Agreement to Protect Existing and Future Facilities.** Licensee agrees to take all prudent action to protect any and all existing facilities and future facilities located within the City's

right-of-way from any damage or injury caused by any work performed by or on behalf of Licensee regarding the construction, installation, operation, inspection, maintenance, repair, reconstruction, replacement, relocation, or removal of its sanitary sewer lateral or the failure, deterioration or collapse of such

8. **Limited Scope of License.** The license granted to the Licensee is limited in scope and is for the sole purpose of installing and maintaining a multi-tenant sign on the Property (the "license activity"). Licensee shall not have the right to expand the encroachment area or alter or change Licensee's use of the encroachment area.

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

- a. The encroachment area shall be used for the license purposes only.
- b. Any area disturbed during the installation or any maintenance related to the license activity shall be restored or repaired at completion of the construction to a condition as good or better than existing immediately prior to the installation or maintenance activity.
- c. Proper traffic control, where and when applicable, shall be maintained in accordance with current Sherman Public Work's Department's Standard Specifications during all construction or maintenance of the license activity.
- d. The work of constructing and maintaining the license activity shall be done so as to not interfere with the proper and safe use or operation of City right-of-way by the public and the City and under the following general conditions:
 - i. Licensee agrees to take reasonable precautions to minimize damage to the encroachment area.
 - ii. Licensee shall provide the City with a minimum of forty-eight (48) hours notice prior to the commencement of any construction or maintenance activity
 - iii. Licensee shall submit plans to the City and/or any other necessary party and obtain written approval before any work or alteration of the license activity is performed. Any plans and installation shall comply with all federal, state, and local laws and standards.
- e. All costs and expenses in connection with the construction, maintenance, repair, relocation and/or removal of the license activity shall be borne by the Licensee.
- f. Licensee represents and agrees that Licensee will be responsible for removal and replacement of the sign should utility work within the easement require removal of the sign.

10. **Non-Transferability of License.** The license granted to the Licensee by this Agreement is a revocable license granted by the City to the Licensee and is neither transferable nor assignable by the Licensee without the prior written consent of the City.

11. **Termination.** This Agreement and the license therein granted to Licensee is fully terminable by the City in accordance with the following terms and conditions:

a. **Termination Upon Notice to Licensee.** This Agreement and the license herein granted to Licensee shall terminate sixty (60) days after written notification is provided by the City to Licensee at Licensee's address as set forth in this Agreement. The sixty (60) day notice provision established by this paragraph shall conclusively be deemed to be reasonable.

b. **Transfer of Property.** This Agreement and the license herein granted to Licensee shall automatically terminate, without notice to Licensee, upon the transfer of Licensee's property, or the attempted assignment of this Agreement, or the license herein granted, except as provided in paragraph 10.

12. **Warranties.**

a. During the term of the license, the Licensee warrants that it will not allow the use of the encroachment area to be used by any person or entity except for Licensee or Licensee's contractors in the performance of the licensed activity.

c. The signatory below warrants that he/she has full authority to enter into this agreement on behalf of Licensee.

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

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

15. **Permanent Removal of Encroachments Upon Termination.** At such time as this Agreement and the license herein granted to Licensee is terminated the Licensee shall, at the option of the City, remove, at Licensee's expense, any and all encroachments owned or maintained by Licensee in the City's right-of-way.

16. **Maintenance.** During the term of this Agreement, the Licensee shall, at Licensee's expense, maintain the encroachment area and in good condition.

17. **Indemnification.** The Licensee agrees to indemnify, defend and save the City harmless from:

a. LICENSEE AGREES TO DEFEND, INDEMNIFY AND HOLD CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES INCLUDING ATTORNEYS FEES, FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM, FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY LICENSEE'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, STRICTLY LIABLE ACT, OR ANY OMISSION OF LICENSEE, ITS OFFICERS, AGENTS, EMPLOYEES, CONTRACTORS OR SUBCONTRACTORS, IN THE PERFORMANCE OF THIS AGREEMENT (HEREINAFTER "CLAIMS"); EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF CITY, ITS OFFICERS, AGENTS, EMPLOYEES, OR SEPARATE CONTRACTORS. IN ADDITION, THIS INDEMNIFICATION AND SAVE HARMLESS SHALL APPLY TO ANY IMPUTED OR ACTUAL JOINT ENTERPRISE LIABILITY. THIS INDEMNIFICATION SHALL ALSO APPLY TO ANY LOSS, LIABILITY, CLAIM OR SUIT ARISING FROM THE FORECLOSURE, OR ATTEMPTED FORECLOSURE, OF A MECHANIC'S OR MATERIALMEN'S LIEN FOR GOODS DELIVERED TO LICENSEE OR WORK PERFORMED BY OR FOR LICENSEE UPON OR AT THE ENCROACHMENT AREA OR LICENSEE'S PROPERTY. SUCH INDEMNIFICATION SHALL INCLUDE THE CITY'S ATTORNEY'S FEES INCURRED IN CONNECTION WITH ANY SUCH LOSS, LIABILITY, CLAIM OR SUIT.

18. **Insurance.** Licensee shall procure and maintain during the construction of the improvement described in Exhibit A, liability insurance as hereinafter specified:

a. Commercial General Liability and Property Damage Insurance with Contractual Liability and an Automobile Liability policy issued to the Licensee and protecting the City from all claims for personal injury, including death, and all claims for destruction of or damage to property, arising out of or in connection with any operations under this License, whether such operations by Licensee or by any Contractor or Subcontractor under it. Insurance shall be written with limits of liability and coverages acceptable to the City Attorney's Office and name the City as an additional insured.

b. Workers Compensation Insurance for all employees of Licensee and the Licensee's Contractor(s) and Subcontractor(s) within the statutory requirements.

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

If to the City:

City
City of Sherman
P.O. Box 1106
Sherman, Texas 75091

Manager

If to the Licensee:

Overland Group LLC.
PO Box 368
Sherman, Texas 75091

Notices mailed in accordance with the provisions of this paragraph shall be deemed to have been given on the third business day following mailing. Notices personally delivered shall have deemed to have been given upon delivery.

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

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

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

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

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

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

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

CITY OF SHERMAN

George Olson, City Manager

LICENSEE:


Kyle Boath, President

ACKNOWLEDGMENT

THE STATE OF TEXAS §
COUNTY OF GRAYSON §

BEFORE ME, the undersigned authority, on this day personally appeared **GEORGE OLSON**, known to me to be the person whose name is subscribed to the foregoing instrument.

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

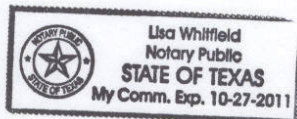
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

ACKNOWLEDGMENT

THE STATE OF TEXAS §
COUNTY OF Grayson §

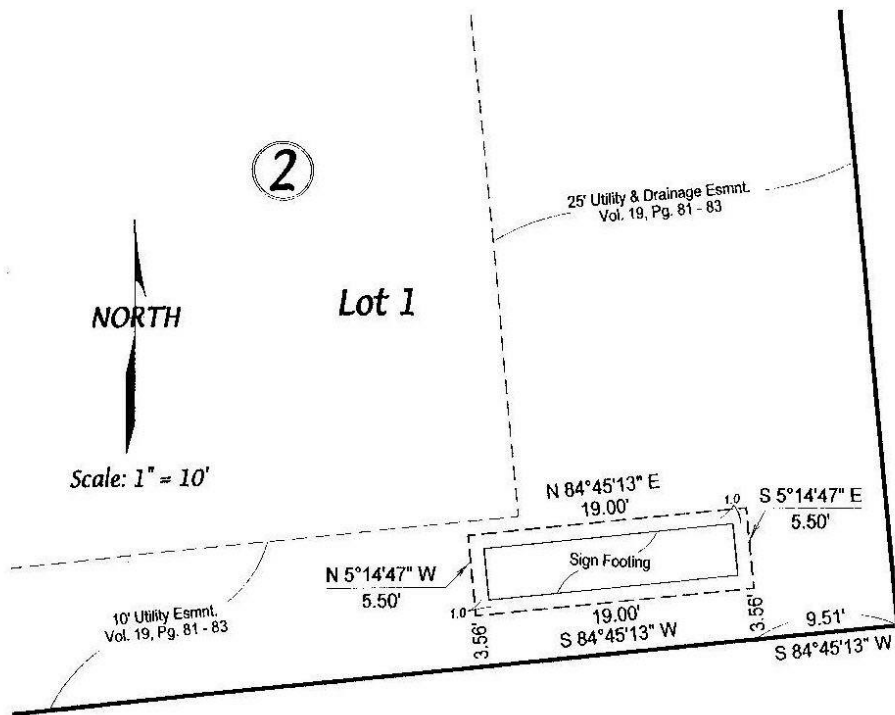
BEFORE ME, the undersigned authority, on this day personally appeared Kyle Boothe known to me to be the person whose name is subscribed to the foregoing instrument.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 10th day
of September, 2008.



Lisa Whitfield
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

EXHIBIT "A"

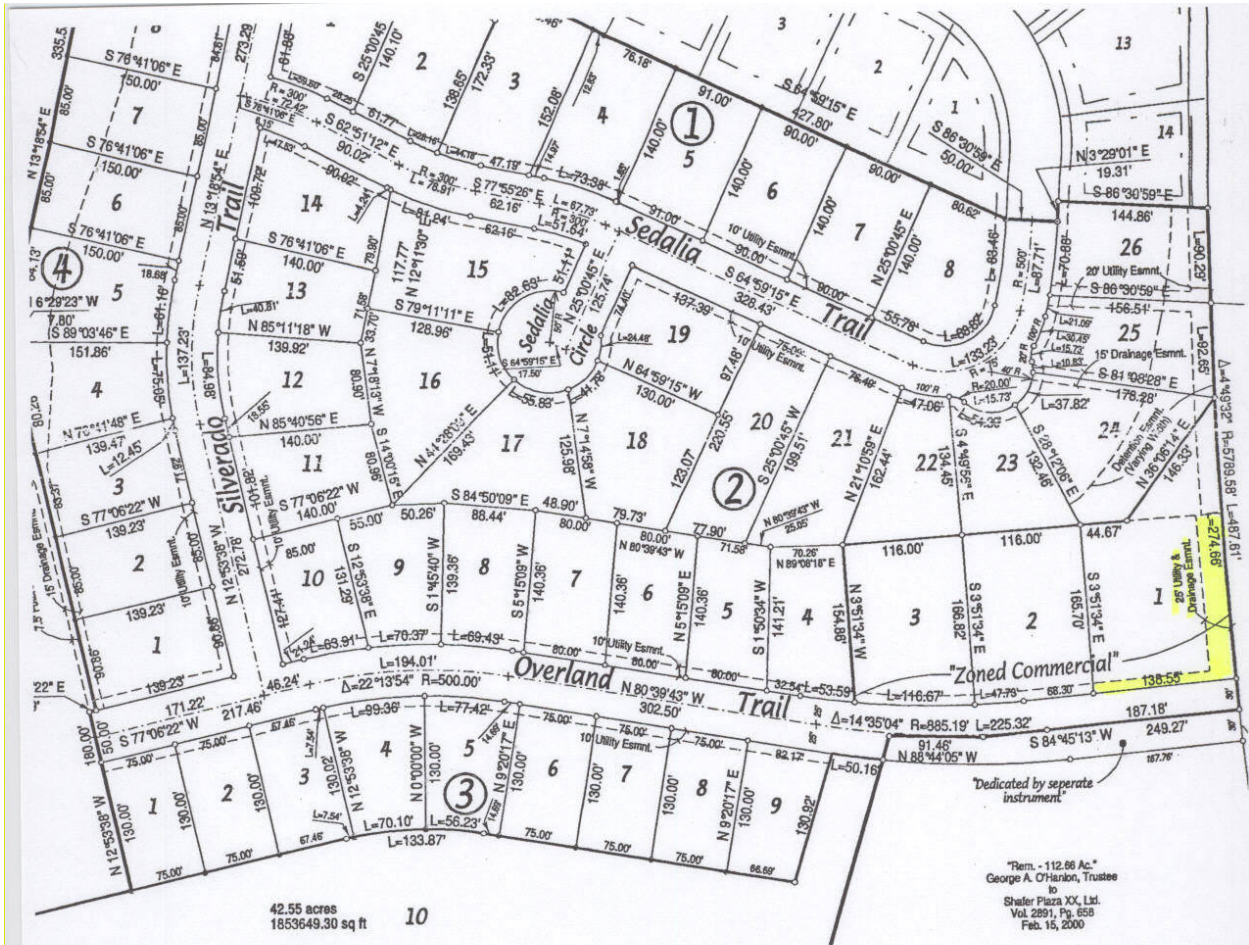


F. M. HIGHWAY NO. 1417

OVERLAND TRAIL

SIGN EASEMENT
OVER A PORTION OF
LOT ONE, BLOCK TWO
O'HANLON RANCH ADDITION
PHASE 2
TO THE
CITY OF SHERMAN

EXHIBIT "B"



O'HANLON RANCH ADDITION PHASE 2

to the
CITY of SHERMAN
GRAYSON COUNTY, TEXAS

Owners & Developers

DGR Development Group, Ltd.
Dean Gilbert, Inc.
801 E. Taylor
Sherman, Texas 75090
Dean Gilbert, President

Kyle Boothe

Sherman Bible Church
Todd Svane, Chairman
of the Deacons

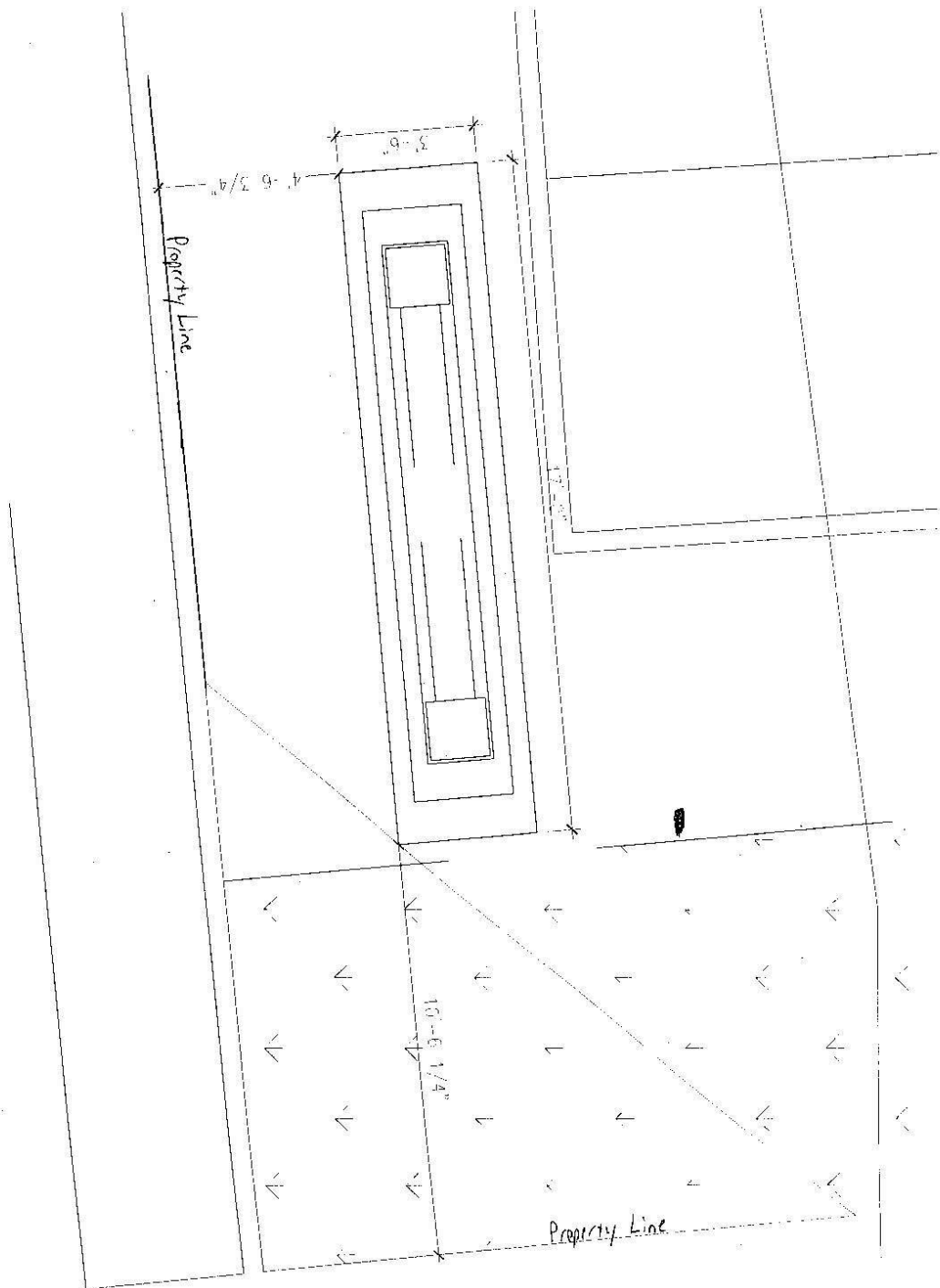
SARTIN & ASSOCIATES, INC.

Registered Professional Land Surveyors
109 S. Travis, P. O. Box 1843 Sherman, Texas 75091-1843
Ph: (903) 892-8003 Fax: (903) 868-2970

SHEET 1

OHNLN-5

EXHIBIT "C"



master site plan

SHEET NUMBER
SP.1

DATE

PROJECT NUMBER



davidbacon
STUDIO

ONE THOUSAND SOUTH SAM RAYBURN FREEWAY, SHERMAN, TEXAS 75090 • 903.893.5800 • 903.893.5866 • david@davidbaconstudio.com

ATMOS ENERGY
Darrell White
Project Manager
5111 Blue Flame Ln
Sherman, Texas 75090
Tel: 903-891-4257
Fax: 903-891-4239
Darrell.White@Atmosenergy.com



August 22, 2008

Attn: Joe Dell
O'Hanlon Trail Addition

This letter is to advise all concerned parties that Atmos Energy has reviewed the proposed area of concern and grant permission to Boothe Enterprise, for construction of a monument in the City of Sherman utility easement.

It is advised that individuals responsible for construction and/or placement of monument contact 811 for utility locates 48 hours prior to construction to verify all underground utility locations.

Sincerely,

Darrell White
Project Manager



Donna Collum
New Construction Manager
New Construction Management

August 7, 2008

Mr. Joe Dell
Boothe Enterprises
PO Box 368
Sherman, TX 75091

Oncor Electric Delivery
2201 Woodlake Drive
Denison, TX 75021

Tel 903 868 8242
Fax 903 868 8249
Cell 214 549 7148
donna.collum@oncor.com

RE: O'HANLON RANCH
SHERMAN TEXAS

Dear Mr. Dell;

This letter is in response to your inquiry on the installation location of a new monument sign at FM 1417 and Overland Trail. Boothe Enterprises has requested the new sign be located on or near the utility easement that serves this new development..

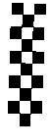
Oncor Electric Delivery has agreed to the location encroaching in the utility easement under the condition that Boothe Enterprises is fully responsible for repairing, moving or replacing the sign should it need to be moved for utility work. It is also required by the customer to call DigTess for locates when the sign is to be constructed.

If you need additional information please contact me at 903-868-8242.

Sincerely,

A handwritten signature in black ink, appearing to read "Donna Collum".

Donna Collum
New Construction Management



08/21/2008 17:00 9038682754

CABLE ONE

PAGE 01



3720 TEXOMA PARKWAY
P.O. Box 1223
SHERMAN, TX 75090
TEL 903-893-6548
FAX 903-868-2754

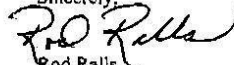
August 21, 2008

Booth Enterprises
2907 Overland Trail
Sherman, Texas 79020

Attn: Joe

RE: Placing Sign In Utility Easement

Cableone has no objection to the placement of a sign in the utility easement with the stipulation that Booth Enterprise be responsible for all damages and maintenance caused by the placement of the sign.

Sincerely,

Rod Ralls
Technical Operations Manager

Joe Dell

From: bob.holland@verizon.com
Sent: Tuesday, August 26, 2008 3:50 PM
To: Joe Dell
Subject: Re: Monument sign

Joe,

Verizon has no objection to the placement of a sign with in the said easement location, however we do have facilities with in that easement area and Boothe Enterprises will be held responsible for and damages done to Verizon's facilities with in said easement. Also if Verizon needs to do repairs, of place new facilities, Verizon will try to be very careful not to damage the sign, but just to reiterate what you said below if any damages are done to the sign Verizon will not be responsible for any repairs. We will try to notify you if we are doing anything with in the said easement.

Thanks
Bob Holland
Supervisor-Network Engineering
Sherman Area-NE Division
903-870-5294

"Joe Dell" <josedell@bootheenterprises.com>

"Joe Dell"
<josedell@bootheenterprises.com>

To: BOB D. Holland/EMPL/TX/Verizon@VZNotes
cc

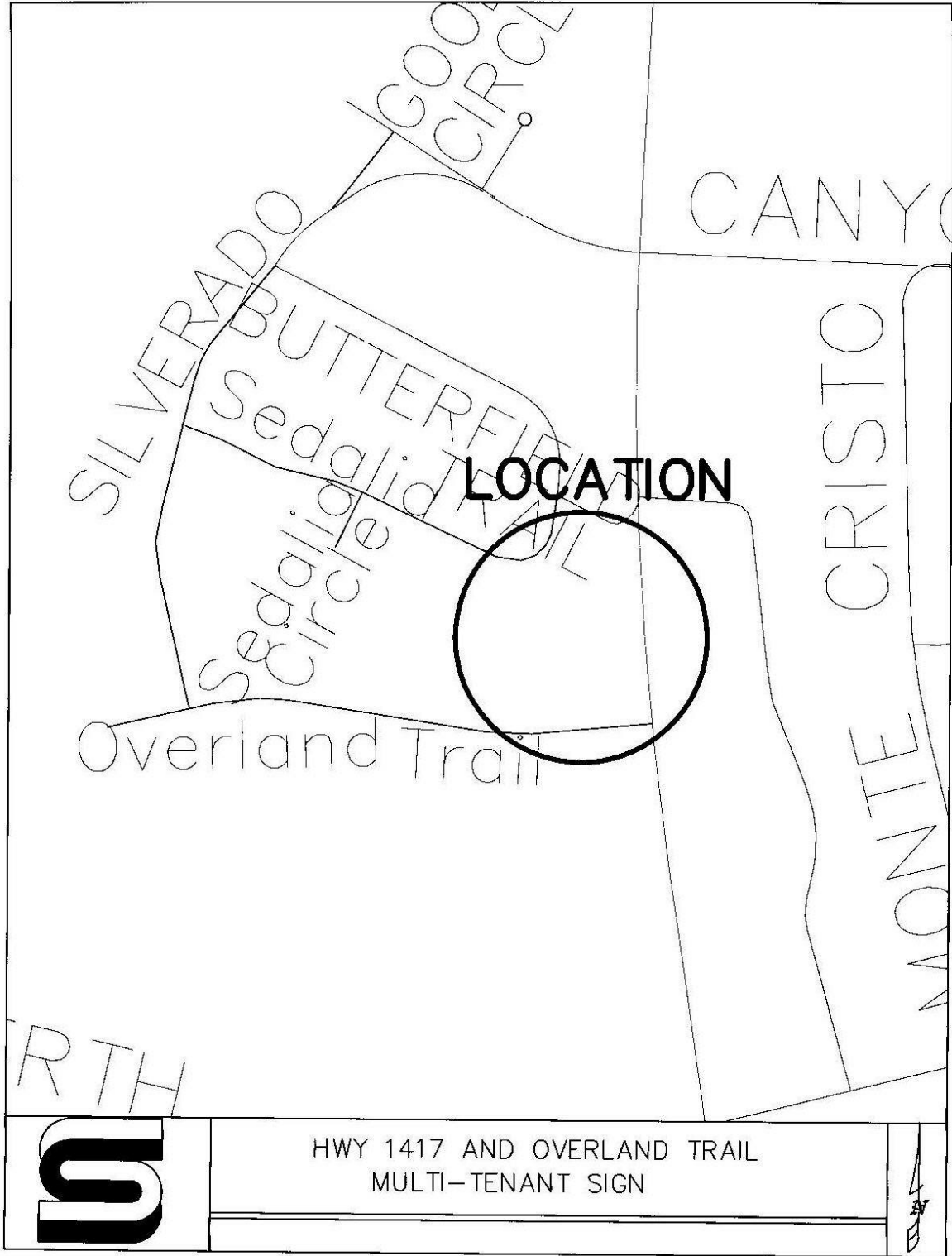
Subject: Monument sign

08/26/2008 03:26 PM

Hey Bob, this email is to confirm our conversation on 8/26/08 regarding Boothe Enterprises placing a monument sign in the utility easement along 1417 and Overland Trail. Boothe Enterprises will be responsible for maintaining and fixing, or replacing said sign if it is damaged during utility construction. Boothe Enterprises will not hold Verizon responsible.

Joe Dell
Boothe Enterprises
903-771-9444

8/26/2008





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. C.7

*** RESOLUTION NO. 5264**

**Authorizing Execution of an Agreement with Barton Capital, LTD
for the Abatement of Ad Valorem Property Taxes for the Construction of a
New Single-Family Residence at 608 East Sycamore Street**

Issue

This item is to consider property tax abatement for the construction of a new single-family residence at 608 East Sycamore Street.

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

Barton Capital, LTD, Applicant

Financial Consideration

A \$75.00 application fee has been received for this residential lot. If granted, the initial abatement for this lot will be approximately \$224.00 annually.

Staff Recommendation

The staff recommends approval of this abatement since it meets the requirements of the process.

Alternatives

The City Council could decide against granting this abatement.

Attachments

Resolution No. 5264
Residential Tax Abatement Agreement
Application
Building Permit Application
Survey
Location Map

Prepared by:
Scott Shadden, Director of Development Services

Approved by:
George Olson, City Manager

RESOLUTION NO. 5264

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT WITH BARTON CAPITAL, LTD FOR THE ABATEMENT OF AD VALOREM PROPERTY TAXES FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 608 EAST SYCAMORE 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 Barton Capital, LTD and subject to all contract documents being properly completed and approved by the City Attorney, to execute an agreement with Barton Capital, LTD 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 608 East Sycamore 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 _____, 2008.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

DOREEN E. MCGOOKEY,
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 **BARTON CAPITAL, LTD**, hereinafter referred to as OWNER.

WITNESSETH:

WHEREAS, on the 16th day of June, 2003, the City Council of Sherman, Texas, passed Ordinance No. 5136 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. 4685) 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 16th day of June, 2003;

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, 2008, and continuing for tax years 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016 and 2017 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 2008, sometimes referred to herein as the Base Tax Year.

SCHEDULE OF TAXES ASSESSED

<u>TAX YEAR</u>	<u>ABATEMENT</u>
2008	100%
2009	100%
2010	100%
2011	100%
2012	100%
2013	100%
2014	80%
2015	60%
2016	40%
2017	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 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015 and 2016, and 2017 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 608 East Sycamore Street, Sherman, Texas, and as more particularly describe by the following:

SITUATED in the City of Sherman, County of Grayson, State of Texas, being a part of the J.B. McAnair Survey, Abstract No. 763, being the same 50 x 100 foot tract of land conveyed by Rufino Maya Valdez and Marylou S. Valdez to Barton Capital, Ltd. By deed dated August 15, 2008, recorded in 4512, Page 793, Official Public Records, Grayson County, Texas and being more particularly described by metes and bounds as follows to-wit;

BEGINNING at a found ½ inch capped rebar stamped SARTIN-3694 maintaining the Northeast corner of said 50 x 100 foot tract, the Northwest corner of a 50 x 100 foot tract of land described in Tract One in deed from Willie Edward Jackson and Celia Jackson to Barton Capital, Ltd., dated February 15, 2008, recorded in Volume 4405, Page 7, Official Public records, Grayson County, Texas, on the South line of Sycamore Street;

THENCE South 16 deg. 00 min. 00 sec. East, with the West line of said 50 x 100 (Tract One) a distance of 100.00 feet to a found ½ inch capped rebar stamped SARTIN -3694 maintaining its Southwest corner, on the North line of a 97 x 183 foot tract of land conveyed by Danny Bowling and Gwendolyn Bowling to Barton Capital, Ltd. By deed dated January 12, 2007, recorded in Volume 4178, Page 129, Official Public Records, Grayson County, Texas;

THENCE South 74 deg. 28 min. 07 sec. West, with the North line of said 97 x 183 foot tract a distance of 50.00 feet to a set ½ inch capped rebar stamped SARTIN-3694 for the Southeast corner of a 100 x 100 foot tract of land described in Parcel 2 in deed from Rodger Bateman to James Vandagriff by deed dated July 12, 1984, recorded in Volume 1704, Page 507, Deed Records, Grayson County, Texas;

THENCE North 16 deg. 00 min. 00 sec. West, with the East line of said Vandagriff 100 x 100 foot tract, a distance of 100.00 feet to a set ½ inch capped rebar stamped SARTIN-3694 for its Northeast corner on the South line of said Sycamore Street;

THENCE North 74 deg. 28 min. 07 sec. East, with the South line of said Sycamore Street, a distance of 50.00 feet to the PLACE OF BEGINNING, and containing **0.11 ACRES OF LAND** more of less.....

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

Barton Capital, LTD
715 S. Sam Rayburn Frwy.
Sherman, Texas 75090
(903) 868-4201

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 _____, 2008.

CITY:
CITY OF SHERMAN, TEXAS

OWNER:
BARTON CAPITAL, LTD

BY: _____

GEORGE OLSON

CITY MANAGER

BY: _____

NAME: _____

TITLE: _____

ATTEST:

(CORPORATE SEAL)

BY: _____

LINDA ASHBY

CITY CLERK

APPROVED AS TO FORM:

DOREEN E. MCGOOKEY
CITY ATTORNEY

THE STATE OF TEXAS §
COUNTY OF GRAYSON §

BEFORE ME, the undersigned authority, on this day personally appeared Ron Barton, Barton Capital, LTD, 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 _____, 2008 A.D.

Tammy Biggar
Notary Public

CITY OF SHERMAN
APPLICATION FOR RESIDENTIAL TAX ABATEMENT

Property Owner:

Name: BARTON CAPITAL

Mailing Address: 715 S. HWY 75 SHERMAN, TX 75090

Telephone Number: 903-868-4201

Contact (if different than owner):

Name: Ron Barton

Mailing Address: SAME

Telephone Number: SAME

Property:

Physical Address: 608 E. SYCAMORE

Summary Legal Description: Lot: JB MEANIN SURVEY 0.11 ACRES
Block: _____ Addition: _____

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: 20,000

Estimated Date of Start of Construction: 8-28-08

Estimated Date of Completion of Project: 10-28-08

Description of Project: NEW SINGLE FAMILY DWELLING

Applicant(s): G. L. P. Date: 8-28-08



70 2008 00020380

Wilma Blackshear Bush
County Clerk
Sherman, Texas 75090

2008

Instrument Number: 2008-00020380

As

Recorded On: August 18, 2008

Recordings

Parties: VALDEZ RUFINO MAYA ETAL

Billable Pages: 2

To BARTON CAPITAL LTD

Number of Pages: 4

Comment: WED

(Parties listed above are for Clerks reference only)

** Examined and Charged as Follows: **

Recordings	20.00
Total Recording:	20.00

***** 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: 2008-00020380

Receipt Number: 272644

Recorded Date/Time: August 18, 2008 11:33:09A

Book-Vol/Pg: BK-OR VL-4512 PG-793

User / Station: J CARYOL - Cashiering Station 2

Record and Return To:

RED RIVER TITLE CO

421 N. CROCKETT 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 herein, and was duly RECORDED in the Official Records of Grayson County, Texas.

Wilma Blackshear Bush

Wilma Blackshear Bush, Grayson County Clerk

WARRANTY DEED

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.

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF GRAYSON

THAT RUFINO MAYA VALDEZ and MARYLOU S. VALDEZ, 508 S. Willow, Sherman, TX

(Hereinafter called "GRANTORS" whether one or more), for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations cash in hand paid by BARTON CAPITAL, LTD.

whose address is 715 S. Hwy 75, Sherman, TX 75090,

(hereinafter called "GRANTEES" whether one or more), the receipt and sufficiency of which are hereby acknowledged and confessed.

Have GRANTED, SOLD and CONVEYED, and by these presents do GRANT, SELL and CONVEY unto the said Grantees herein, the following described property, together with all improvements thereon, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF FOR ALL PURPOSES.

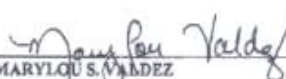
TO HAVE AND TO HOLD the above described premises, together with, all and singular, the rights and appurtenances thereto in any wise belonging, unto the said Grantees, their heirs and assigns forever. And Grantors do hereby bind themselves, their heirs, executors and administrators, to warrant and forever defend all and singular, the said premises unto the said Grantees, their heirs and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof. Taxes for the current year have been prorated and are assumed by Grantee.

This conveyance is made and accepted subject to (i) any and all outstanding minerals, mineral leases, restrictions, covenants, conditions and easements, to the extent that they are in force and effect; (ii) all zoning laws, regulations and ordinances of municipal and/or other governmental authorities, to the extent that they are applicable and enforceable; (iii) any and all easements, rights of way and encroachments that are apparent, including any utilities buried beneath the surface of the ground; and (iv) all rights of parties in possession of any part of the Property.

When this deed is executed by one person, or when the Grantee is one person, the instrument shall read as though pertinent verbs and pronouns were changed to correspond, and when executed by or to a corporation the words "heirs, executors or administrators" or "heirs and assigns" shall be construed to mean "Successors and assigns".

Executed on this the 15 day of August, 2008.

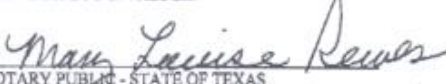

RUFINO MAYA VALDEZ


MARYLOU S. VALDEZ

THE STATE OF TEXAS

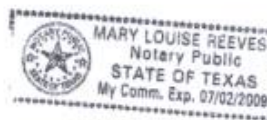
COUNTY OF GRAYSON

This instrument was acknowledged before me this 15 day of August, 2008, by RUFINO MAYA VALDEZ and MARYLOU S. VALDEZ.


NOTARY PUBLIC - STATE OF TEXAS

AFTER RECORDING RETURN TO:

RED RIVER TITLE COMPANY
421 N. Crockett St.
Sherman, Texas 75090



Bk	Vol	Ps
00020380	OR	4512 795

EXHIBIT A

PROPERTY (including improvements):

BEING THE WEST ONE-HALF OF THE FOLLOWING TRACT:

Being part of the J. B. McANAIR SURVEY, Abstract No. 763, in the City of Sherman, Grayson County, Texas, and described as follows:

BEGINNING at the northeast corner of the tract of land described in deed from Nellie Overley et al to J. C. Swindle et al, dated February 1, 1936, recorded in Volume 386, page 58, Deed Records, Grayson County, Texas;

THENCE South parallel with the East line of Broughton Street 100 feet to the north line of a lot sold by F. L. O'Hanlon to G. H. Christiansen, being the southeast corner of the tract of land described in said deed from Nellie Overley et al to J. C. Swindle et al;

THENCE West with the north line of said Christiansen lot 100 feet;

THENCE North parallel with the East line of Broughton Street 100 feet to the South line of Sycamore (formerly Denison) Street;

THENCE East along the south lie of Sycamore Street 100 feet to the place of beginning, containing, a tract of 100 x 100 feet, more or less.

Being the same property conveyed by deed from Ada B. Swindle and J. C. Swindle, to N. C. Thomas, dated October 1, 1938, recorded in Volume 403 at page 579, Deed Records, Grayson County, Texas. And being known locally as 608 E. Sycamore, Sherman, Texas.

Bk Vol Pg
00020380 OR 4512 796

Filed for Record in:
Grayson County

On: Aug 18, 2008 at 11:33A

As a
Recordless

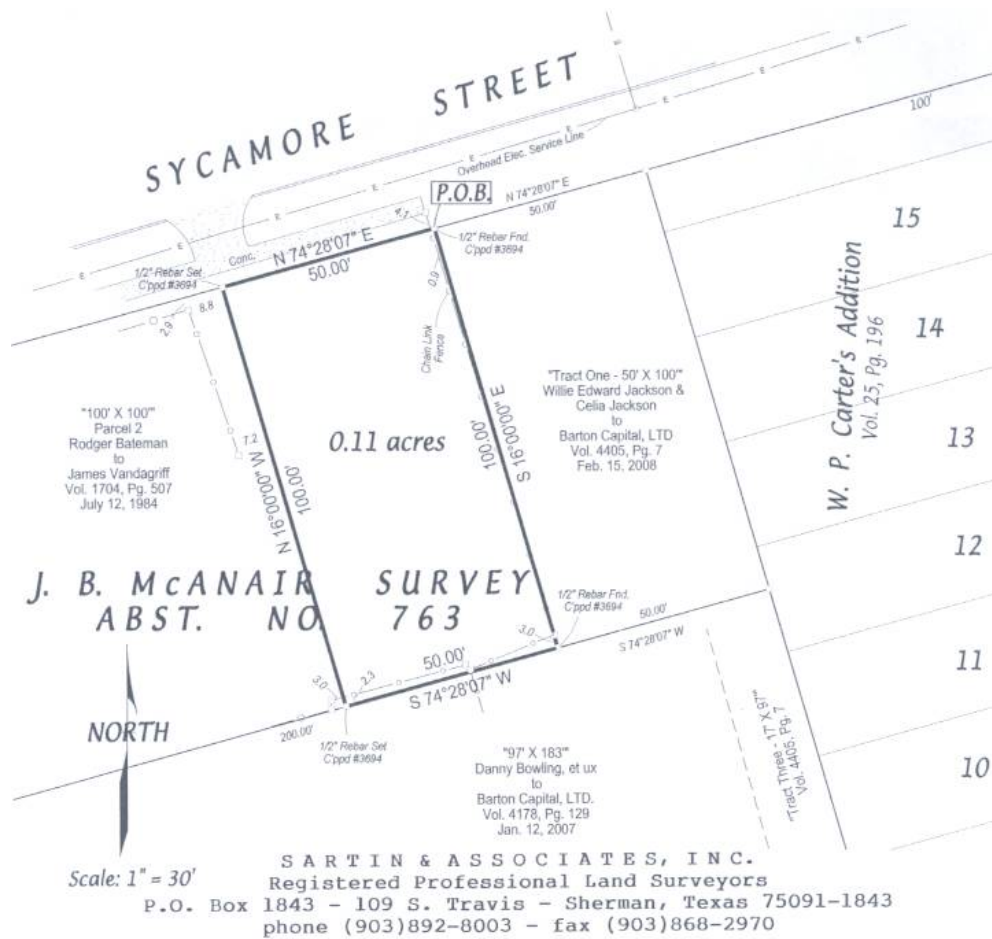
Document Number: 00020380

Amount: 20.00

Receipt Number - 272644
By:
JANA CARTOL

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.

Aug 18, 2008



SURVEY FOR: BARTON CAPITAL, LTD.

I, Marshall Sartin, Registered Professional Land Surveyor, hereby certify that a survey of the property shown hereon was made on the ground on the 21 st day of August, 2008 of the following described property:

(LEGAL DESCRIPTION ATTACHED)

That the improvements located on said property are known as 608 E. SYCAMORE STREET, SHERMAN, TEXAS and 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 or as shown on recorded plat that may affect said property.

THIS SURVEY PLAT WAS PREPARED FROM A SURVEY PERFORMED ON THE DATE SHOWN HEREON FOR THE CLIENT NAMED 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
Marshall Sartin, R.P.L.S. 3694



CITY OF SHERMAN
RESIDENTIAL BUILDING PERMIT

PERMIT #: 81594

SUBCONTRACTOR: CUPID HOMES

DATE ISSUED: 8/28/2008

PROJECT ADDRESS: 608 E SYCAMORE ST
PARCEL ID:
SUBDIVISION:

LOT #:
BLK #:
ZONE ORD:

ISSUED TO: CUPID HOMES
ADDRESS: 715 S HIGHWAY 75
CITY, ST ZIP: SHERMAN TX 75090-7260
PHONE: 903-868-4201

CONTRACTOR: CUPID HOMES
ADDRESS: 715 S HIGHWAY 75
CITY, ST ZIP: SHERMAN TX 75090-7260
PHONE:

PROP. USE: RESIDENTIAL
WORK: CONSTRUCT SINGLE FAMILY
VALUATION: \$ 70,000.00
OCCP TYPE: RESIDENTIAL
CNST TYPE: WOOD FRAME

SQ FT: 1,182.00
BEDROOMS: 3
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.

(SIGNATURE OF CONTRACTOR OR AUTHORIZED AGENT)

DATE



City of Sherman, Texas

608 EAST SYCAMORE STREET

PROJECT LOCATION MAP



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. C.8

*** RESOLUTION NO. 5265**

**Authorizing Execution of an Agreement with Barton Capital, LTD
for the Abatement of Ad Valorem Property Taxes for the Construction of
a New Single-Family Residence at 612 East Sycamore Street**

Issue

This item is to consider property tax abatement for the construction of a new single-family residence at 612 East Sycamore Street.

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

Barton Capital, LTD, Applicant

Financial Consideration

A \$75.00 application fee has been received for this residential lot. If granted, the initial abatement for this lot will be approximately \$214.40 annually.

Staff Recommendation

The staff recommends approval of this abatement since it meets the requirements of the process.

Alternatives

The City Council could decide against granting this abatement.

Attachments

Resolution No. 5265
Residential Tax Abatement Agreement
Application
Building Permit Application
Survey
Location Map

Prepared by:
Scott Shadden, Director of Development Services

Approved by:
George Olson, City Manager

RESOLUTION NO. 5265

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT WITH BARTON CAPITAL, LTD FOR THE ABATEMENT OF AD VALOREM PROPERTY TAXES FOR THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 612 EAST SYCAMORE 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 Barton Capital, LTD and subject to all contract documents being properly completed and approved by the City Attorney, to execute an agreement with Barton Capital, LTD 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 612 East Sycamore 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 _____, 2008.

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

DOREEN E. MCGOOKEY,
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 **BARTON CAPITAL, LTD**, hereinafter referred to as OWNER.

WITNESSETH:

WHEREAS, on the 16th day of June, 2003, the City Council of Sherman, Texas, passed Ordinance No. 5136 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. 4685) 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 16th day of June, 2003;

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, 2008, and continuing for tax years 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016 and 2017 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 2008, sometimes referred to herein as the Base Tax Year.

SCHEDULE OF TAXES ASSESSED

<u>TAX YEAR</u>	<u>ABATEMENT</u>
2008	100%
2009	100%
2010	100%
2011	100%
2012	100%
2013	100%
2014	80%
2015	60%
2016	40%
2017	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 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015 and 2016, and 2017 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 612 East Sycamore Street, Sherman, Texas, and as more particularly described by the following:

SITUATED in the City of Sherman, County of Grayson, State of Texas, being a part of the J.B. McAnair Survey, Abstract No. 763, being the same 50 x 100 foot tract of land described in Tract One in deed from Willie Edward Jackson and Celia Jackson to Barton Capital, Ltd., dated February 15, 2008, recorded in 4405, Page 7, Official Public Records, Grayson County, Texas and being more particularly described by metes and bounds as follows to-wit;

BEGINNING at a set ½ inch capped rebar stamped SARTIN-3694 for the Northeast corner of said 50 x 100 foot tract on the South line of said Sycamore Street;

THENCE South 16 deg. 00 min. 00 sec. East, at a distance of 15.00 feet passing the Northwest corner of Block Eight (8) of W.P. Carter Addition to the City of Sherman, Texas as shown by plat of record in Volume 25, Page 196, Deed Records, Grayson County, Texas and continuing with the West line of said Block Eight for a total distance of 100.00 feet to a set ½ inch capped rebar stamped SARTIN-3694 for the Northeast corner a 17 x 97 foot strip of land described in Tract Three in said deed to Barton Capital, Ltd. Recorded in Volume 4405, Page 7, on the West line of Lot Nine in said Block Eight;

THENCE South 74 deg. 28 min. 07 sec. West, with the North line of said 17 x 97 foot strip, at a distance of 17.00 feet passing its Northwest corner, the Northeast corner of a 97 x 183 foot tract of land conveyed by Danny Bowling and Gwendolyn Bowling to Barton Capital, Ltd. By deed dated January 12, 2007, recorded in Volume 4178, page 129, Official Public Records, Grayson County, Texas and continuing with the North line of said 97 x 183 foot tract for a total distance of 50.00 feet to a set ½ inch capped rebar stamped SARTIN-3694 for the Southeast corner of a 50 x 100 foot tract of land conveyed by Noble Thomas, et al to Rufino Maya Valdez, et ux by deed dated June 16, 2006, recorded in Volume 4070, Page 843, Official Public Records, Grayson County, Texas;

THENCE North 16 deg. 00 min. 00 sec. West, with the East line of said Valdez 50 x 100 foot tract, a distance of 100.00 feet to a set ½ inch capped rebar stamped SARTIN-3694 for its Northeast corner on the South line of said Sycamore Street;

THENCE North 74 deg. 28 min. 07 sec. East, with the South line of said Sycamore Street, a distance of 50.00 feet to the PLACE OF BEGINNING, and containing **0.11 ACRES OF LAND** more or less.....

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

Barton Capital, LTD
715 S. Sam Rayburn Frwy.
Sherman, Texas 75090
(903) 868-4201

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 _____, 2008.

CITY:
CITY OF SHERMAN, TEXAS

OWNER:
BARTON CAPITAL, LTD

BY: _____

GEORGE OLSON

CITY MANAGER

BY: _____

NAME: _____

TITLE: _____

ATTEST:

(CORPORATE SEAL)

BY: _____

LINDA ASHBY

CITY CLERK

APPROVED AS TO FORM:

DOREEN E. MCGOOKEY
CITY ATTORNEY

THE STATE OF TEXAS §
COUNTY OF GRAYSON §

BEFORE ME, the undersigned authority, on this day personally appeared Ron Barton, Barton Capital, LTD, 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 _____, 2008 A.D.

Tammy Biggar
Notary Public

CITY OF SHERMAN
APPLICATION FOR RESIDENTIAL TAX ABATEMENT

Property Owner:

Name: BARTON CAPITAL

Mailing Address: 715 S. Hwy 75 SHERMAN, TX 75090

Telephone Number: 903-868-4201

Contact (if different than owner):

Name: Ron Barton

Mailing Address: SAME

Telephone Number: SAME

Property:

Physical Address: 612 E. SYCAMORE

Summary Legal Description: Lot: JB McANAIN survey Block: 0.11 ACRES. Addition:

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: 67,000

Estimated Date of Start of Construction: 8-28-08

Estimated Date of Completion of Project: 10-28-08

Description of Project: NEW SINGLE FAMILY DWELLING

Applicant(s): Guy L. P. Date: 8-28-08

Grayson County
Wilma Blackshear Bush
County Clerk
Sherman, Texas 75090



70 2008 00003740

5081

Instrument Number: 2008-00003740

As

Recorded On: February 19, 2008

Recordings

Parties: JACKSON WILLIE EDWARD ETAL

Billable Pages: 3

To BARTON CAPITAL LTD

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: 2008-00003740
Receipt Number: 260613
Recorded Date/Time: February 19, 2008 01:44:00P
Book-Vol/Pg: BK-OR VL-4405 PG-7
User / Station: G WHITE - Cashiering Station 1

Record and Return To:

RED RIVER TITLE CO
421 N. CROCKETT 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.

Wilma Blackshear Bush

Wilma Blackshear Bush, Grayson County Clerk

WARRANTY DEED

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.

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF GRAYSON

THAT WILLIE EDWARD JACKSON and CELIA JACKSON, 319 N. Carr, Sherman, TX 75090

(Hereinafter called "GRANTORS" whether one or more), for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations cash in hand paid by BARTON CAPTIAL, LTD

whose address is 715 S. Hwy 75, Sherman, TX 75090,

(hereinafter called "GRANTEES" whether one or more), the receipt and sufficiency of which are hereby acknowledged and confessed.

Have GRANTED, SOLD and CONVEYED, and by these presents do GRANT, SELL and CONVEY unto the said Grantees herein, the following described property, together with all improvements thereon, to-wit:

TRACT ONE:

BEING A TRACT OF LAND SITUATED IN THE J.B. MCANAIR SURVEY, ABSTRACT NO. 763, SITUATED IN GRAYSON COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED ON THE ATTACHED EXHIBIT "A".

TRACT TWO:

BEING LOTS NINE (9), TEN (10), ELEVEN (11), TWELVE (12), THIRTEEN (13), FOURTEEN (14) AND FIFTEEN (15) IN BLOCK EIGHT (8) OF W.P. CARTER'S ADDITION, AN ADDITION TO THE CITY OF SHERMAN, TEXAS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 25 AT PAGE 196 OF THE DEED RECORDS OF GRAYSON COUNTY, TEXAS, AND A TRACT ADJOINING IN PART ON THE WEST SIDE OF SAID LOTS AS FOLLOW;

TRACT THREE:

BEING A TRACT OF LAND SITUATED IN THE J.B. MCANAIR SURVEY, ABSTRACT NO. 763, SITUATED IN GRAYSON COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED ON THE ATTACHED EXHIBIT "A".

TO HAVE AND TO HOLD the above described premises, together with, all and singular, the rights and appurtenances thereto in any wise belonging, unto the said Grantees, their heirs and assigns forever. And Grantors do hereby bind themselves, their heirs, executors and administrators, to warrant and forever defend all and singular, the said premises unto the said Grantees, their heirs and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof. Taxes for the current year have been prorated and are assumed by Grantee.

This conveyance is made and accepted subject to (i) any and all outstanding minerals, mineral leases, restrictions, covenants, conditions and easements, to the extent that they are in force and effect; (ii) all zoning laws, regulations and ordinances of municipal and/or other governmental authorities, to the extent that they are applicable and enforceable; (iii) any and all easements, rights of way and encroachments that are apparent, including any utilities buried beneath the surface of the ground; and (iv) all rights of parties in possession of any part of the Property.

When this deed is executed by one person, or when the Grantee is one person, the instrument shall read as though pertinent verbs and pronouns were changed to correspond, and when executed by or to a corporation the words "heirs, executors or administrators" or "heirs and assigns" shall be construed to mean "Successors and assigns".

Bk Vol Pg
00003740 OR 4405

Executed on this the 15 day of February, 2008.

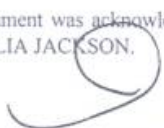

WILLIE EDWARD JACKSON

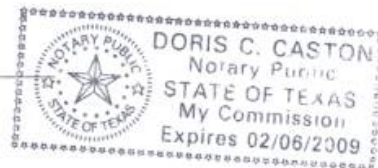

CELIA JACKSON

THE STATE OF TEXAS

COUNTY OF GRAYSON

This instrument was acknowledged before me this 15 day of February, 2008, by WILLIE EDWARD JACKSON and CELIA JACKSON.


NOTARY PUBLIC - STATE OF TEXAS



AFTER RECORDING RETURN TO:

RED RIVER TITLE COMPANY
421 N. Crockett St.
Sherman, Texas 75090

policy/closingdocs/dn/CashDeed- 0105081

EXHIBIT A

Tract One:

BEING described as Lot, tract or parcel of land, lying and being situated in the County of Grayson, State of Texas, out of J. B. McANAIR SURVEY, and being the East 50 feet of the following described property,

Beginning at the NE corner of the tract of land described in deed from Nellie Overley et al to J C Swindle, et al dated February 1, 1936 and recorded in Vol. 386, page 58, Deed Records, Grayson County, Texas;

Thence, South Parallel with the East line of Broughton St. 100 FEET TO THE North line of a lot sold by F L O'Hanlon to C H Christiansen, being the S W corner of the tract of land described in the deed from Nellie Overley et al to J C Swindle et al, above mentioned;

Thence, West with the North line of said Christian lot 100 feet;

Thence, North parallel with the East line of Broughton St. 100 feet to the South line of Sycamore Street;

Thence, East 100 feet to the beginning, and containing 1 lot.

Known on the ground as 612 East Sycamore Street, Sherman, Texas.

Tract Two:

BEING Lots Nine (9), Ten (10), Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), and Fifteen (15) in Block Eight (8) of W. P. CARTER'S ADDITION, an Addition to the City of Sherman, Texas, according to the plat thereof recorded in Volume 25 at page 196 of the Deed Records of Grayson County, Texas, and a tract adjoining in part on the West side of said lots as follows:

Tract Three:

BEING the East Seventeen (E. 17') of the following described tract out of the J. B. SHANNON Tract 21 of the JOHN B. McANAIR SURVEY, ABSTRACT NO. 763, in the City of Sherman, Grayson County, Texas, more particularly described as follows:

BEGINNING on the East line of Broughton Street, at the N. W. corner of a lot deeded to J. W. Boyer;

THENCE North with the East line of said street about 97 feet to S. W. Corner of a lot deeded to Ars A. and William Turley;

THENCE East with the South line of the Turley lot and parallel with the North line of Bostwick 5 acres about 200 feet to the East line of said 5 acres;

THENCE South the said East line of said 5 acres about 97 feet to N. E. corner Boyer lot;

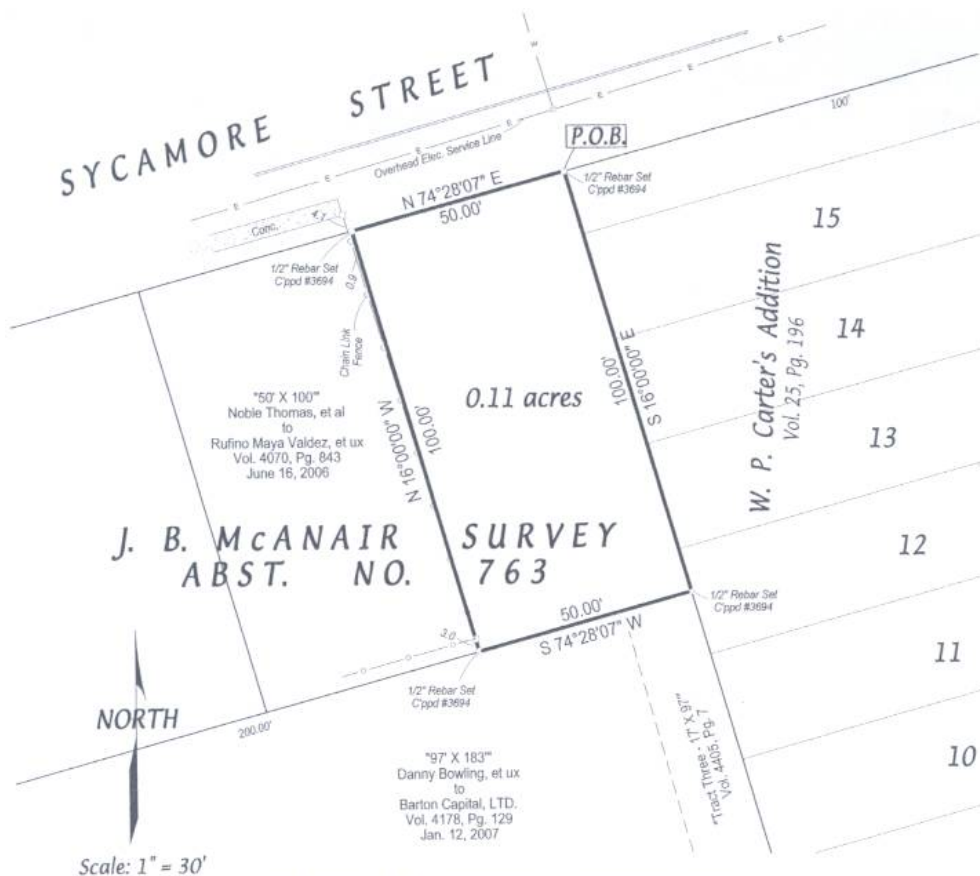
THENCE West with the North line of Boyer lot about 200 feet to the place of beginning.

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OR

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SARTIN & ASSOCIATES, INC.
Registered Professional Land Surveyors
P.O. Box 1843 - 109 S. Travis - Sherman, Texas 75091-1843
phone (903)892-8003 - fax (903)868-2970

SURVEY FOR: BARTON CAPITAL, LTD.

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, 2008 of the following described property:

(LEGAL DESCRIPTION ATTACHED)

That the improvements located on said property are known as 612 E. SYCAMORE STREET, SHERMAN, TEXAS and 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 or as shown on recorded plat that may affect said property.

THIS SURVEY PLAT WAS PREPARED FROM A SURVEY PERFORMED ON THE DATE SHOWN HEREON FOR THE CLIENT NAMED 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
 Marshall Sartin, R.P.L.S. 3694



CITY OF SHERMAN
RESIDENTIAL BUILDING PERMIT

PERMIT #: 81595 SUBCONTRACTOR: CUPID HOMES DATE ISSUED: 8/28/2008

PROJECT ADDRESS: 612 E SYCAMORE ST
PARCEL ID:
SUBDIVISION:

LOT #:
BLK #:
ZONE ORD:

ISSUED TO: CUPID HOMES
ADDRESS: 715 S HIGHWAY 75
CITY, ST ZIP: SHERMAN TX 75090-7260
PHONE: 903-868-4201

CONTRACTOR: CUPID HOMES
ADDRESS: 715 S HIGHWAY 75
CITY, ST ZIP: SHERMAN TX 75090-7260
PHONE:

PROP USE: RESIDENTIAL
WORK: CONSTRUCT SINGLE FAMILY
VALUATION: \$ 67,000.00
OCCP TYPE: RESIDENTIAL
CNST TYPE: WOOD FRAME

SQ FT: 1,124.00
BEDROOMS: 3
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.

(SIGNATURE OF CONTRACTOR OR AUTHORIZED AGENT)

DATE

(APPROVED BY)

DATE



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. C.9

*** RESOLUTION NO. 5266**

**Designating Code Enforcement Officials
for the Purposes of Obtaining Administrative Search Warrants**

Issue

To consider designating code enforcement officers to obtain administrative search warrants

Background

Article 18.05 of the Texas Code of Criminal Procedure requires cities to designate code enforcement officials for the purpose of being issued administrative search warrants. Code enforcement officials need to be able to obtain administrative search warrants to conduct inspections of substandard structures and other buildings to ensure compliance with the Sherman City Code.

Origination

City Attorney

Financial Consideration

None

Staff Recommendation

Staff recommends approval of the resolution and designation of the named code enforcement officers.

Alternatives

The City Council could choose not to enact the resolution.

Attachments

Resolution No. 5266

Prepared by:
Doreen E. McGookey, City Attorney

Approved by:
George Olson, City Manager

RESOLUTION NO. 5266

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, DESIGNATING CODE ENFORCEMENT OFFICIALS FOR THE PURPOSES OF OBTAINING ADMINISTRATIVE SEARCH WARRANTS; 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, Article 18.05 of the Texas Code of Criminal Procedure requires cities to designate code enforcement officials for the purpose of obtaining administrative search warrants; and

WHEREAS, code enforcement officials are assigned to conduct inspections of various structures and buildings and may be required to obtain administrative search warrants as part of their job duties;

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

SECTION 1. That the Sherman City Council hereby designates the Development Services Director and/or his or her designees, who will be certified as code enforcement officials, with the authority to obtain administrative search warrants, in accordance with the authority contained in Article 18.05 of the Texas Code of Criminal Procedure.

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

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

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
BILL MAGERS, MAYOR

**APPROVED AS TO FORM AND
CONTENT:**

**DOREEN E. MCGOOKEY
CITY ATTORNEY**



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. C.10

*** RESOLUTION NO. 5267**

Awarding a Bid to and Authorizing Execution of a Contract with Eagle Underground Utility Supply, Inc. d/b/a Mainline Supply Company for an Annual Supply of Water and Sewer Distribution and Collection Miscellaneous Parts and Materials

Issue

To consider an award of bid for the City's annual contract for water and sewer parts/supplies

Background

Water and sewer piping supplies and parts are used in the maintenance of the City's water and sewer systems. The new annual supply contract was publicly advertised; and six bids were received on September 3, 2008, as noted in the attached bid tabulation. The low bidder was Eagle Underground Utility Supply, Inc. d/b/a Mainline Supply Company of Dallas, Texas.

Origination

Department of Utilities Administration

Financial Consideration

Funds are budgeted in Distribution Services and Inflow/Infiltration Cost Centers for the needed parts and supplies.

Staff Recommendation

It is recommended that the City Council award the contract to Mainline Supply Company, based on their bid of \$1,168,082.30, which is the lowest that met our requirements, and authorize the City Manager to execute the contract documents.

Alternatives

As may be directed by the City Council

Attachments

Resolution No. 5267

Contract

Bid Tabulation

Prepared by:
Mark Gibson, Director of Utilities & Engineering

Approved by:
George Olson, City Manager

RESOLUTION NO. 5267

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH EAGLE UNDERGROUND UTILITY SUPPLY, INC. D/B/A MAINLINE SUPPLY COMPANY FOR AN ANNUAL SUPPLY OF WATER AND SEWER DISTRIBUTION AND COLLECTION MISCELLANEOUS PARTS AND MATERIALS; 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 Eagle Underground Utility Supply, Inc. d/b/a Mainline Supply Company of Dallas, Texas, is hereby awarded the bid in the total amount of One Million, One Hundred Sixty-Eight Thousand, Eighty-Two Dollars and Thirty Cents (\$1,168,082.30) for an annual supply of water and sewer distribution and collection miscellaneous parts and materials; and that the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form by the City Attorney, to execute a contract for said purchase, in accordance with the terms and provisions of all contract documents attached hereto and made a part hereof for all purposes.

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

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

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
BILL MAGERS, MAYOR

APPROVED AS TO FORM AND CONTENT:

BY: _____
DOREEN E MCGOOKEY,
CITY ATTORNEY

CONTRACT OF SALE

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE
COUNTY OF GRAYSON §

That the **CITY OF SHERMAN, TEXAS**, a municipal corporation, hereinafter referred to as "**BUYER**", and **EAGLE UNDERGROUND UTILITY SUPPLY, INC. d/b/a Mainline Supply Company of Dallas, Texas**, hereinafter referred to as "**SELLER**."

WITNESSETH:

Terms of Purchase. SELLER agrees to sell and will deliver to BUYER, and BUYER agrees to purchase from SELLER,

Water and Sewer Maintenance Supplies and Parts

(hereinafter referred to as "Maintenance Supplies and Parts")

As consideration for this Contract, SELLER agrees to make the Maintenance Supplies and Parts available for the amount specified herein and BUYER agrees to purchase these items exclusively from the SELLER, as specified in Exhibit "A."

Reference is hereby made to the specifications and requirements of the Invitation to Bid prepared by BUYER and the Bid submitted by SELLER in answer to BUYER's Invitation to Bid. All of the specifications and requirements of BUYER's Invitation to Bid and SELLER's Bid, identified as Exhibit "A", are incorporated herein by reference and made a part of this contract for all purposes.

SELLER hereby agrees to deliver the Maintenance Supplies and Parts to BUYER at Sherman, Texas, as requested by BUYER.

BUYER retains the right to reject all or any part of the Maintenance Supplies and Parts delivered by SELLER that do not comply with the specifications as set forth in the Invitation to Bid and the Bid Proposal submitted by SELLER. Should any of the Maintenance Supplies and Parts be rejected because of failure to meet specifications, and SELLER not supply conforming products within ten (10) days of date of rejection, then BUYER may purchase such products from the next lowest bidder willing to honor its bid, and SELLER agrees to pay to BUYER in cash the difference in the Bid Proposals.

Ownership of Items. SELLER represents that it is the record and beneficial owner of the items set forth in Exhibit "A," free and clear of any Lien and any other limitation or restriction (including any restriction on the right to vote, sell or otherwise dispose of the

items, and will transfer and deliver to Buyer the items free and clear of any Lien and any such limitation or restriction.

Insurance. SELLER agrees to carry insurance as specified in Exhibit "A" and to name the BUYER as an additional insured.

INDEMNIFICATION. SELLER AGREES TO DEFEND, INDEMNIFY AND HOLD BUYER, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES INCLUDING ATTORNEYS FEES, FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM, FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY SELLER'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, STRICTLY LIABLE ACT, OR ANY OMISSION OF SELLER, ITS OFFICERS, AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THIS AGREEMENT (HEREINAFTER "CLAIMS"); EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF BUYER, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. IN ADDITION, THIS INDEMNIFICATION AND SAVE HARMLESS SHALL APPLY TO ANY IMPUTED OR ACTUAL JOINT ENTERPRISE LIABILITY.

No Waiver of Governmental Immunity. This Agreement does not waive, nor shall it be deemed to waive, any immunity or defense, including, but not limited to, governmental immunity, that would otherwise be available to the BUYER against claims arising from the exercise of governmental powers and functions.

Litigation. There is no action, suit, investigation, or proceeding pending against, or to the knowledge of SELLER threatened against or affecting, SELLER or any of their respective properties before any court or arbitrator or any governmental body, agency or official which in any manner challenges or seeks to prevent, enjoin, alter or materially delay the transactions contemplated by this Agreement.

Payment of Monies Owed to the City of Sherman. BUYER may, in its discretion, apply any monies owed to SELLER, the contracting party under this agreement, in partial or complete satisfaction of any property taxes due or other monies owe the City of Sherman, which are or become delinquent during the term of this contract.

Amendment of Contract. This agreement may not be changed, varied or altered except by an instrument in writing, duly executed on behalf of BUYER and by SELLER.

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

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CITY OF SHERMAN

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Severability. Any provision or part of this Contract is held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the BUYER and SELLER, who agree that the Contract shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

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

Applicable Laws and Venue. This agreement shall be construed in accordance with the laws of the State of Texas, shall be deemed performable and enforceable in the State of Texas, with venue in Grayson County, Texas.

IN WITNESS WHEREOF, this instrument, in duplicate originals of equal force, has been executed on behalf of SELLER and on behalf of BUYER, City of Sherman, by its City Manager and attested by its City Clerk, effective the _____ day of _____, 2008.

SELLER:**EAGLE UNDERGROUND UTILITY****SUPPLY, INC. d/b/a Mainline Supply Company CITY OF SHERMAN, TEXAS****BUYER:**

BY: Charlie Smith
NAME: Mainline Supply
TITLE: Branch Manager
[INSERT ADDRESS]

1519 Stevens St.
Dalls, TX 75218

DATE: 9-9-08

BY:

GEORGE OLSON
CITY MANAGER
220 W. MULBERRY
SHERMAN, TEXAS 75090

DATE:

ATTEST:

BY:

[Signature]
NAME: MAINLINE SUPPLY
TITLE: Assistant Branch Manager

ATTEST:

LINDA ASHBY, CITY CLERK

APPROVED:

[Signature]
DOREEN E. MCGOOKEY
CITY ATTORNEY

**BID TABULATION
CITY OF SHERMAN**

**ANNUAL WATER & SEWER PARTS & SUPPLIES
Wednesday, September 3, 2006, at 3:00 PM**

VENDOR	BID AMOUNT	REMARKS/ EXCEPTIONS
Morrison Supply Sherman, TX	\$1,285,893.94	Complete
Ferguson Water Works McKinney, TX	\$1,186,213.15	Complete
Municipal Water Works Supply LP. Royse City, TX	\$1,181,178.22	Complete
Mainline Supply Co. Dallas, TX	\$1,168,082.30	Complete
H D Supply Waterworks McKinney, TX	\$1,298,932.35	Complete
Piping Systems International Huffman, TX	\$162,445.50	Not Complete



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. C.11

*** RESOLUTION NO. 5268**

Authorizing Execution of an Amendment to the Developer's Agreement with Sherman Hills Country Club, LTD. for the Construction of Public Facilities in Sunrise Tract, Phase I of the Sherman Hills Addition to the City of Sherman

Issue

To consider executing an amendment to the Developer's Agreement with Sherman Hills Country Club, Ltd. for the construction of public facilities in Sunrise Tract (Phase I) in the Sherman Hills Addition to the City of Sherman

Background

Sherman Hills Country Club, Ltd. proposes to eliminate the construction of a portion of the infrastructure approved in the original Developer's Contract. The developer has decided to reconfigure the affected portion of the subdivision.

Origination

Department of Utilities & Engineering

Financial Consideration

None

Staff Recommendation

Staff recommends approval of the Amended Developer's Agreement

Alternatives

As directed by the City Council

Attachments

Resolution No. 5268

Developer's Agreement (Amendment)

Developer's Agreement (Original)

Location Map

Prepared by:

Mark Gibson, Director of Utilities & Engineering

Approved by:

George Olson, City Manager

RESOLUTION NO. 5268

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AMENDMENT TO THE DEVELOPER'S AGREEMENT WITH SHERMAN HILLS COUNTRY CLUB, LTD. FOR THE CONSTRUCTION OF PUBLIC FACILITIES IN SUNRISE TRACT, PHASE I OF THE SHERMAN HILLS ADDITION IN THE CITY OF SHERMAN; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form by the City Attorney, to execute an amendment to the Development Agreement with Sherman Hills Country Club, Ltd. for the construction of public facilities in the Sherman Hills Addition to the City of Sherman, Grayson County, Texas, in the same or substantially same form as the contract documents to be attached hereto and incorporated herein for all purposes.

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

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

CITY OF SHERMAN, TEXAS

BY: _____
BILL MAGERS, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM AND CONTENT:

BY: _____
DOREEN E. MCGOOKEY,
CITY ATTORNEY

**AMENDMENT THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF
SHERMAN AND SHERMAN HILLS COUNTRY CLUB, LTD.**

THIS AMENDMENT is to the Development Agreement between the City of Sherman and Sherman Hills Country Club, Ltd. (hereinafter "Original Agreement") that was approved by the Sherman City Council on September 17, 2007, in Resolution No. 5094. The parties to the Original Agreement, Sherman Hills Country Club, Ltd. ("Developer") and the City of Sherman, Texas ("City") hereby agree to amend the Original Agreement as follows:

WHEREAS, Developer and the City entered into the Original Agreement

WHEREAS, the parties hereto wish to amend the Original Agreement;

THEREFORE, for and in consideration of the mutual promises, covenants, warranties and representations herein, the parties hereto agree to amend certain portions of certain paragraphs and exhibits as follows:

The Parties hereby agreed to amend Exhibit "B" as follows:

Attached to this Amendment are Exhibits "1" and "2." These Exhibits are attached and incorporated into this Amendment for all purposes. To the extent that Exhibits "1" and "2" conflict with diagrams in Exhibit "B" to the Original Agreement, the diagrams and representations in Exhibits "1" and "2" control over Exhibit "B." The Parties agree and intend that the changes reflected in Exhibits "1" and "2" are the agreed upon changes to the proposed Development Documents by the Developer.

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

SHERMAN HILLS COUNTRY CLUB, LTD.

BY: _____
Hugh Thorson
President

CITY OF SHERMAN, TEXAS

BY: _____
George Olson
City Manager

ATTEST:

LINDA ASHBY,
CITY CLERK

APPROVED:

DOREEN E. MCGOOKEY
City Attorney

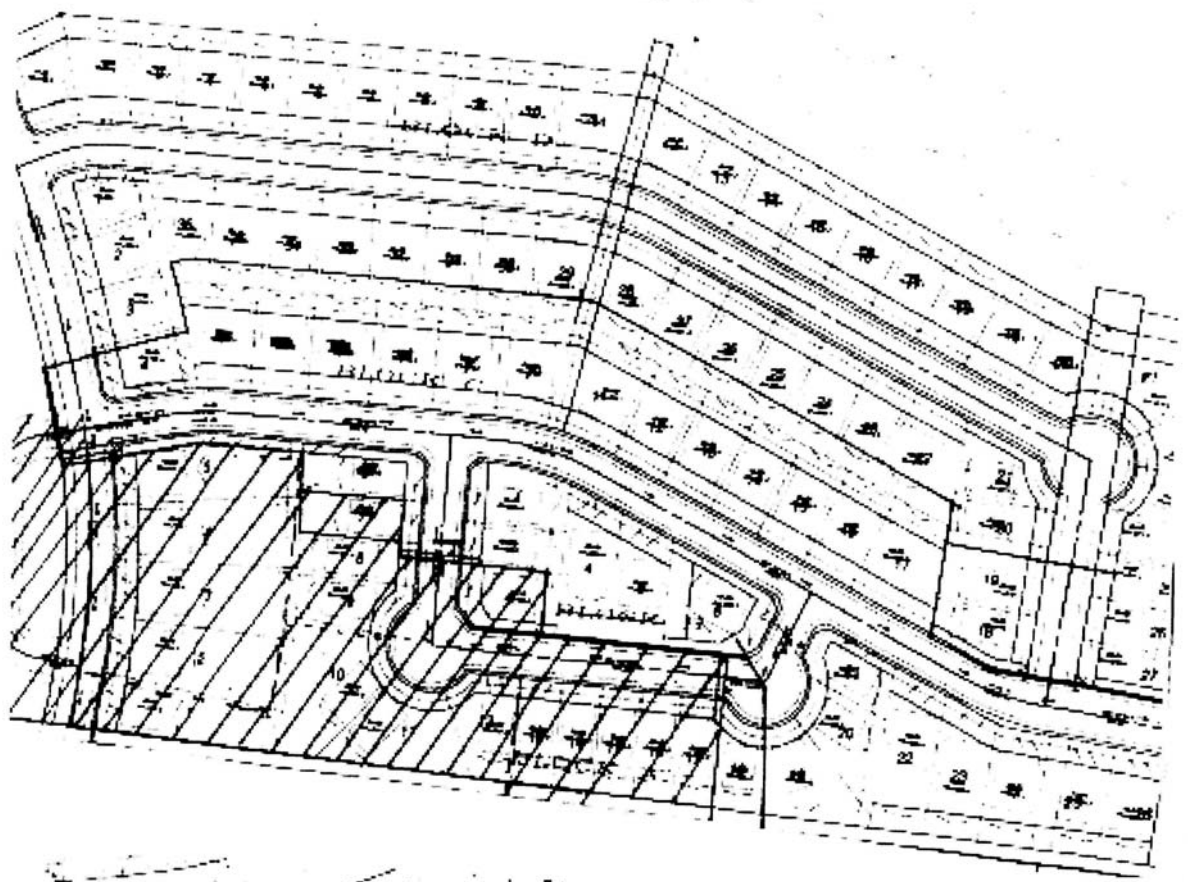


EXHIBIT "2"

Exhibit "B"

STATE OF TEXAS §

COUNTY OF GRAYSON §

DEVELOPMENT AGREEMENT BETWEEN

THE CITY OF SHERMAN AND SHERMAN HILLS COUNTRY CLUB, LTD.

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into this 13th day of SEPT, 2007 (the "Effective Date"), by and among City of Sherman ("City"), a municipal corporation organized under the laws of the State of Texas, and Sherman Hills Country Club, LTD. ("Developer").

WITNESSETH:

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

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

WHEREAS, Developer owns or controls lands located in Sherman, Texas, and described in the final plat submitted to the City by the Developer as Sunrise Tract at Sherman Hills Addition, Phase I, and attached hereto and made a part hereof as if fully set out in this paragraph as Exhibit "A" and hereinafter referred to as the "Property", and Developer intends to develop the Property by constructing improvements thereon;

WHEREAS the Developer desires that the City accepts the streets, utilities, and other improvements as a part of the public facilities of the City, as indicated in Paragraph 2 of Article I;

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

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

ARTICLE I.

SPECIFIC CONTRACT PROVISIONS

1. **Assurance of Title:** At the time of execution of this Agreement, the Developer agrees to deliver to City a copy of a Title Insurance Policy, or an opinion of title from a

qualified attorney-at-law addressed to the City in a form and substance satisfactory to City with respect to the Property, which opinion shall include a current report on the status of the title, setting out the name of the legal title holders, the outstanding mortgages, taxes, liens and covenants. The provisions of this paragraph are for the purpose of evidencing Developer's legal right to grant the exclusive rights of service contained in this Agreement.

2. Assurance of Accuracy of Documents: Developer represents that the final plat and all documents submitted to the City for approval of this Project are accurate. Developer understands that the City will rely on the accuracy of the documents in making its determination as to whether the documents comply with all City ordinances, state, and federal law.

3. Development Documents: Upon the execution of this Agreement, the plans, specifications, and orders of the City Planning and Zoning Commission and the City Council, made in connection with the approval of the Subdivision are confirmed, ratified, and agreed upon by both parties and attached hereto as Exhibit "B". Developer agrees to comply with such orders and Ordinance No. 2684, and its amendments, as applicable to the Subdivision; and all of the work will be done under the supervision of the City Engineer (as defined in Paragraph 8 of this Article) to City standards, and in accordance with applicable City regulations. The plans, specifications, orders of the City Planning and Zoning Commission, and the City Council, and ordinance referred to in this paragraph (hereinafter the "Development Documents") are incorporated into this Agreement a part thereof for all purposes.

4. Delivery of Improvements: The Developer will pay for and deliver to the City free and clear of all liens and costs, all of the improvements provided in the Development Documents.

5. Performance Bond: No work shall be performed within the Subdivision until the Developer presents to the City Manager a satisfactory Performance Bond and a Payment Bond, as provided by Chapter 2253 of the Texas Government Code, from the Contractor in favor of the Developer and the City. Such bond shall be made for 100% of the contract price for all streets and utilities and public works to be installed in the Subdivision, and shall be in a form containing all other provisions set forth in Chapter 2253 of the Texas Government Code, including, but not limited to, Section 2253.021 of that Chapter.

6. Failure to Complete Development: If the Developer does not complete the Improvements contained in the Development Documents on or before March 1, 2008, City may, at its election, use the Performance Bond to complete such Improvements. The date in this Paragraph may be extended by the mutual agreement of the parties. Such extension shall be in writing, as provided in Paragraph 13 of Article II.

7. Availability of Public Facilities: No public facilities will be made available to any lot within any segment of this Subdivision until the work on each segment is performed and approved as agreed upon in this Agreement.

8. **Registered Civil Engineer:** All of the plans and specifications for the improvements herein mentioned in the Development Documents, shall be prepared by a Registered Professional Civil Engineer, and all of the improvements shall be built under the supervision of such engineer, and the engineer shall certify to the City that, as each segment is built, such segment as built is true and correct in accordance with the plans and specifications, and that the same was built under his supervision, and the certificate shall be signed and sealed by such engineer. All of the expense of such engineering shall be paid for by the Developer.

9. **City Engineer:** Before work is begun on any improvement, the City Engineer shall designate a person, hereinafter identified as "City Engineer," who shall be notified and arrangements made for inspection by the City Engineer at such stages of construction as required by him, and no improvement constructed underground shall be covered by the Developer until inspected by the City Engineer and approved by him. At any time any construction is contrary to the plans and specifications, the City Engineer shall be, and is, empowered to stop construction and require correct construction and installation at the Developer's risk and without liability to the City.

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

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

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

13: Guarantee or Maintenance Bond:

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

14. WAIVER OF RIGHTS UNDER STATE LAW:

(a) WAIVER OF RIGHTS:

(a) Section 212.904 Of The Texas Local Government Code

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

(ii) BOTH DEVELOPER AND THE CITY FURTHER AGREE TO WAIVE AND RELEASE ALL CLAIMS ONE MAY HAVE AGAINST THE OTHER RELATED TO ANY AND ALL ROUGH PROPORTIONALITY AND INDIVIDUAL DETERMINATION REQUIREMENTS MANDATED BY *DOLAN V. TOWN OF TIGARD*, 512 U.S. 374 (1994), AND ITS PROGENY, AND WELL AS ANY OTHER REQUIREMENTS OF A NEXUS BETWEEN THE DEVELOPMENT CONDITIONS AND THE PROJECTED IMPACT OF THE FOREGOING, INCLUDING ALL DEDICATIONS OF LAND, PARKLAND, AND ANY INFRASTRUCTURE REFERENCED HEREIN. I CONSENT TO THIS WAIVER AFTER HAVING THE OPPORTUNITY TO REVIEW THIS AGREEMENT AND WAIVER PROVISION WITH MY ATTORNEY, OR IF I HAVE NOT REVIEWED THIS WITH AN ATTORNEY, THAT I HAVE HAD THE OPPORTUNITY TO DO SO AND HAVE VOLUNTARILY CHOSEN NOT TO SEEK THE ADVICE OF AN ATTORNEY.

15. Other Provisions:

- A. Upon Completion of the Subdivision one electronic copy and one set of reproducible "Record" drawings will be supplied to the City.

- B. The Developer shall pay to the City an engineering plan review, inspection, and testing fee equal for \$29,939.79.
- C. Developer agrees that the development, as set forth in the Contract Documents, will comply with all federal, state and local laws relating to the discharge of storm water upon completion of the development.

ARTICLE II.

GENERAL CONTRACT PROVISIONS

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

Agreement. City represents that the execution of this Agreement as provided below has been duly authorized by the City Council as provided in the Approval Resolution.

4. **Events of Default.** A default shall exist if either party fails to perform or observe any material covenant contained in this Agreement. The non-defaulting party shall immediately notify the defaulting party in writing upon becoming aware of any change in the existence of any condition or event which would constitute a default or, with the giving of notice or passage of time, or both, would constitute a default under this Agreement. Such notice shall specify the nature and the period of existence thereof and what action, if any, the notifying party requires or proposes to require with respect to curing the default.
5. **Remedies Available to City.** If a default by Developer shall occur and continue, after thirty (30) day's notice to cure default, City may, at its option, pursue any and all remedies it may be entitled to, at law or in equity, in accordance with Texas law and including using the Performance Bond to complete the work, without the necessity of further notice to or demand upon Developer. City shall not, however, have the right to exercise such remedies for so long as Developer proceeds in good faith and with due diligence to remedy and correct the default, provided that Developer has commenced to cure such default within thirty (30) days following notice, pursues such cure with reasonable diligence and completes such cure within one hundred eighty (180) days.
6. **No Waiver of Defenses.** Nothing in this Agreement shall be construed or intended to waive any defenses available to the City, including, but not limited to, governmental immunity.
7. **Venue and Governing Law.** This Agreement is performable in Grayson County, Texas and venue of any action arising out of this Agreement shall be exclusively in Grayson County. This Agreement shall be governed and construed in accordance with the laws of the State of Texas.
8. **Notices.** Any notice required by this Agreement shall be deemed to be properly served (i) three (3) days following deposit if deposited in the U.S. mail by certified letter, return receipt requested; (ii) on the next business day if sent by nationally recognized overnight delivery service; or (iii) upon receipt if transmitted by facsimile or electronic transmission, addressed to the recipient at the recipient's address shown below, subject to the right of either party to designate a different address by notice given in the manner just described.

CITY:

DESIGNEE: James M. Shankles, Jr., P.E.

ADDRESS: 220 W. Mulberry Street

Sherman, TX 75090
PHONE: 903-892-7622
FAX: 903-870-7802

DEVELOPER:

DESIGNEE: Dan Murray
ADDRESS: 1604 S. Sam Rayburn Fwy. W.
Sherman, TX 75090
PHONE: 903-870-9336
FAX: 903-892-6776

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

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

IN WITNESS WHEREOF parties have caused this Agreement to be executed in duplicate this 13th day of SEP 2007, with an original to each party.

Developer: Sherman Hills Country Club, Ltd.

BY: Hugh B. Thorson

NAME: Hugh Thorson

TITLE: President

ATTEST: BY: Daniel D. Murray

NAME: Daniel D. Murray

TITLE: District Manager

CITY OF SHERMAN

BY: George Olson

NAME: George Olson

TITLE: City Manager

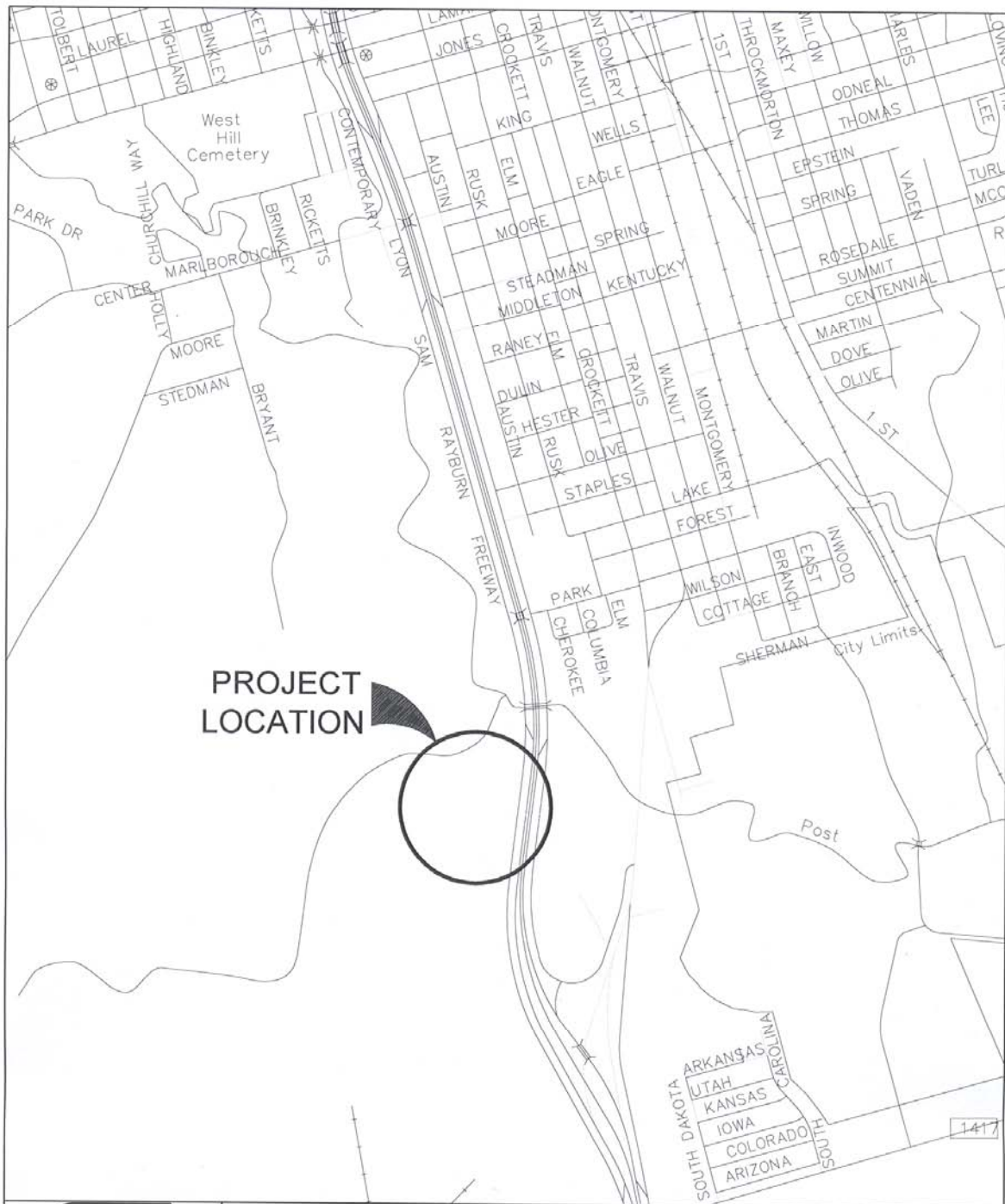
APPROVAL RECOMMENDED:

James M. Shankles, Jr., P.E.
James M. Shankles, Jr., P.E. City Engineer

Mark Gibson
Mark Gibson, Director of Engineering & Utilities

APPROVED AS TO FORM:

Doreen E. McGookey
Doreen E. McGookey, City Attorney:



City of Sherman, Texas

SUNRISE TRACT PHASE I

PROJECT LOCATION MAP





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. D.1

REQUEST TO ADVERTISE **Brockett Street Beautification Project**

Issue

Requesting permission to advertise the Brockett Street Beautification Project for construction bids

Background

The engineering consultant is currently completing the final design for the Brockett Street Beautification Project. When the construction drawings are complete, staff would like to immediately advertise the project, receive bids, and prepare it to award for construction.

Origination

Department of Public Works

Financial Consideration

Funds for engineering and construction were appropriated in the fiscal year 2007-2008 budget. The cost of advertising is expected be about \$200.

Staff Recommendation

When the construction drawings are complete, advertise to receive bids for construction.

Alternatives

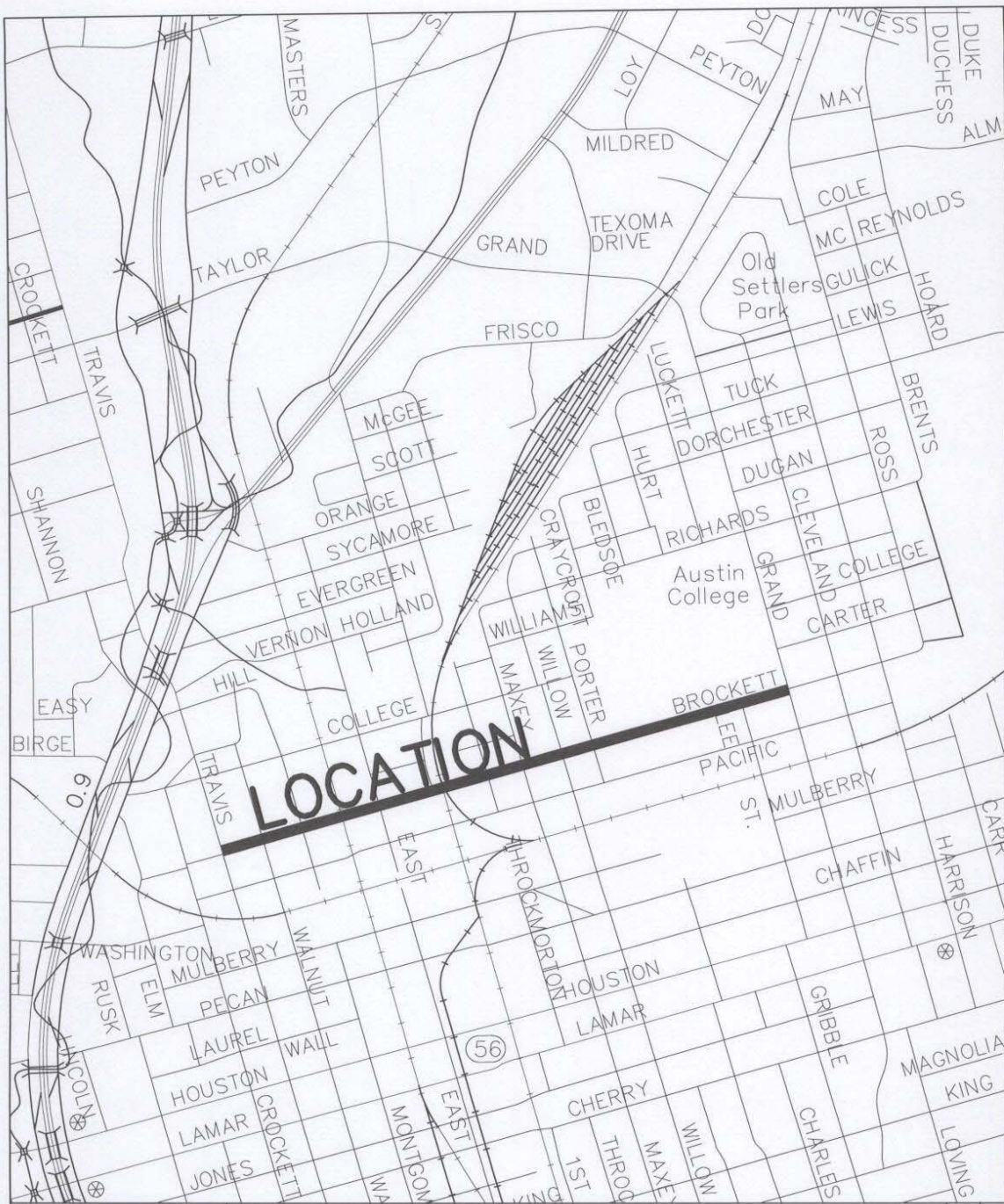
Those as recommended by the City Council

Attachments

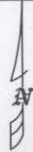
Location Map

Prepared by:
Jeff Miller, Public Works Director

Approved by:
George Olson, City Manager



REQUEST TO ADVERTISE
BROCKETT ST. FROM TRAVIS TO GRAND





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. D.2

*** CHANGE ORDER NO. 1**

Ross Avenue Sewer Main Replacement; \$14,400.00, Increase

Issue

Change Order No. 1 is a final reconciliatory change order to adjust final project quantities for the sewer line replacement on Ross Avenue.

Background

The change order results in an increase of \$14,400.00 to the contract amount. The delay in receiving a railroad permit required the contractor to leave the job and return at a later date to complete the project, resulting in additional demobilization and mobilization costs. Fourteen additional sewer taps were added to the project resulting in an increased project cost.

Origination

Department of Utility Services

Financial Consideration

The change order results in a \$14,400.00 increase in the contract amount, yielding a final contract price of \$176,869.00. This project was funded through the Greater Texoma Utility Authority (GTUA); and funds are available through GTUA for this change order.

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

Owner: City of Sherman & Greater Texoma Utility Authority Contractor: Whitewater Construction, Inc.
220 W. Mulberry Street 6640 Old Mexia Road
Sherman, Texas 75090 Waco, Texas 76705

ORDER NO. One (1)
DATE August 28, 2008
STATE Texas
COUNTY Grayson

CONTRACT CHANGE ORDER

CONTRACT FOR
Ross Avenue Sewer Main Replacement
OWNER
City of Sherman And Greater Texoma Utility Authority
To Whitewater Construction, Inc.

(Change Order)
You are hereby requested to comply with the following changes from the contract plans and specifications:

Description of Changes (Supplemental Plans and Specifications Attached)	DECREASE in Contract Price	INCREASE in Contract Price
See Detailed Breakdown Sheet Attached	\$ 8,500.00	\$ 22,900.00
TOTALS	\$ 8,500.00	22,900.00
NET CHANGE IN CONTRACT PRICE	\$	14,400.00

JUSTIFICATION:

As per actual quantities installed and adjustments made in the field.

The amount of the Contract will be (Decreased) (Increased) By The Sum Of: Fourteen Thousand Four
Hundred Dollars & No Cents Dollars (\$ 14,400.00)

The Contract Total Including this and previous Change Orders Will Be: One Hundred Seventy-Six Thousand
Eight Hundred Sixty-Nine Dollars & No Cents Dollars (\$ 176,869.00)

The Contract Period Provided for Completion Will Be (Increased) (Decreased) (Unchanged): 200 Cal. Days.
This document will become a supplement to the contract and all provisions will apply hereto.

APPROVED BY:

Contractor: Whitewater Construction, Inc.

By: Kay Keene
Kay Keene, President

Date: 8-28-08

Engineer: Teague Nall & Perkins

By: Chris Schmitt
Chris Schmitt, P. E.

Date: 9/1/08

Owner: City of Sherman

By: Mark Gibson
Mark Gibson, P. E.

Date: _____

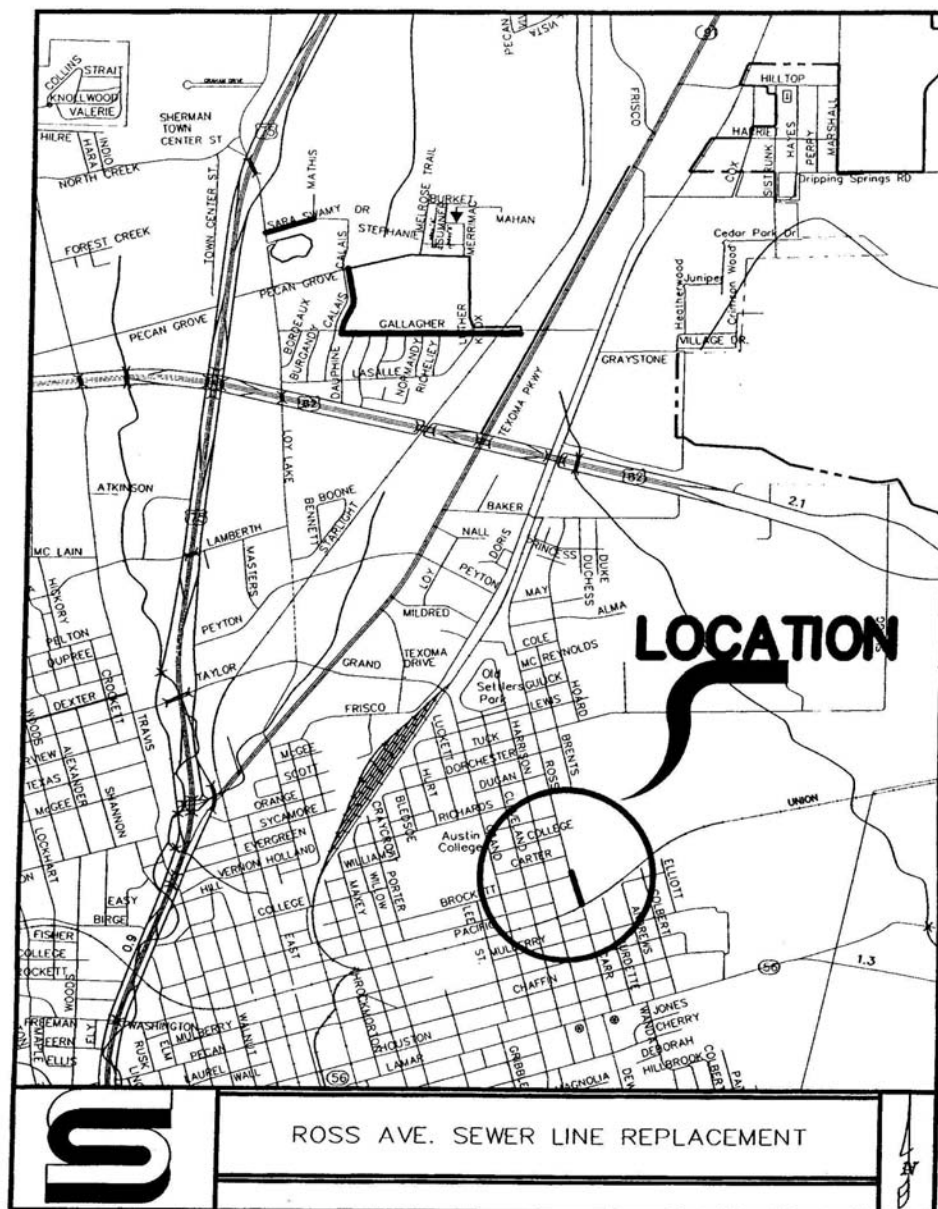
Owner: Greater Texoma Utility Authority

By: Jerry Chapman
Jerry Chapman, General Manager

Date: _____

Request for a Change Order as per actual quantities installed.

ITEM	DESCRIPTION	ORIG. QTY.	UNIT PRICE	U/M	FINAL QTY.	FINAL AMT.	ADD QTY.	ADD AMOUNT	DELETE QTY.	DELETE AMT.
BASE BID										
1	10" SDR SS PIPE	660	\$ 50.00	LF	748	\$ 37,400.00	88	\$ 4,400.00		
2	10" C-905 SS PIPE	107	\$ 25.00	LF	107	\$ 2,675.00	No	Change		
3	16" STEEL ENC.	107	\$ 50.00	LF	107	\$ 5,350.00	No	Change		
4	BORE	107	\$ 200.00	LF	107	\$ 21,400.00	No	Change		
5	6" SDR-35 SS PIPE	15	\$ 40.00	LF	15	\$ 600.00	No	Change		
6	4" DIA. SS MH	5	\$3,500.00	EA	4	\$ 14,000.00			1	\$ 3,500.00
7	SS MH OVER EX. SS	1	\$5,000.00	EA	1	\$ 5,000.00	No	Change		
8	ABD. EX. SS MH	4	\$ 500.00	EA	4	\$ 2,000.00	No	Change		
9	REM.&REP. ASPHALT	188	\$ 3.00	SF	188	\$ 564.00	No	Change		
10	REM.&REP. CONC.	16	\$ 50.00	LF	16	\$ 800.00	No	Change		
11	4" SS SERVICE LINE	2	\$ 500.00	EA	11	\$ 5,500.00	9	\$ 4,500.00		
12	RR LICENSE FEE	1	\$1,500.00	LS	1	\$ 1,500.00	No	Change		
1.	ALT 8" SDR-35 SS PIPE	694	\$ 48.00	LF	694	\$ 33,312.00	No	Change		
2.	ALT 4" SS SERVICE CONN.	16	\$1,200.00	EA	21	\$ 25,200.00	5	\$ 6,000.00		
3.	ALT ABD. EX. SS MH	2	\$ 500.00	EA	2	\$ 1,000.00	No	Change		
4.	ALT 4" DIA. SS MH	2	\$3,500.00	EA	2	\$ 7,000.00	No	Change		
5.	ALT 5" DIA. SS MH	1	\$5,000.00	EA	0	\$ -			1	\$ 5,000.00
6.	ALT SS MH OVER EX. SS	1	\$5,000.00	EA	1	\$ 5,000.00	No	Change		
7.	ALT REM.&REP. ASPHALT	56	\$ 3.00	SF	56	\$ 168.00	No	Change		
8.	ALT REM.&REP. CONC.	8	\$ 50.00	LF	8	\$ 400.00	No	Change		
1	Move Off Fee - RR	1	\$8,000.00	LS	1	\$ 8,000.00	1	\$ 8,000.00		
TOTAL ADDITION								\$ 22,900.00		
TOTAL DELETION									\$ 8,500.00	
TOTAL DIFFERENCE								\$ 14,400.00		





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. D.3

*** OTHER BUSINESS**

Consider Request of the Sherman Independent School District and the Sherman High School Student Council to Temporarily Close Certain Streets for the 2008 Sherman High School Homecoming Parade on Monday, September 29, 2008

Issue

The Sherman Independent School District (SISD) and the Sherman High School Student Council have submitted a request to close certain streets in the downtown area for the 2008 Sherman High School Homecoming Parade at 6:30 p.m. on Monday, September 29, 2008.

Background

The SISD and Sherman High School Student Council are co-sponsoring the 2008 Sherman High School Homecoming Parade on Monday, September 29th. The parade will assemble at 5:30 p.m. and will be over no later than 7:30 p.m., and will follow the route described in their request and outlined on the attached map. The event will require traffic control assistance, barricades, and emergency medical support from the City of Sherman.

Origination

Dr. Al Hambrick, Ed.D., SISD Superintendent
Peggy Van Marter, Sherman High School Principal
Gina Justus, Sherman High School Student Council Sponsor

Financial Consideration

Labor and equipment to provide traffic control assistance, implement barricade placement and removal, and provide emergency medical support

Staff Recommendation

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

Alternatives

None recommended

Attachments

Requests from SISD and SHS Student Council; and Map of Proposed Route

Prepared and Approved by:
George Olson, City Manager

P.O. BOX 1176 SHERMAN, TEXAS 75091-1176



PHONE# (903)891-6400 FAX# (903)891-6407

August 28, 2008

VIA FACSIMILE & U.S. MAIL
903-892-7355

Mr. George Olson
Sherman City Manager
220 West Mulberry Street
Sherman, TX 75090

Dear Mr. Olson:

Sherman High School Student Council and SISD are requesting to schedule the annual Sherman High School Homecoming Parade for Monday, September 29, 2008 at 6:30 p.m.

We would like to use the following route for the annual parade: East on Mulberry to Travis, South on Travis to Houston, West on Houston to Crockett, North on Crockett to Pecan, West on Pecan to Rusk.

Student Council also requests to use the block of Rusk between Pecan and Washington to assemble the parade. They will assemble at 5:30 p.m. and will have the area cleared by 7:30 p.m.

If you have any questions or need anything additional, please contact my secretary, Debbie Smith at 903-891-6400, extension 222.

Sincerely,

A handwritten signature in black ink, appearing to read 'Al Hambrick', is written over a horizontal line.

Al Hambrick, Ed.D.
Superintendent of Schools

dhs

Copy: Gina Justus, Student Council Sponsor
Peggy VanMarter, Principal, SHS

SHERMAN HIGH SCHOOL

STUDENT COUNCIL

**2201 East Lamar
Sherman, TX 75090
(903) 891-6440
FAX (903) 891-6446**



*Brandon Koone
President*

*Gina Justus
Sponsor*

August 27, 2008

Mr. George Olson
Sherman City Manager
400 N. Rusk
Sherman, Texas 75090

Dear Mr. Olson:

We are requesting to schedule the annual Sherman High School Homecoming Parade for Monday, September 29 at 6:30 p.m.

We would like to use the following route: east on Mulberry to Travis, south on Travis to Houston, west on Houston to Crockett, north on Crockett to Pecan, west on Pecan to Rusk.

We will use the block of Rusk between Pecan and Washington to assemble the parade. We will assemble at 5:30 p.m. and will have the area cleared by 7:30 p.m.

Sincerely,

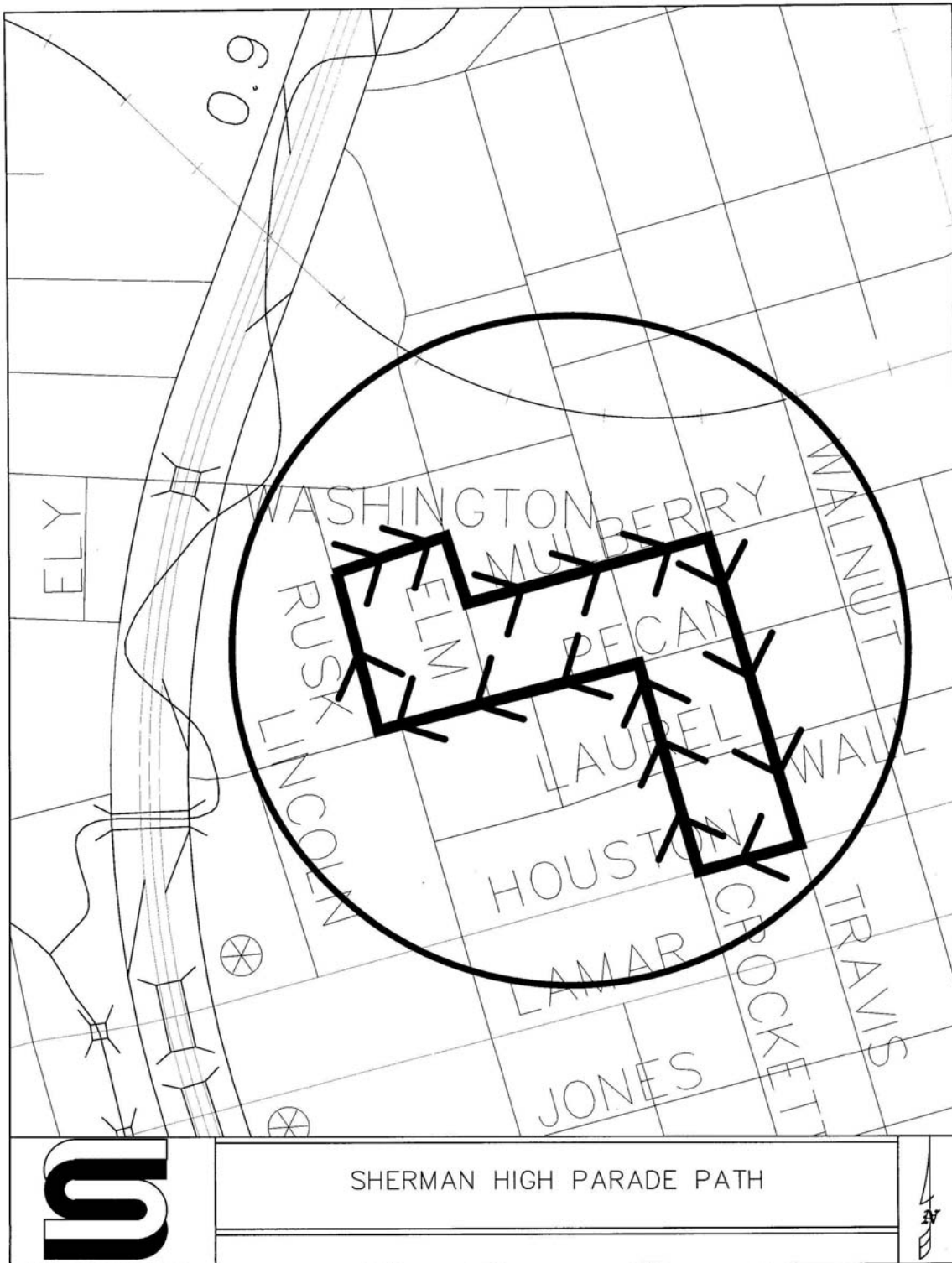
Gina Justus
Student Council Sponsor
Sherman High School

Approved by:

Peggy Van Marter
SHS Principal

Approved by:

Dr. Al Hambrick
Superintendent SISD





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. D.4

*** OTHER BUSINESS**

**Final Plat Approval of the Malone's Addition; Mida Elizabeth Skipworth Estate, Owner;
Mark and Lisa Malone, Prospective Buyers (1523-1531 East Thomas Street)**

Issue

To consider Final Plat approval of the Malone's Addition

Background

The property is located at 1523-1531 East Thomas Street between Loving and Dewey Avenues, across from Hawn Park. The developer would like to plat the property into one lot for residential development.

Origination

Mida Elizabeth Skipworth Estate (Owners), Charlie Skipworth (Executor), Mark and Lisa Malone (Prospective Buyers) and Sartin & Associates (Surveyor)

Board Recommendation

At the August 19, 2008 regular meeting, the plat was amended to one lot and the Planning and Zoning Board voted unanimously to recommend to the City Council that the Final Plat be approved.

Attachments

Location Map

Photos

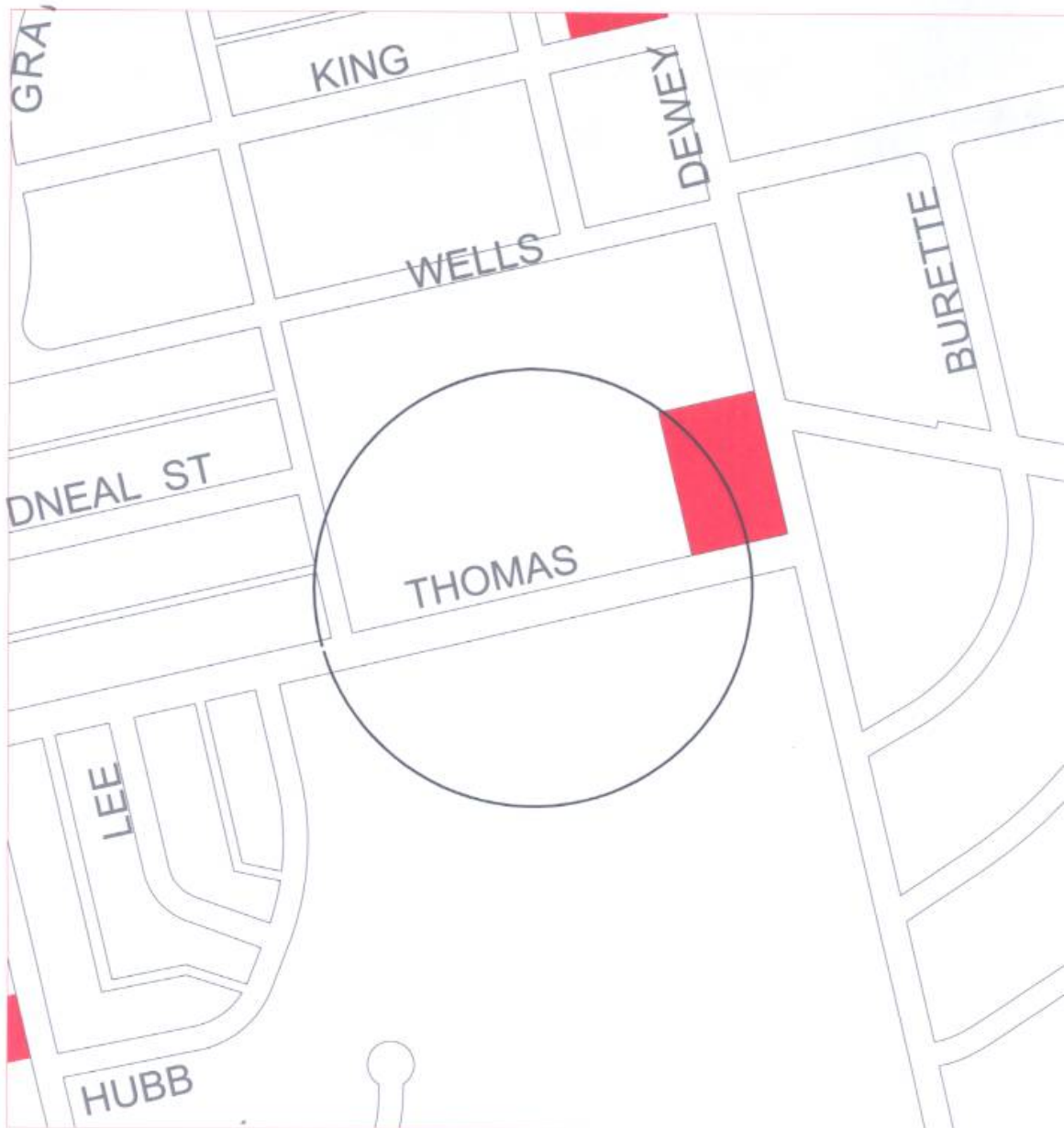
Plat

P&Z Communication

Staff Review Letter

Prepared by:
Scott Shadden, Development Services Director

Approved by:
George Olson, City Manager



LEGEND

	R-A	SINGLE FAMILY AGRICULTURAL DISTRICT		M-2	HEAVY MANUFACTURING DISTRICT
	SF-1	SINGLE FAMILY RESIDENTIAL DISTRICT		M H	MANUFACTURED HOUSING DISTRICT
	R-1	ONE AND TWO FAMILY RESIDENTIAL DISTRICT		O-1	BLALOCK INDUSTRIAL PARK OVERLAY DISTRICT - 75 & 82
	R-2	MULTI-FAMILY RESIDENTIAL DISTRICT		O-1.1	OVERLAY DISTRICT - 1417
	C-1	RETAIL BUSINESS DISTRICT		O-1.2	OVERLAY DISTRICT - SAM RAYBURN FREEWAY
	C-2	GENERAL COMMERCIAL DISTRICT		CPO	COLLEGE PARK OVERLAY
	CO	OFFICE DISTRICT		A&C	ARTS & CULTURAL OVERLAY DISTRICT
	M-1	LIGHT MANUFACTURING DISTRICT		CBD	CENTRAL BUSINESS DISTRICT
	M-1.5	MEDIUM MANUFACTURING DISTRICT			

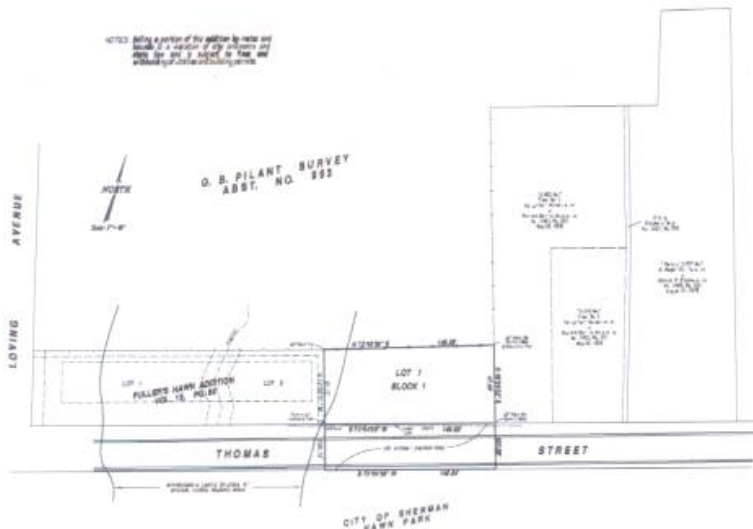


**1523-1531 E. THOMAS STREET
FINAL PLAT**

Department of Developmental Services







MALONE'S ADDITION
to the
CITY of SHERMAN, TEXAS
being 0.36 Acres

Owner & Developer
Mark & Lisa Malone
3618 West Highway No. 82
Sherman, Texas 75077
803-271-0882



SARTIN & ASSOCIATES, INC.
Registered Professional Land Surveyors
10902 Throckmole, P.O. Box 13801 - Sherman, Texas 75002-13801
Tel: (800) 355-6881 Fax: (214) 438-1540

SHEET 1 OF 2
MALONE'S ADDITION

SARTIN & ASSOCIATES, INC.
Registered Professional Land Surveyors
10902 Throckmole, P.O. Box 13801 - Sherman, Texas 75002-13801
Tel: (800) 355-6881 Fax: (214) 438-1540

SITUATED in the City of Sherman, County of Grayson, State of Texas, a portion of a 2.516 acre tract of land described in deed from Edna 1442, Page 29, Deed Records, Grayson County, Texas, being the Elizabeth Skipworth to Mida Elizabeth Skipworth by deed, do Records, Grayson County, Texas, and being more particularly described as follows:

BEGINNING at a found 1/2 inch rebar in an old wire 1 Northeast corner of Lot Two (2) of Fuller's Haven Addition to the City of Sherman, Grayson County, Texas, on a North line of said THENCE North 72 deg. 46 min. 39 sec. East, with the same 148.25 feet to a set 1/2 inch capped rebar stamped SARTIN-3594 tract of land described in Tract No. 1 in deed from Val Lyndie recorded in Volume 1438, Page 801, Deed Records, Grayson County, Texas, THENCE South 18 deg. 24 min. 22 sec. East, with the same 107.50 feet to the Southeast corner of the herein described tract on 11 THENCE South 73 deg. 34 min. 26 sec. West, with the South line of said Fuller's Haven Addition to said Thomas Street; THENCE North 18 deg. 26 min. 21 sec. West, with the East line of said Lot Two for a total distance of 104.15 feet to 1 less.

I, Marshall Sartin, Registered Professional Surveyor, do hereby certify that the corner monuments shown hereon were properly subdivision regulations of the City of Sherman, Texas.

That we, Mark Malone and Lisa Malone, owners and developer of the above described tract, do hereby dedicate the same to the City of Sherman, Texas.

By: Mark Malone
THE STATE OF TEXAS:
COUNTY OF GRAYSON:

Before me, the undersigned, a Notary Public in and for the State of Texas, known to me to be the persons whose names are subscribed to the foregoing instrument, and consideration therein expressed, I have signed my hand and seal of office this _____ day of _____, 2002.

Approved this _____ day of _____, 2002.

Accepted by the City Council of the City of Sherman, Texas on _____ day of _____, 2002.

The undersigned, the City Clerk of the City of Sherman, Texas, do hereby certify that the foregoing instrument was submitted to the City Council of the City of Sherman, Texas, and thereupon the City Council of the City of Sherman, Texas, has accepted the dedication of streets and alleys, and said City Council further authorized the Mayor to execute the same.

City of Sherman
Planning and Zoning Commission
Board of Adjustments
Agenda Communication Form
August 19, 2008
Jason Sofey, Chairman

Jim Jacobs, Vice Chairman
Robin Atherton, Commissioner
Lawrence Davis, Commissioner
Brad Morgan, Commissioner

John Nix, Commissioner
Steve Jones, Commissioner
David Plyler, Commissioner
Darren Tankersley, Commissioner

1523-1531 East Thomas Street
Being 0.36 acres in the G.B. Pilant Survey, Abstract No. 963
Final Plat

Requested Action/Proposed Use:

Approval of Final Plat of the Malone's Addition

Background

This is redevelopment of existing property that has never been platted. The plat will take one tract and divide into two building lots.

Adjacent Zoning:

R-1 (One Family Residential) District.

Origination:

Mida Elizabeth Skipworth Estate (Owner), Mark and Lisa Malone (Prospective Buyers) and Sartin & Associates (Surveyors).

Master Plan Designation:

Residential

Attachments:

Location map
Aerial
Final Plat
Staff Review

Prepared by:
Rita Gaither,
Planning & Development Coordinator

Approved by:
Scott Shadden,
Director of Development Services

STAFF REVIEW LETTER

August 14, 2008

Mida Elizabeth Skipworth Estate
Charlie Skipworth, Executor
PO Box 317
Gunter, TX 75058-0317

Mark & Lisa Malone
26616 S.H. 56
Whitesboro, TX 76273

Dear Applicants,

The request for approval of a Final Plat of the Malone Addition concerning the property located at 1523-1531 East Thomas Street has been scheduled to be heard by the Planning and Zoning Board on the day of Tuesday, August 19, 2008 at 5:00 p.m., in the City Council Chambers, City Hall at 220 W. Mulberry.

City staff has reviewed your request with regards to engineering and development guidelines and finds the following items need to be addressed:

1. Block number shall be shown on plat.
2. The acreage being divided shall be shown in the title.
3. City of Sherman ordinance requirements regarding floodplains shall be followed.
4. Original tax certificates shall be furnished for the purpose of recording the plat.
5. Letters from the various utility providers are required verifying availability of service and when service will be available. (City will acquire)
6. Drive approaches are required and shall conform to City of Sherman standards and a permit is required from the City of Sherman Engineering Department.
7. Water Pro-Rata in the amount of \$1,099.65 is required for the additional lot.
8. Sewer Pro-Rata in the amount of \$953.03 is required for the additional lot.
9. Due to the fact that the tract is only large enough to meet requirements for one buildable lot, a variance to lot size is required prior to the plat being approved that will divide the one tract into two smaller lots.
10. Any other changes made to the final plat prior to the final fulfillment of the conditions of the staff review, must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

The Board will not consider a request unless it has representation. You are hereby notified to be present, either in person or by a legally authorized representative to present your case on the date and time stated above.

If additional information or clarification is needed, do not hesitate to contact Rita Gaither, Development Coordinator at 903-892-7212 prior to the meeting.

Respectfully,

Mark Gibson
Director of Utilities and Engineering

cc: George Olson, City Manager Jeff Miller, Director of Public Works
 Rita Gaither, Development Coordinator Danny Fuller, Fire Marshal
 Doreen E. McGookey, City Attorney Angela Gurley, Customer Service Manager
 Sartin & Associates Survey Company, P.O. Box 1843, Sherman, Texas 75090



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. D.5

*** OTHER BUSINESS**

**Final Plat Approval of the RJ Spencer Investments Addition;
R.J. Spencer Investments, LLC, Owner (1102 F.M. 1417 NE)**

Issue

To consider Final Plat approval of the RJ Spencer Investments Addition

Background

The property is located at 1102 F.M. 1417 NE between the railroad tracks and U.S. Highway 82 East. The owner would like to plat the property into two lots for industrial development.

Origination

R.J. Spencer Investments, LLC (Owners), Jamie Morrow (Representative) and Sartin and Associates, Inc. (Surveyor)

Board Recommendation

At the August 19, 2008 regular meeting, the Planning and Zoning Board voted unanimously to recommend to the City Council that the Final Plat be approved.

Attachments

Location Map

Photos

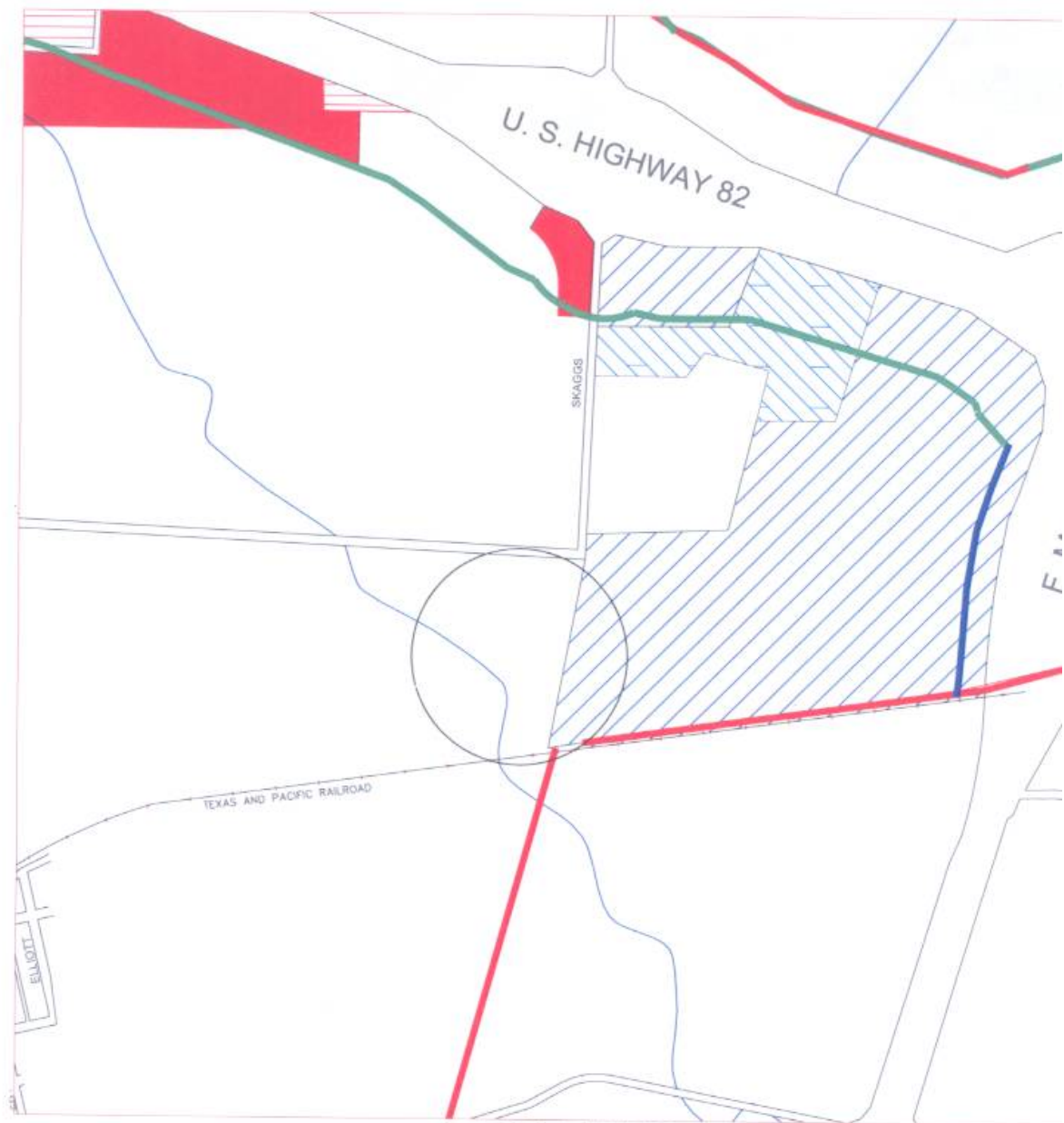
Plat

P&Z Communication

Staff Review Letter

Prepared by:
Scott Shadden, Development Services Director

Approved by:
George Olson, City Manager



R-A	SINGLE FAMILY AGRICULTURAL DISTRICT	M-2	HEAVY MANUFACTURING DISTRICT
SF-1	SINGLE FAMILY RESIDENTIAL DISTRICT	M H	MANUFACTURED HOUSING DISTRICT
R-1	ONE AND TWO FAMILY RESIDENTIAL DISTRICT		BLALOCK INDUSTRIAL PARK
R-2	MULTI-FAMILY RESIDENTIAL DISTRICT	O-1	OVERLAY DISTRICT - 75 & 82
C-1	RETAIL BUSINESS DISTRICT	O-1.1	OVERLAY DISTRICT - 1417
C-2	GENERAL COMMERCIAL DISTRICT	O-1.2	OVERLAY DISTRICT - SAM RAYBURN FREEWAY
C O	OFFICE DISTRICT	CPO	COLLEGE PARK OVERLAY
M-1	LIGHT MANUFACTURING DISTRICT	A&C	ARTS & CULTURAL OVERLAY DISTRICT
M-1.5	MEDIUM MANUFACTURING DISTRICT	CBD	CENTRAL BUSINESS DISTRICT



1102 FM 1417 NE
FINAL PLAT

ENGINEERING DEPARTMENT





1. Utility services to be provided by Grayson-Collar Electric Coop., P.O. Box 148, Water Supply, 3rd, California.
2. Sewage shall be individual septic systems.
3. Blocking the flow of water or construction improvements in drainage easements, and filling or obstruction of the floodway is prohibited.
4. Proposed land use is for Single Family Dwelling.
5. Owners and builders will comply with the state storm water pollution prevention plan.



R J SPENCER INVESTMENTS ADDITION to the CITY of SHERMAN, TEXAS

Owner & Developer

R J Spencer Investments, L.L.C.
3107 Joel Circle
Sherman, Texas 75069-3034

SARTIN & ASSOCIATES, INC.

Registered Professional Land Surveyors
109 E. Travis, P.O. Box 1481 - Sherman, Texas 75093 - 1481
Ph: (817) 897-0003 Fax: (817) 894-7970



City of Sherman
Planning and Zoning Commission
Board of Adjustments
Agenda Communication Form
August 19, 2008
Jason Sofey, Chairman

Jim Jacobs, Vice Chairman
Robin Atherton, Commissioner
Lawrence Davis, Commissioner
Brad Morgan, Commissioner
Commissioner

John Nix, Commissioner
Steve Jones, Commissioner
David Plyler, Commissioner
Darren Tankersley,

1102 F.M. 1417 NE
Being 8.51 acres in the Aaron Burleson Survey, Abstract No. 61
Final Plat

Requested Action/Proposed Use:

Approval of Final Plat of the RJ Spencer Investments Addition.

Background

This is redevelopment of existing property that has never been platted. The purpose of the plat is to divide one tract into two lots.

Adjacent Zoning:

M-1 (Light Manufacturing) District.

Origination:

R.J. Spencer Investments, LLC (Owners) and Sartin & Associates (Surveyors).

Master Plan Designation:

Industrial

Attachments:

Location map
Aerial
Final Plat
Staff Review

Prepared by:
Rita Gaither,
Planning & Development Coordinator

Approved by:
Scott Shadden,
Director of Development Services

STAFF REVIEW LETTER

August 14, 2008

RJ Spencer Investments LLC
2107 Joni Circle
Sherman, Texas 75092

Joe Ayers
1401 Lakewood Dr.
Sherman, Texas 75092

Jamie Morrow
173 Rockport
Sherman, Texas 75092

Dear Applicants,

The request for approval of a Final Plat of the RJ Spencer Investments Addition concerning the property located at 1102 F.M. Highway 1417 NE has been scheduled to be heard by the Planning and Zoning Board on the day of Tuesday, August 19, 2008 at 5:00 p.m., in the City Council Chambers, City Hall at 220 W. Mulberry.

City staff has reviewed your request with regards to engineering and development guidelines and finds the following items need to be addressed:

1. Block number shall be shown on plat.
2. Acreage being divided shall be shown in the title.
3. The private common access easement shall be recorded and shown on the plat.
4. Original tax certificates shall be furnished for the purpose of recording the plat.
5. Letters from the various utility providers are required verifying availability of service and when service will be available. (City will acquire)
6. Fire protection shall be approved by the City of Sherman Fire Marshal.
7. No additional services shall tie on to Pink Hill Water System. The existing users will be required to tie on to City of Sherman services as the utilities become available to the property.
8. Any other changes made to the plat prior to the final fulfillment of the conditions of the staff review, must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

The Board will not consider a request unless it has representation. You are hereby notified to be present, either in person or by a legally authorized representative to present your case on the date and time stated above.

If additional information or clarification is needed, do not hesitate to contact Rita Gaither, Development Coordinator at 903-892-7212 prior to the meeting.

Respectfully,

Mark Gibson
Director of Utilities and Engineering

cc: George Olson, City Manager Jeff Miller, Director of Public Works
 Rita Gaither, Development Coordinator Danny Fuller, Fire Marshal
 Doreen E. McGookey, City Attorney
 Sartin & Associates Survey Company, P.O. Box 1843, Sherman, Texas 75090



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. D.6

CITIZEN REQUESTS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. D.7

MEDIA QUESTIONS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. D.8

COUNCIL COMMENTS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. E.1

EXECUTIVE SESSION

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

Section 551.071 Consultation with City Attorney Concerning Legal Matters:

(a) Panda Energy

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

(a) Cause No. 05-06-00420-CV; *City of Sherman, et al v. James Wayne*

(b) Lucky Stop 10's Request for Alcohol Permit

Section 551.072 Deliberations Regarding Real Property:

(a) Deliberate Regarding the Potential Purchase of a Piece of Real Property

Section 551.074 Personnel Matters:

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

(i) Sherman Economic Development Corporation (2)

(b) Annual Performance Evaluation of the City Manager

Section 551.087 Deliberations Regarding Economic Development Negotiations:

(a) Deliberate Regarding Commercial or Financial Information that the City has Received from Business Prospects and Deliberate any Offers or Incentives to the Business Prospects, including the following:

(i) Panda Energy

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. F.1

OPEN MEETING

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

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. F.2

ADJOURNMENT

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 9-15-2008

Subject: Agenda Item No. N/A

COUNCIL CALENDAR

2008 CITY COUNCIL MEETINGS

JANUARY

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

FEBRUARY

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

MARCH

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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30	31					

APRIL

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
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MAY

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

JUNE

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

JULY

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

AUGUST

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

DECEMBER

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

01/21/08 - M.L.K., Jr. Birthday - Called Council Meeting on 01/22/08
02/29/08 - 12:00 Noon Called Meeting with Chamber Board
05/10/08 - City Council Election
05/13/08 - 12:00 Noon Called Meeting to Canvass Election Results
05/22/08 - 6:00 PM Called Meeting for Comprehensive Plan Community Forum
05/29/08 - 6:00 PM Called Meeting for Comprehensive Plan Community Forum
06/10/08 - 12:00 Noon Budget Planning Meeting in Council Chambers
07/17-18/08 - Budget Workshop in Council Chambers (adjourned on 07/17/08)
09/01/08 - Labor Day - Called Council Meeting on 09/02/08
09/18/08 - 12:00 Noon Joint Meeting with SEDCO Board