

**CITY OF SHERMAN
CITY COUNCIL REGULAR MEETING AGENDA
COUNCIL CHAMBERS OF THE CITY HALL
220 WEST MULBERRY STREET
SHERMAN, TEXAS
MONDAY, MAY 20, 2013
5:00 P.M.**

- A. 1. CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN**
- A. 2. PLEDGE OF ALLEGIANCE LED BY COUNCIL MEMBER RYAN JOHNSON**
- A. 3. INVOCATION BY COUNCIL MEMBER RYAN JOHNSON**
- A. 4. APPROVE MINUTES OF THE CALLED CITY COUNCIL (BUDGET PLANNING) MEETING OF APRIL 26, 2013 AND THE REGULAR CITY COUNCIL MEETING OF MAY 6, 2013**

Public Hearing

- B. 1. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5775**
Approving and Adopting Rate Schedule "RRM - Rate Review Mechanism" for Atmos Energy Corporation, Mid-Tex Division to be in Force in the City for a Period of Time as Specified in the Rate Schedule; Declaring an Effective Date; Requiring Delivery of this Ordinance to the Company and the Atmos Cities Steering Committee Legal Counsel

Close Public Hearing and Consider Adoption of Ordinances

- B. 2. ADOPTION OF ORDINANCES**
Consider Adoption of Ordinance Number: 5775
- B. 3. CONSENT AGENDA**
Asterisked (*) items are considered to be routine and will be enacted in one motion without discussion unless a Council Member or a citizen requests a specific item be discussed and voted on separately

Resolutions

- C. 1. * RESOLUTION NO. 5767**
Accepting the Contract with W. Brown Enterprises, Inc. as Complete for the Surface Water Distribution Pipeline East – Schedule “A”

- C. 2. *** RESOLUTION NO. 5768**
Awarding a Bid to and Authorizing Execution of a Contract with Weisinger Incorporated for the Stephens Woodbine #2 Well Repairs
- C. 3. *** RESOLUTION NO. 5769**
Awarding a Bid to and Authorizing Execution of a Contract with Weisinger Incorporated for the Stephens Trinity #1 Well Repairs
- C. 4. *** RESOLUTION NO. 5770**
Awarding a Bid to and Authorizing Execution of a Contract with Weisinger Incorporated for the Old Settlers Trinity #1 Well Repairs

Change Orders

- D. 1. *** CHANGE ORDER NO. 2**
Surface Water Distribution Pipeline East – Schedule “A”; W. Brown Enterprises, Inc.; \$6,468.00 Decrease

Other Business

- E. 1. **OTHER BUSINESS**
Receive Presentation from Texoma Council of Governments (TCOG) Executive Director Dr. Susan B. Thomas on a Regional Tourism Branding Initiative and its Economic Impact to the Region
- E. 2. *** OTHER BUSINESS**
Consider Request of the 2013 Neighborhood Recreational Committee to Temporarily Close Certain Streets for the Annual "Juneteenth Celebration" on Saturday, June 22, 2013
- E. 3. *** OTHER BUSINESS**
Consider Request of Mr. John Arriazola to Temporarily Close Certain Streets for a Cancer Benefit for Ainsley Moravec on Saturday, June 29, 2013; and Consider Mr. Arriazola's Request to Apply for a Liquor Permit to Sell Alcohol on the Street during the Event
- E. 4. **OTHER BUSINESS**
Receive the City Attorney's Presentation on a Proposed Substandard Structure Ordinance
- F. **CITIZEN REQUESTS**
- G. **MEDIA QUESTIONS**

Consider Board/Commission Appointments

- H. 1. **APPOINT/REMOVE OR CONSIDER QUALIFICATIONS TO BOARDS AND COMMISSIONS**
(a) Parks and Recreation Advisory Board (2)

H. 2. APPOINT/REMOVE OR CONSIDER QUALIFICATIONS TO BOARDS AND COMMISSIONS

- (a) Texoma Area Paratransit System (TAPS) Board of Directors (1)

I. COUNCIL COMMENTS

Executive Session

J. 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(1) Consultation with City Attorney concerning Pending or Contemplated Litigation:

- (a) Receive the City Attorney's Briefing on Pending or Contemplated Litigation

Section 551.074 Personnel Matters

- (a) Consider the Qualifications, Appointment and Removal of Members to Boards and Commissions:
(1) Sherman Housing Authority (2)

The Council reconvenes into General Session

K. 1. OPEN MEETING

Reconvene into Open Meeting and Consider Action, if any, on items discussed in Executive Session

L. ADJOURNMENT

COUNCIL CALENDAR

CERTIFICATION

I, the undersigned authority, do hereby certify that the above Notice of Regular Meeting of the City Council of the City of Sherman is a true and correct copy of said Notice and that I posted a true and correct copy of said Notice on the bulletin board at City Hall of said City of Sherman, Texas, a place convenient to the public, and said notice was posted on May 16, 2013 at 4:00 p.m., and said time of posting was 72 hours before said meeting was convened or called to order.

Dated this 16th day of May, 2013
City of Sherman, Texas

City Clerk

The above agenda schedule represents an estimate of the order for the indicated items and is subject to change at any time.

All agenda items are subject to final action by the City Council.

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

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

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

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

Mayor

Carolyn S. Wacker

Deputy Mayor

Pamela L. Howeth

Council Members

Ryan Johnson, Council-At-Large, PL #1

Jason Sofey, Council-At-Large, PL #2

Joe N. Smith, Council – District #1

Robert G. Softly, Council – District #2

Pamela L. Howeth, Council – District #3

David Plyler, Council – District #4



City Council Regular Meeting

Agenda Item No. A. 4.

Meeting Date: 05/20/2013

Prepared By: Linda Ashby, City Clerk

Approved By: George Olson, City Manager

Caption:

**APPROVE MINUTES OF THE CALLED CITY COUNCIL (BUDGET PLANNING)
MEETING OF APRIL 26, 2013 AND THE REGULAR CITY COUNCIL MEETING OF MAY 6,
2013**

Attachments

April 26, 2013 Minutes

Budget Planning Meeting April 2013

Hotel/Motel Tax Priorities

May 6, 2013 Minutes

Loy Lake Road Construction Map

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April 26, 2013

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BE IT REMEMBERED THAT A Called Meeting of the Sherman City Council was begun and held in the City Council Chambers on April 26, 2013.

COUNCIL MEMBERS PRESENT: Mayor Cary Wacker; Deputy Mayor Pam Howeth.
Council Members Johnson, Plyler, Smith, Sofey, Softly.

COUNCIL MEMBERS ABSENT: None.

CITY STAFF PRESENT: George Olson, City Manager; Robby Hefton, Assistant City Manager/CFO; Brandon Shelby, City Attorney; Don Keene, Director of Public Works; Mark Gibson, Director of Engineering and Utilities; Scott Shadden, Director of Development Services; Jeff Jones, Fire Chief; Otis Henry, Police Chief; Mary Lawrence, Controller; Clay Barnett, City Engineer; Kevin Winkler, Parks and Recreation Administrator; Lisa Whitfield, Engineering and Development Coordinator; Tammy Davis, Support Services Director; Jim Cross, Maintenance Superintendent; Diana Adair, Tourism Manager; Pam Cloer, Assistant to the City Manager; Linda Ashby, City Clerk.

PURPOSE: CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN

FINANCIAL UPDATE AND COUNCIL INPUT FOR 2013-2014 BUDGET YEAR

DISCUSSION OF BUDGET CALENDAR FOR FISCAL YEAR 2013-2014

ADJOURNMENT

CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN

Mayor Wacker called the meeting to order at 11:04 p.m., declared a quorum present, and opened the City Council Meeting.

George Olson, City Manager, explained that the Budget Planning Meeting was an opportunity for the City Council to provide direction to the staff on the items they would like to include in next year's budget. The staff will also provide a financial update for the Council.

He added that this year's presentation will also include an update on the Hotel/Motel Tax. During the past several years, the Council has been trying to reduce the fund balance for this fund, and now some decisions need to be made. An exercise will help Council Members prioritize the things they want to include in the Hotel/Motel Tax budget.

Mr. Olson said the staff is focusing on the critical items and the major core functions. He said that revenues are "flat" again. The meeting will also include input from Council Members that will be used to determine items brought forward for the June Budget Work Shop.

FINANCIAL UPDATE AND COUNCIL INPUT FOR 2013-2014 BUDGET YEAR

Robby Hefton, Assistant City Manager/CFO, outlined the agenda for the meeting. He presented the current year budget highlights, saying one of the major things that the 2013 budget focused on was catching up on fleet purchases, and that is in process. There are revenue challenges in the General

COUNCIL MINUTES – APRIL 26, 2013

and Utility Funds and revenue is “fairly flat” compared to last year. Mr. Hefton said the City budgeted for an increase. However, spending is at or below budget so the net effect of the revenue and expenses is mitigated, especially in the Utility Fund. He added that there are “ample” fund balances in the major funds, with the fund balance at 75 days in the General Fund; over 100 days in the Utility Fund; and about 80 days in the Solid Waste Fund. There are challenges in the group health and Mr. Hefton said the staff is reviewing ways to manage the plan, as well as getting quotes from other companies. The Fielder Park project is underway and the Taylor Street facility should be completed next month. There are also various water and sewer projects that are progressing.

Financial Update

Mr. Hefton said the ending fund balance for the General Fund is at 74 or 75 days, which is on target. However, revenues are not keeping up with expenses by about \$804,000 for 2013. The City budgeted for a deficit of about \$113,000 because of some encumbrances, but this puts the City at about \$700,000 worse than anticipated. Even so, the fund balances are adequate and no action is needed now. He added that these challenges are not because of expenditures, but because of revenues.

Council Member Smith asked when this would become a problem. Mr. Hefton said it would become a problem if the reserves fall below the target number of days. He felt there would be adequate fund balances through the 2014 budget, but if things continue to track as expected, there would be some challenges for 2015.

Mr. Hefton said in both the Utility Fund and the Solid Waste Fund, rates can be raised to increase the revenue, but there are limited ways to increase revenue in the General Fund. He did reiterate that there are some challenges going forward. One challenge is that sales tax is flat this year, while the City budgeted a 2.5% increase.

Deputy Mayor Howeth asked about the upcoming construction at Sherman Town Center and how it would affect the sales tax. Mr. Hefton said the staff would hope that the additional retail development would generate additional sales tax. He didn't feel that the highway construction would hurt the sales tax because it will be coordinated with the Texas Department of Transportation to minimize the negative impact. Mayor Wacker added that there are several ways to get to the stores and the construction won't be blocking the only way in or out. It will be inconvenient, but once the development occurs, it should have a positive impact.

Mr. Hefton said he would not be budgeting for a sales tax increase for the 2014 budget and it will be projected as flat. Franchise taxes are also down about \$300,000, mostly in the electricity franchise. Franchise taxes will also be projected as flat for 2014. Altogether the City is down about \$700,000 in revenues.

Mr. Hefton said there are no major stories with expenditures in the General Fund and they are tracking about as expected.

In the Utility Fund, Mr. Hefton said there is a healthy \$6.6 million fund balance, which is about 120 days. He said in 2014, the staff will probably recommend drawing that fund balance down to about the 90 day range. Those funds could be used to help fund items in the 2014 budget. That will give the City about \$1.5 million from the Utility Fund for the 2014 budget to draw the fund balance down to \$5 million.

There is about \$400,000 less in revenue in the Utility Fund, mainly from sewer revenue from industrial users. Some of the industries, to their benefit, have added reclamation processes that help them but hurt the City's revenues. He said revenues in the Utility Fund are down about \$400,000 versus what was budgeted. Expenditures are also down about \$1 million, mainly in well repairs.

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Mr. Hefton said utilities and debt service are down about \$200,000 each, so the fund balance in the Utility Fund is up about \$700,000 over the projected amount.

The revenues are flat in the Solid Waste Fund and the expenditures are holding as projected. There is a savings of about \$100,000, but the net effect is that it is performing as expected when the 2013 budget was built.

Mr. Hefton said in 2014, 2015, and 2016, it was planned that the Texoma Area Solid Waste Authority would build up a reserve fund so future cell constructions would be paid for in cash instead of borrowing money. The net effect of that would be that over the life of the next four cell developments, including the one they are currently constructing, it would save TASWA about \$2 million. TASWA rates were set by their Board with the idea to accumulate the cash over the next three or four years, beginning in 2014, so future cell developments can be funded with cash. He added that, for the City, this will mean that the "contractual and sundry services" line item will increase by about 10% to 13% for about three years, and then should, "in theory", drop back down. The majority of this line item is for tipping fees.

He briefly addressed the General Improvement Fund and the Utility Improvement Fund. Several projects are currently "in process." The Utility Improvement Fund should have an ending fund balance of \$1.5 million, which is a little better than expected.

Hotel/Motel Tax Fund

For the discussion on the Hotel/Motel Tax, Mr. Hefton introduced Don Keene, Director of Public Works, to outline the tourism program. He said the City of Sherman has a solid plan for what they do and they want to work that plan in a balanced budget. Currently the proposed 2014 budget is not balanced, and the staff would ask for Council input on their priorities to help make the budget a balanced budget.

He outlined the Tourism Department's mission statement and core values, as well as their goals and objectives. Their goals are to increase visitor awareness, foster usage of City facilities, and to support local arts and humanities programs and other tourism related groups. He added specific actions that the department planned to do for each goal.

Mr. Olson explained that the Tourism Department had not always been under the City of Sherman. It has been at the Chamber of Commerce and on a committee under an appointed City Council Committee with a hired employee under contract. When it was brought in-house, there was not a lot of money. The staff reviewed what they had and developed a structure based on the resources. The City doesn't provide a lot of additional services, because they don't have the staffing to do that. Therefore it was designed to help, promote, provide facilities, and advertise. The City has been "running" some events because these were popular events and the City kept them going.

Mr. Keene said the plan is to be balanced financially and to keep the tourism expenditures within the revenue that is received. He outlined the preliminary 2014 budget. Money for tourism comes mostly from the Hotel Occupancy Tax. In 2014, that revenue is projected to be approximately \$454,000, which is a 20% decrease over the last five years.

Projected expenditures include debt service, which pays for the Auditorium and Ballroom renovations in 2000; Auditorium and Ballroom expenses, which includes maintenance and operations for an average of over 30 events per month; administrative expenses; Hot Summer Nights at \$19,000; Lights on the Lake at \$15,000; other programs such as the Arts Festival and visitor center; advertising; grants for events such as the Sherman Symphony Orchestra, Hagerman Birding Festival, and holiday sports

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tournaments at \$25,000; the Central Business District incentive grants; funding through the Sherman Council for the Arts and Humanities to various non-profit organizations at \$36,000; and to the Sherman Museum at \$83,000.

Mr. Keene said the goal is for the 2014 budget to be balanced financially and they are not there yet. He asked Council Members to provide input on their priorities in the tourism program.

Council Member Sofey asked how much longer the City would be paying on the debt service. Mr. Hefton said it was originally 20 year debt and there is approximately seven or eight years left. Cost of the debt service is between \$110,000 and \$120,000 annually. By the City's bond covenant, they are required to set the money aside for the debt service payment first, prior to any expenditure. He added that 2% of the 7% collected is earmarked for debt service.

Mr. Hefton presented a five-year look at the financials for the Tourism Department. In 2014, there will be \$177,680 in revenue available for programs and events. Anticipated expenditures for 2014 are at \$263,399. In previous years, the goal was to spend down the fund balance from over \$400,000 to what should be \$100,000. The fund balance is below where it should be and is at \$44,169. Mr. Hefton said as it sits today, there is a problem of about \$100,000 that needs to be "fixed."

He presented a chart with the following tourism projects listed: Hot Summer Nights, Lights on the Lake, advertising, event grants, Downtown Grant Program, Sherman Council for the Arts and Humanities, and Sherman Museum. Mr. Hefton gave Council Members three colored dots to place on the list to designate their priorities for the tourism program. This direction will help the staff balance the budget for final presentation to the City Council in June 2013. (A copy of the priority selection is attached to the Minutes)

Mr. Olson clarified that "event grants" include high school basketball tournaments to the Hagerman Birding Festival to the aerobatics events. Mr. Hefton said the "Downtown Grant Program" is for people who reinvest downtown and is a matching grant for up to \$25,000.

Mayor Wacker said with the mission and goals the City has, they are focusing on promoting the City, getting the name out, and supporting these events. The City would not necessarily be the entity putting on the events. Mr. Olson said the City's major role is to get the community more involved in the events, not to organize the events themselves.

Deputy Mayor Howeth asked if a 10% cut across the board would bring the budget to where it needs to be. Mr. Hefton said it would require a 35% cut across the board to reach the budget numbers. Council Member Johnson asked about the sponsor participation for events such as Hot Summer Nights and Lights on the Lake. Mr. Hefton said participation varies for Hot Summer Nights and entities may sponsor one night or a banner. For Lights on the Lake, a local bank pays for the entire fireworks show, which is almost half of the event.

City Council Members took a break from 11:54 a.m. to 12:15 p.m.

Mr. Hefton thanked Council Members for their participation with the Hotel/Motel Tax priorities saying that it would allow the staff to develop a plan for the June Budget Work Shop. He reiterated that the SCAH funding is a pass-through of money for eight or ten different organizations. The grants range from \$1,500 to \$5,000 and cannot be more than a small percentage of their budget. Therefore SCAH is not the main funding source for any of these agencies.

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Fleet Purchases

Mr. Hefton said one of the major themes for the 2014 budget would be fleet. He presented a summary of fleet purchases for the last four or five years. In 2010, the City purchased the ladder truck. It was financed, so the initial cash outlay was only about \$200,000. There was an intentional increase in fleet purchases in 2013 as part of the “catching up” process. It amounted to a little over \$1 million in the General Fund alone.

Mr. Hefton said the City needs to be spending about \$850,000 annually on fleet. They have actually been spending about \$600,000 a year since 2007. The Council authorized additional spending on fleet in the current budget year. The requests for fleet purchases in the 2014 budget have been close to \$2 million in the General Fund. Those are requests and have not been approved by the staff for inclusion in the proposed budget. If those requests were granted, that would bring the average for that seven or eight year time period back where it needs to be. He added that 2014 is the final “catch-up” period for fleet purchases.

Mr. Hefton said the primary focus on the operating functions for the 2014 budget would mainly be on the Public Safety, Streets, and Sanitation Departments. He added that they have already started focusing on fleet and equipment purchases, group health, and expansion of the existing street program.

There are also several primary services that the staff hasn’t been focusing on because resources have been limited. These include alley and right-of-way maintenance, which was cut seven or eight years ago. The program was to maintain the alleyways so the City could get equipment in there to repair the water and sewer lines. Originally the City had a crew for the maintenance, and then Mr. Hefton said it was “outsourced.” There is no longer a dedicated program to maintain the alleyways.

The City also hasn’t focused on succession planning, technology, facilities maintenance, and emergency preparedness the last few years either. Some of these items may be included in the 2014 budget.

Mr. Hefton said the focus for the 2014 budget will be the continuation of catching up on fleet, group health, the streets program, Hotel/Motel Tax Fund, the Municipal Airport, water and wastewater, stormwater plan and projects, and building and development fees.

He added that currently a consultant is studying the condition of the runways and taxiways of the Airport to determine the timing, scope, and cost of a project that would be needed for an upgrade. Council Member Smith asked if that assumes the Airport will stay open. Mr. Hefton said it assumes that if the Airport stays open, this is what would be needed. After the study is completed, there will be other decisions to be made. Hopefully the study will be completed in time to make a presentation at the Budget Work Shop.

Mr. Hefton said there continues to be significant projects in the water and wastewater areas. In the past it has been said that the engineering and expansion need to be done when the City reaches about 75% capacity, and that is where the City is now. The staff will review the timing on expansion of the plants.

He said the City should have the stormwater plan back during the next month and have a fairly complete draft. There should be a presentation either at the Budget Work Shop or prior to that. This plan will include projects that need to be completed.

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Ongoing Balancing

Mr. Hefton said discussion of the ongoing balancing does not apply to the 2014 budget because those numbers are not in yet. But he wanted to give the Council a feel for what they need to be thinking about long term, in the next year or two.

In 2008-2009 the City's General Fund budget was \$30.0 million and the budget today is \$30.2 million. For the last five years, there has been a "flat" budget. The Dallas-Fort Worth Consumer Price Index increase has been 9% over the same period. However that has created some challenges as the City moves forward.

For 2014, Mr. Hefton said they expect sales tax to be flat, property tax to be relatively flat, and franchise tax to be flat. There will be some positive impact from Panda Power in 2015, and more in 2016. There is also additional retail development on the north side of town that will help increase property tax a little. If there is growth it will probably be in the 1% to 2% range. Mr. Hefton said all this points to an approximate \$29 million revenue budget. The City is already at a \$30.1 million budget, without any of the items that need to be focused on but haven't been. That is status quo. With no salary increases or any increases the City would still be at a \$450,000 deficit. Mr. Hefton said it will be worse than that, but the "sky is not falling." Ongoing, there are challenges in the General Fund.

It is also expected that expenses will be relatively flat. There will be a gap in the debt service for the next two or three years because debt service has dropped off. Costs will continue to rise with the expansion at the Water Treatment Plant and the Wastewater Treatment Plant. As it stands today, Mr. Hefton said the Utility Fund has a \$500,000 "hit." There is an adequate fund balance to help absorb some of the deficit.

There are no major stories in the Solid Waste Fund. Mr. Hefton said there might be a temporary increase in expenses for two or three years when TASWA increases their rates to build up funding to pay for cells.

Council Input

Mr. Olson said the staff hasn't changed their focus over the past few years. They are still focused on core services and taking care of the basic services. He reiterated that they have not seen the individual requests from the departments yet. He said his goal is to make sure the City carries on the basic core services at an acceptable level. He asked for direction from the City Council on anything else they want the staff to include in the proposed budget for the Budget Work Shop in June.

Mayor Wacker thanked the staff saying with the loss in revenue over the past few years, it has been a challenge. The staff has done a great job of providing what the citizens need. She said this is in part due to an economic down-turn, but also because several years ago the Council moved to a revenue model where revenue is more heavily dependent on sales tax rather than property tax. Sales tax is very sensitive to economic conditions. Sherman hasn't see recovery, because sales tax can't generate the revenue that is needed. She said to really move ahead, the Council and the community need to commit to rebuilding a robust economy. She said there are some positive signs, but they need to continue to do the core things, clean up the City and set the table for business success and for industry to move here. Sherman must be pro-active.

Council Member Sofey said it is important to maintain the things the City already has. The focus must be on maintaining what is here. He asked to forward his items to the staff at a later date, after he has had time to consider the information. He did have questions about the Airport and the future costs to maintain it for the next five to twenty years. He also asked if there were any alleys or right-of-ways that the City could get rid of and how much of an increase in the permit and development fees would be needed. Mr. Hefton said some of those discussions will be held at the Budget Work Shop.

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Mr. Olson said the staff would bring the focus issues back to talk about. He asked if there were any other items that the Council would like to see brought back.

Council Member Smith said he understood that the Airport study would include maintenance costs over the next 20 years and when those maintenance issues need to be scheduled, but he asked if it would also include the economic impact on the City. Mr. Olson said this study would not. This study is strictly what it will cost. Mr. Hefton said if the City is going to keep the Airport, it needs to be run like a business and needs to be self-sustaining. He did not feel that debt should be issued for Airport maintenance, but that it should come from cash. However if enough cash was not accumulated, should it be supported with General Fund money. Council Member Plyler questioned the sales tax impact of the Airport and what revenue possibilities are there; basically the economic impact of the Airport. Mayor Wacker asked if there was a potential for growth at the Airport. Mr. Olson said all the current study will do is quantify the costs for repairs at the Airport. Council Member Johnson asked if numbers could be put together for the Budget Work Shop to brief the City Council on the Airport over the past few years.

Council Member Smith brought up a previous request from former City Council Member Chip Adami to redo the office at West Hill Cemetery. Mr. Hefton said there is no money in the General Improvement Fund. If projects like that were scheduled, the money would need to come from somewhere else. There won't be a lot of projects in the 2014 plan because there is no money. Council Member Sofey said improvements for that building, as well as other items for the commercial right-of-ways, should be kept on the list to do, but only when money is available.

Council Member Plyler asked the staff to put together, for the next meeting, two or three scenarios to look at revenues and the options that there might be to close the gap. Mr. Hefton clarified that since the Utility Fund is funded by rates, this would really only apply to the General Fund. There are a couple of major revenue sources over which the City has control. This is no control over sales tax or fines and forfeitures. There is really no control over ambulance rates, because the City will only collect the amount allowed by the insurance companies. Therefore the only major areas to look at that would have a major impact on revenues are permits and licenses for building fees and property taxes. The staff will prepare these scenarios, but there are only a few items over which the City has control.

Mayor Wacker said the City is already focused on enforcement and clean-up and she felt those should continue.

Council Member Smith asked if the staff was considering a cost-of-living adjustment for employees. Mr. Hefton said he did not know. Typically that would not be driven by the staff but by the City Council and management. In the General Fund, a 1% cost-of-living adjustment would cost \$150,000 or \$160,000 and a 2% adjustment would cost \$300,000. Scenarios for an increase will be presented at the Budget Work Shop and the Council can discuss it at that time.

Mayor Wacker said she was really interested in what the staff would bring back on the group health insurance. Could a wellness program help reduce claims? Many employers are focusing on prevention as a strategy.

DISCUSSION OF BUDGET CALENDAR FOR FISCAL YEAR 2013-2014

Council Members discussed the proposed budget calendar. The Budget Work Shop has been proposed for Wednesday, June 19, and Thursday, June 20, 2013 instead of Thursday and Friday. Mr. Olson said it has been tentatively approved for Thursday and Friday, but the staff would like to move it back one day. Mr. Hefton felt the meeting would still be one day, but the second day would be available if needed. There are some programs that will need discussion.

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ACTION TAKEN.

Motion by Council Member Sofey to set the Annual Budget Work Shop for June 19 and June 20, 2013, as presented. Second by Deputy Mayor Howeth.

VOTING AYE: Howeth, Johnson, Plyler, Smith, Sofey, Softly.

VOTING NAY: None.

MOTION CARRIED.

ADJOURNMENT

There being no further business to come before the City Council, motion was duly made and approved to adjourn the Called Meeting at 12:58 p.m.

MAYOR

ATTEST

CITY CLERK



Budget Planning Meeting April 2013

Agenda

- Update on current year
- Financial update
- Hotel/Motel tax discussion and Council direction
- Looking ahead to FY2014/Ongoing operations
- Council direction and input
- Budget calendar

Current Year Highlights

- Capital purchases (fleet) for FY13 wrapping up
- General and Utility revenue challenges – down vs. budget
- Spending at or below budget – esp. Utility Fund
- Fund balances in major funds are on target
- Group Health Fund ongoing challenges
- Projects underway – Fielder Park, Taylor St Facility, various water and wastewater projects



FINANCIAL UPDATE

**General Fund
Summary of Revenues & Expenditures (Budget Basis)**

	Actual 2011-2012	Amended Budget 2012-2013	Projected 2012-2013
Beginning Fund Balance	\$ 6,090,461	\$ 6,713,420	\$ 6,952,309
Revenues			
Property Taxes	6,028,695	6,094,500	6,026,500
Sales Taxes	12,060,814	13,350,000	13,069,000
Franchise Taxes	2,896,073	2,982,000	2,708,000
Other Taxes	115,322	109,000	106,000
Fines & Forfeitures	849,072	1,063,200	996,040
Recreation	271,267	281,800	272,300
Permits & Licenses	171,158	234,700	231,730
Rentals	61,252	69,700	63,295
Cemetery Sales and Services	134,643	151,200	126,200
Sales & Services	489,527	499,000	492,000
Ambulance Services	1,373,974	1,400,000	1,380,000
Interest	64,078	70,000	47,000
Grants and Miscellaneous	190,348	312,850	333,800
Total Revenues	24,706,223	26,617,950	25,851,865
Transfers In	3,563,626	3,670,766	3,670,766
Total Receipts	28,269,849	30,288,716	29,522,631
Total Funds Available	34,360,310	37,002,136	36,474,940
Expenditures			
Personnel	20,041,087	21,144,408	21,208,704
Supplies	1,085,161	1,452,232	1,457,200
Maintenance	971,899	1,205,829	1,168,946
Utilities	1,340,774	1,397,480	1,397,700
Contract Wages	136,614	209,110	195,885
Computer Services	492,862	582,540	582,540
Debt Service	69,263	69,405	69,405
Contractual and Sundry Services	1,337,380	1,610,891	1,498,721
Vehicle Usage	1,231,087	1,271,470	1,270,355
Equipment and Buildings	132,163	310,924	329,477
Transfer Out to Other Funds	75,563	-	-
Transfer Out to Fleet Fund	494,148	1,147,868	1,147,868
Total Expenditures	27,408,001	30,402,157	30,326,801
Excess Receipts over Expenditures	861,848	(113,441)	(804,170)
Ending Fund Balance	\$ 6,952,309	\$ 6,599,979	\$ 6,148,139

Utility Fund
Summary of Revenues & Expenses (Budget Basis)

	Actual 2011-2012	Adjusted Budget 2012-2013	Projected 2012-2013
Beginning Reserve	\$ 5,375,980	\$ 6,848,028	\$ 6,588,906
Revenues			
Water Revenues	11,375,889	11,859,000	12,018,000
Sewer Revenues	6,951,060	7,019,000	6,416,000
Laboratory Charges	114,214	110,000	125,100
Service & Penalties	504,861	475,000	494,000
Earned Interest	25,541	10,000	16,000
Intergovernmental	453,447	449,700	449,700
Miscellaneous	228,239	82,725	85,700
Total Revenues	19,653,251	20,005,425	19,604,500
Transfers-in	967,500	123,700	123,800
Total Receipts	20,620,751	20,129,125	19,728,300
 Total Funds Available	 25,996,731	 26,853,453	 26,317,206
Expenses			
Personnel	4,417,642	4,627,761	4,610,698
Supplies	735,116	1,101,730	941,482
Maintenance & Repair	1,584,915	1,879,657	1,385,127
Utilities	2,478,388	2,835,796	2,613,800
Computer Services	78,114	85,670	85,670
Debt Service	5,837,171	4,768,807	4,571,294
Contract Wages	79,256	64,000	62,000
Contractual & Special Services	1,867,698	1,531,521	1,502,984
Vehicle Usage	279,578	302,310	302,310
Other	279,349	443,857	430,000
Capital Expenses	16,898	18,300	38,455
Total Expenses	17,654,125	17,659,409	16,543,820
 Transfers Out			
General Fund	1,544,000	3,044,000	3,044,000
Others	209,700	128,795	128,795
Total Transfers Out	1,753,700	3,172,795	3,172,795
Total Expenses	19,407,825	20,832,204	19,716,615
 Excess Revenues over Expenditures	 1,212,926	 (703,079)	 11,685
Ending Reserve	\$ 6,588,906	\$ 6,144,949	\$ 6,600,591

Solid Waste Fund
Summary of Revenues & Expenditures (Budget Basis)

	Actual 2011-2012	Adjusted Budget 2012-2013	Projected 2012-2013
Beginning Fund Balance	\$ 2,070,127	\$ 865,162	\$ 1,188,105
Revenues			
Solid Waste Fees	5,412,601	5,361,000	5,302,000
Service Penalties	48,675	45,000	47,000
Interest	7,028	5,000	500
Miscellaneous	148,462	186,000	92,000
Total Revenues	5,616,766	5,597,000	5,441,500
Total Funds Available	7,686,893	6,462,162	6,629,605
Expenses			
Personnel	1,431,856	1,507,108	1,498,340
Supplies	73,708	106,480	105,700
Maintenance & Repair	23,279	53,620	54,865
Utilities	18,854	17,850	25,000
Contract Wages	-	2,080	-
Computer Services	9,299	12,850	12,850
Solid Waste Debt Service	58,499	35,205	35,208
Contractual & Sundry Services	1,394,156	1,599,559	1,470,852
Vehicle Usage	906,570	1,045,300	1,046,827
Transfers Out	2,582,567	1,181,520	1,181,520
Total Expenses	6,498,788	5,561,572	5,431,162
Excess Receipts over Expenditures	(882,022)	35,428	10,338
Ending Fund Balance	\$ 1,188,105	\$ 900,590	\$ 1,198,443

General Improvement Fund

Summary of Revenues and Expenditures (Budget Basis)

	Actual 2011-2012	Amended Budget 2012-2013	Projected 2012-2013
Beginning Fund Balance	\$ 1,036,393	\$ 456,995	\$ 456,995
Revenues:			
Transfers In	-	200,000	200,000
SEDCO	-	400,000	250,000
Grant Proceeds	115,500	-	13,866
Investment Interest	1,007	500	650
Total Revenues	116,507	600,500	464,516
Total Funds Available	1,152,900	1,057,495	921,511
Expenditures:			
Washington Street West	184,696	-	3,150
Drainage Improvement Projects	37,536	-	-
GIS System	87,351	50,000	-
Solid Waste Interior Driveway Rebuild Phase V	47,007	-	-
Watershed Management	231,649	-	41,052
Soil Conservation Emergency Action Plan Study	23,138	-	14,073
Hawn Spray Ground Rehab	19,581	-	-
OSP Quad Backstop Nets	34,300	-	-
Tennis Court Windscreens	6,161	-	-
Neighborhood Revitalization-Fielder Park	-	250,000	250,000
Municipal Building Repair	-	190,000	190,000
Canyon Grove to Hwy 82	24,486	-	-
Taylor Street Complex	-	200,000	200,000
Hwy 1417 Ramp from Hwy 75	-	200,000	200,000
Total Expenditures	695,905	890,000	898,275
Ending Fund Balance	\$ 456,995	\$ 167,495	\$ 23,236

**Utility Improvement Fund
Summary of Revenues and Expenses (Budget Basis)**

	Actual 2011-2012	Budget 2012-2013	Projected 2012-2013
Beginning Fund Balance	\$ 3,681,866	\$ 3,411,680	\$ 3,502,392
Revenues			
Interest Income/Other Income	13,752	25,000	15,000
Total Revenues	13,752	25,000	15,000
Total Funds Available	3,695,618	3,436,680	3,517,392
Expenses			
Utility Oversizing	-	100,000	-
* WWTP Digester Rehab	12,207	-	22,516
* WWTP - Upgrade Mixers, Phase I	3,599	-	-
Gallagher Tower Evaluation	4,631	-	-
* Sears Lift Station	9,750	-	3,025
* Hwy 75 Sewer B	1,743	-	-
* WTP Second Feed	86,544	-	-
* WTP Flocculation Basin	745	-	-
** Hwy 289 Water	69,950	-	11,750
** Hwy 289 Sewer	4,000	-	49,500
* WTP Upgrade Phase III	57	-	-
Upgrade Metering and Telemetry for Water System	-	350,000	350,000
Well Repairs and Upgrades	-	625,000	625,000
Gallagher Elevated Tank Painting and Repair	-	625,000	625,000
Infiltration & Inflow Office and Storage Facility	-	75,000	75,000
Woods Street Water Line Replacement	-	32,000	32,000
Lamberth Road Water Line Replacement	-	31,000	31,000
** Blalock Industrial Sewer	-	-	16,974
* VFD Headworks Pump Replacement	-	-	25,150
* Texoma Parkway Water Replacement-Ph IV	-	134,000	-
Transfers Out-General CIP	-	200,000	200,000
	193,226	2,172,000	2,066,915
Ending Fund Balance	\$ 3,502,392	\$ 1,264,680	\$ 1,450,477

*GTUA

**SEDCO

A photograph of a golf course green. In the background, there is a dense line of trees with green foliage. To the right, a tall, dark light pole with multiple lamps at the top stands against a clear blue sky. The foreground is a well-maintained green lawn.

H/M tax fund discussion

City of Sherman

Department of Tourism



MISSION STATEMENT

To promote Sherman, Texas, as a premiere location for cultural, recreational and leisure activities for visitors

CORE VALUES

Promote Sherman's unique heritage, venues and activities outside of the local market.

Provide quality facilities, programs and services.

Maintain effective relationships with tourism-related entities and stakeholders.

GOALS & OBJECTIVES

Increase visitor awareness of Sherman's cultural, recreational and leisure opportunities.

Foster usage of city facilities for events drawing visitors to the Sherman area.

Support local arts & humanities programs and other tourism-related groups drawing visitors to Sherman.

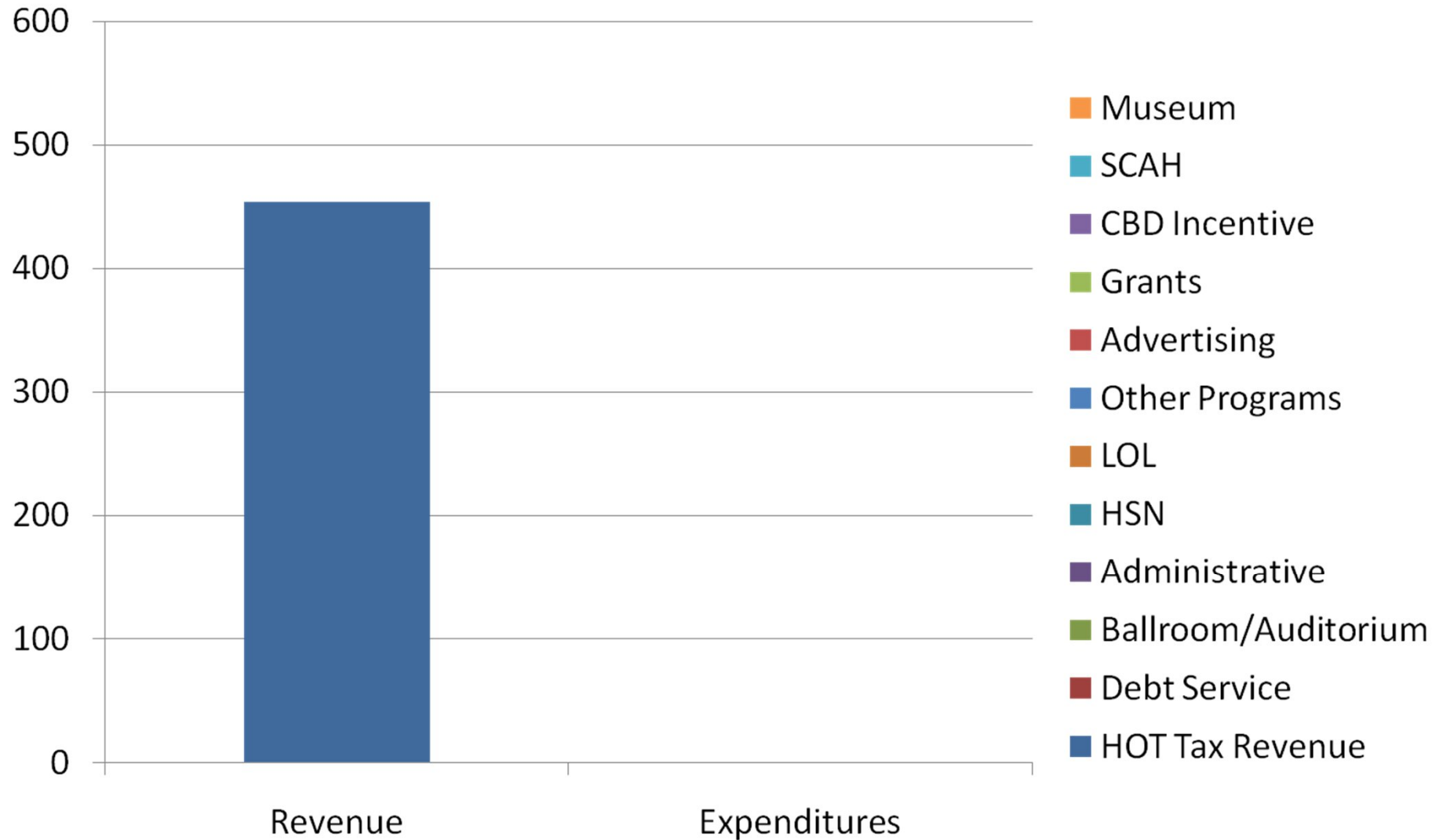
- Maintain online presence
- Provide a visitor center
- Advertise statewide
- Maintain marketing material

- Draw regional performers to Kidd-Key
- Plan regular events at Pecan Grove Park
- Market sports tournaments
- Enable online reservations

- Encourage local groups to operate recurring events
- Provide facilities
- Promote programs & events

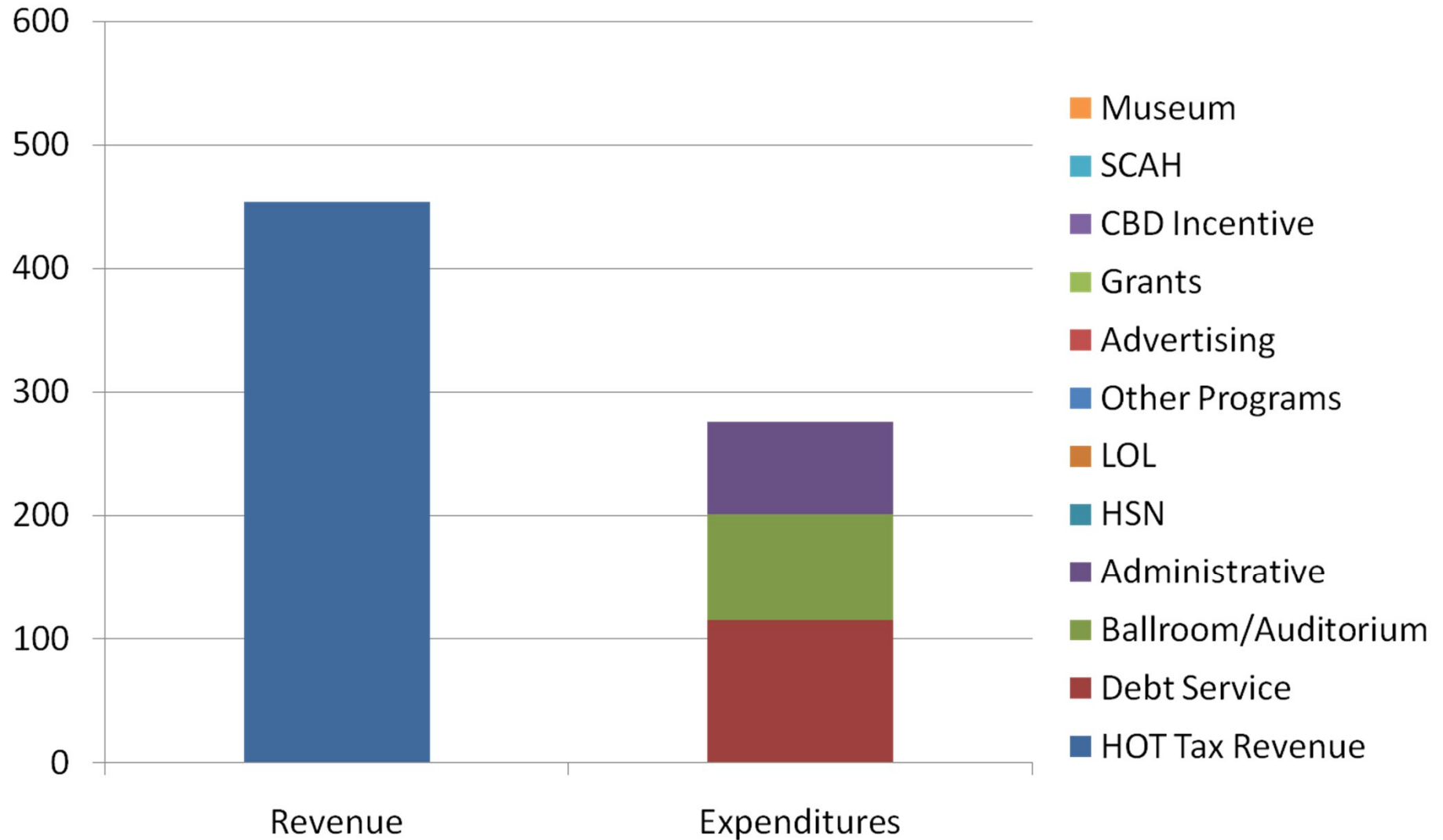
Dept of Tourism – Revenue/Expenditures

Preliminary Budget – FY 2014 (\$K)



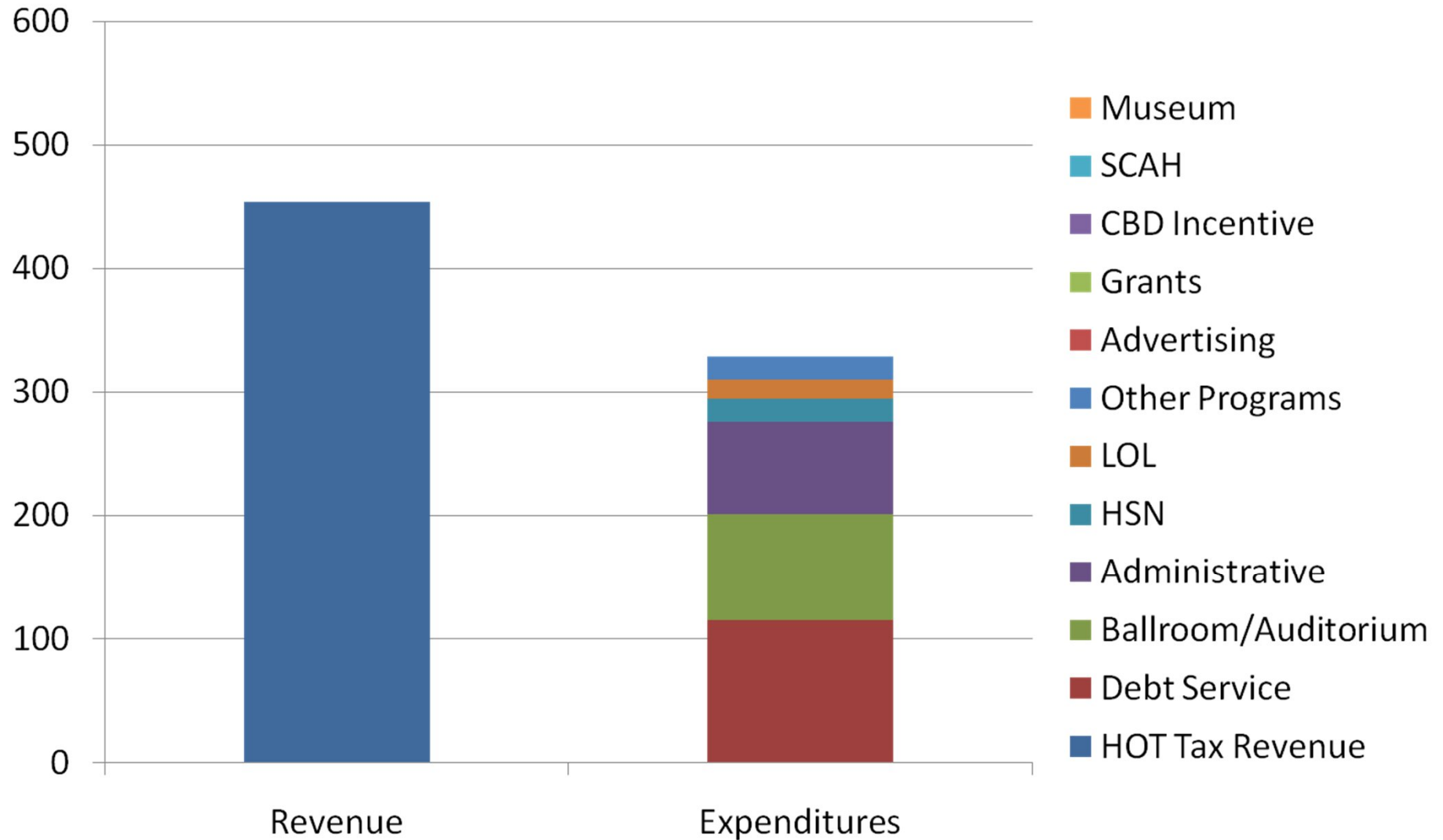
Dept of Tourism – Revenue/Expenditures

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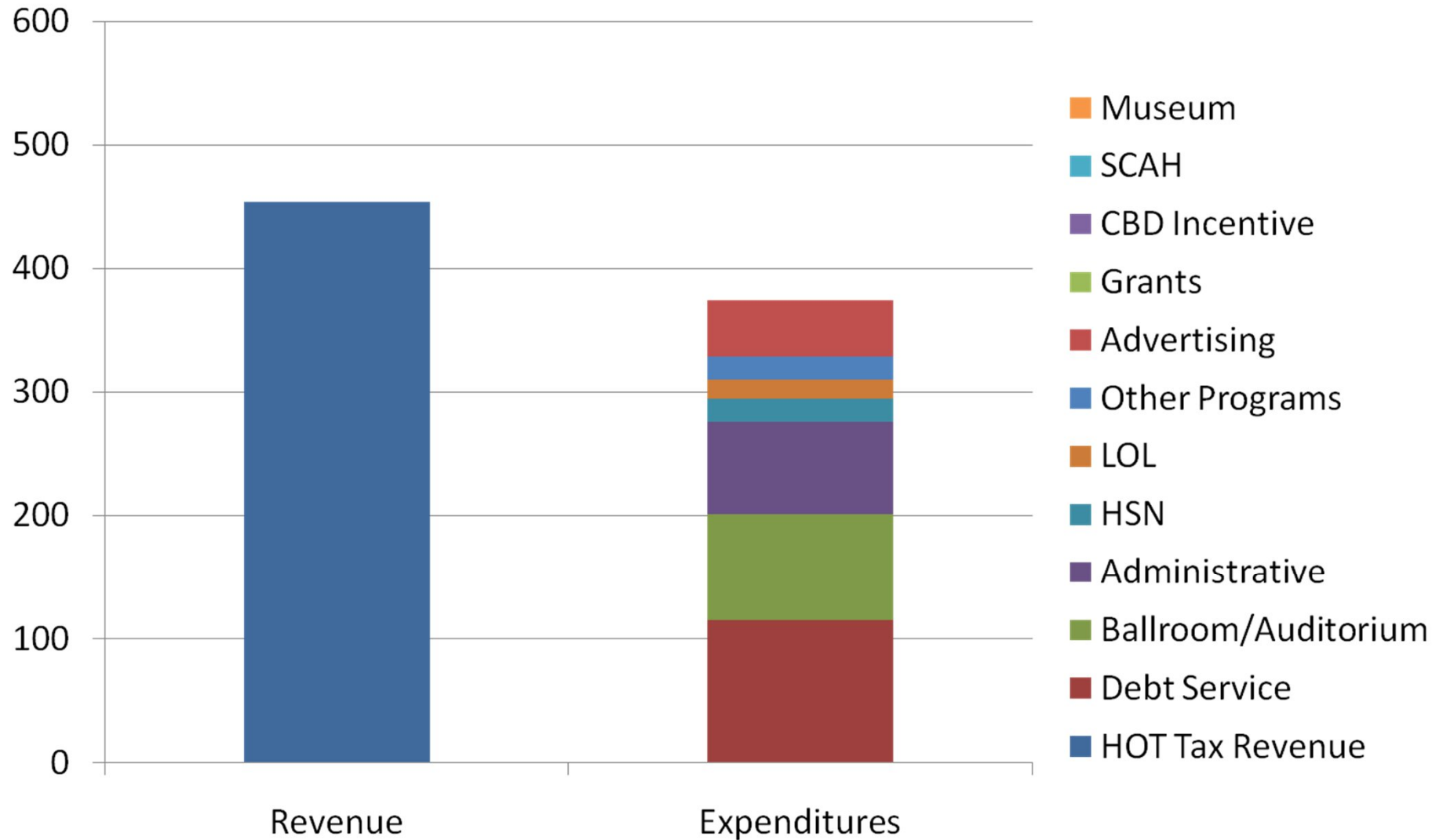
Dept of Tourism – Revenue/Expenditures

Preliminary Budget – FY 2014 (\$K)



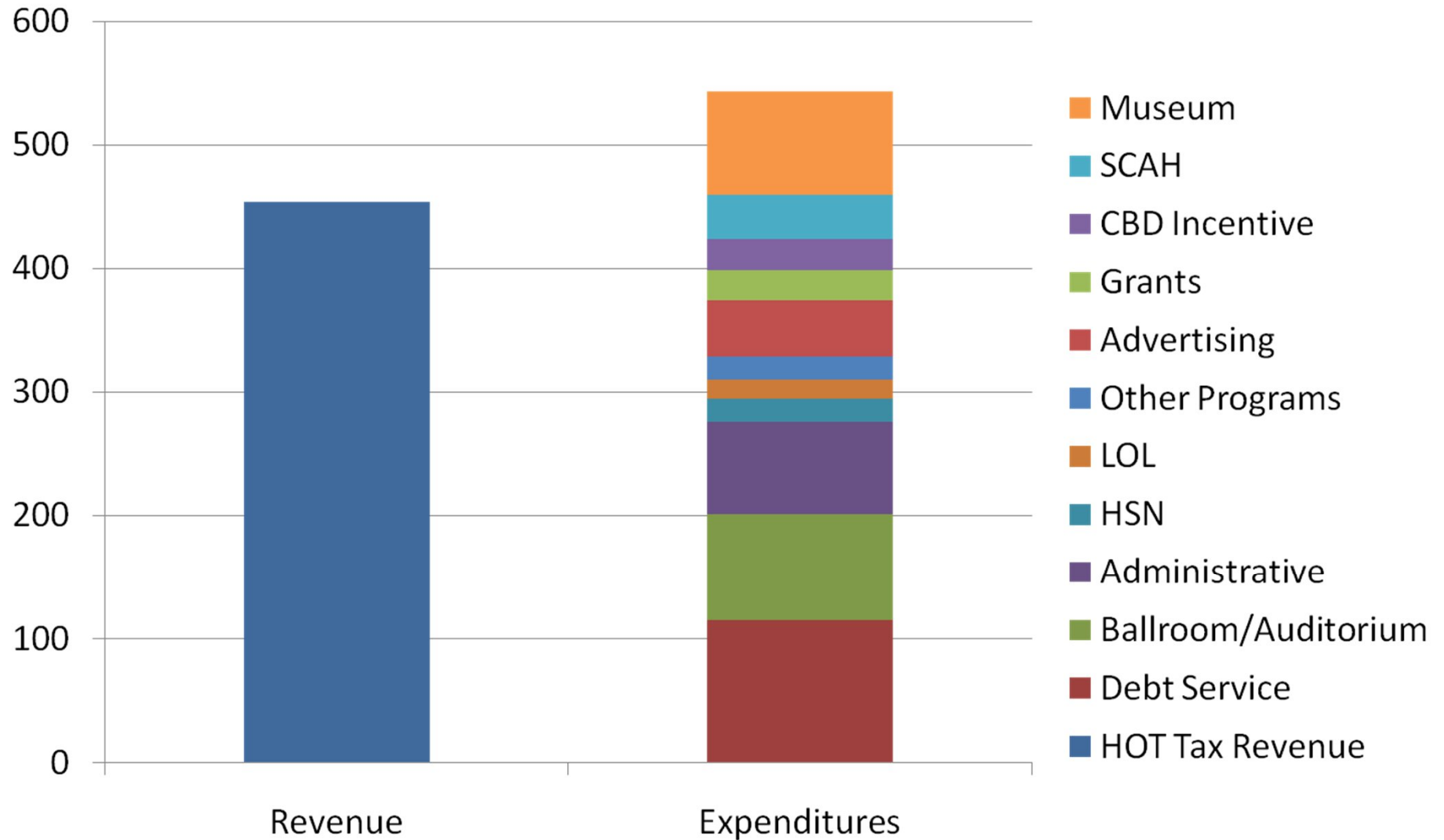
Dept of Tourism – Revenue/Expenditures

Preliminary Budget – FY 2014 (\$K)



Dept of Tourism – Revenue/Expenditures

Preliminary Budget – FY 2014 (\$K)



Sherman Department of Tourism

Revenue/Expenditures

	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>Projected FY 2013</u>	<u>Prelim Budget FY 2014</u>
<u>Revenue</u>						
Hotel Occupancy Tax Revenue	\$ 549,700	\$ 507,674	\$ 498,792	\$ 437,321	\$ 457,305	\$ 454,000
Less: Ballroom/Auditorium Debt Service	116,287	113,828	116,975	115,000	115,000	115,000
Revenue Less Debt Service	433,413	393,846	381,817	322,321	342,305	339,000
Less: Ballroom & Auditorium (net)	47,441	52,131	66,248	85,623	101,259	86,156
Administration	90,978	71,985	99,545	86,762	78,688	75,164
Revenue Available for Programs & Events	294,994	269,730	216,024	149,936	162,358	177,680
<u>Programs and Events</u>						
Hot Summer Nights (net of sponsorships)	18,410	12,190	22,349	19,359	19,000	19,000
Lights on the Lake (net of sponsorships)	-	26,868	25,477	15,384	19,175	15,000
Other Programs and Events	11,601	26,222	77,690	14,582	13,776	15,899
Advertising	52,603	71,624	85,390	55,462	45,000	45,000
Tourism Grants	17,000	26,500	30,400	27,050	29,000	25,000
Central Business District Incentive Program	11,289	-	-	24,032	25,000	25,000
Sherman Council for the Arts & Humanities	35,303	35,778	35,811	36,000	36,000	36,000
The Sherman Museum	82,500	82,500	82,500	82,500	82,500	82,500
Total Program and Event Expenditures	228,706	281,682	359,617	274,369	269,451	263,399
Net Transfers (In)/Out	(1,664)	(515)	12,800	13,200	12,700	12,700
Net Change in Fund Balance	67,952	(11,437)	(156,393)	(137,633)	(119,793)	(98,419)
Fund Balance, Beginning	401,473	469,425	457,988	301,595	163,962	44,169
Fund Balance, Ending	\$ 469,425	\$ 457,988	\$ 301,595	\$ 163,962	\$ 44,169	\$ (54,250)



Council priorities for H/M tax fund??

A wide-angle photograph of a lush green field, possibly a golf course or park, under a clear blue sky. In the background, a dense line of trees with green foliage stretches across the horizon. On the right side, a tall, slender light pole with multiple lamps at the top stands against the sky. The text "Looking forward" is centered over the middle of the image in a large, black, sans-serif font.

Looking forward

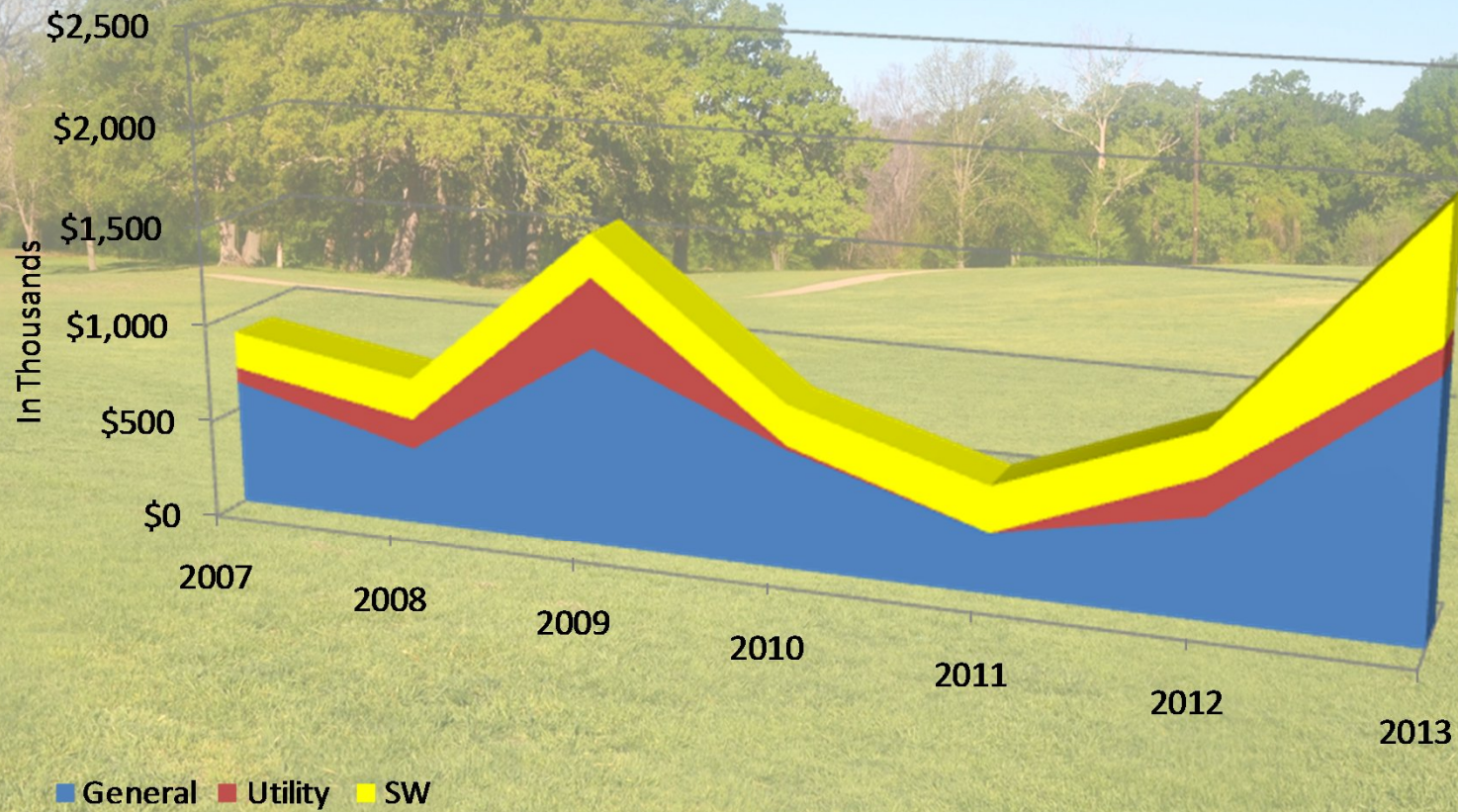


Fleet Spending History

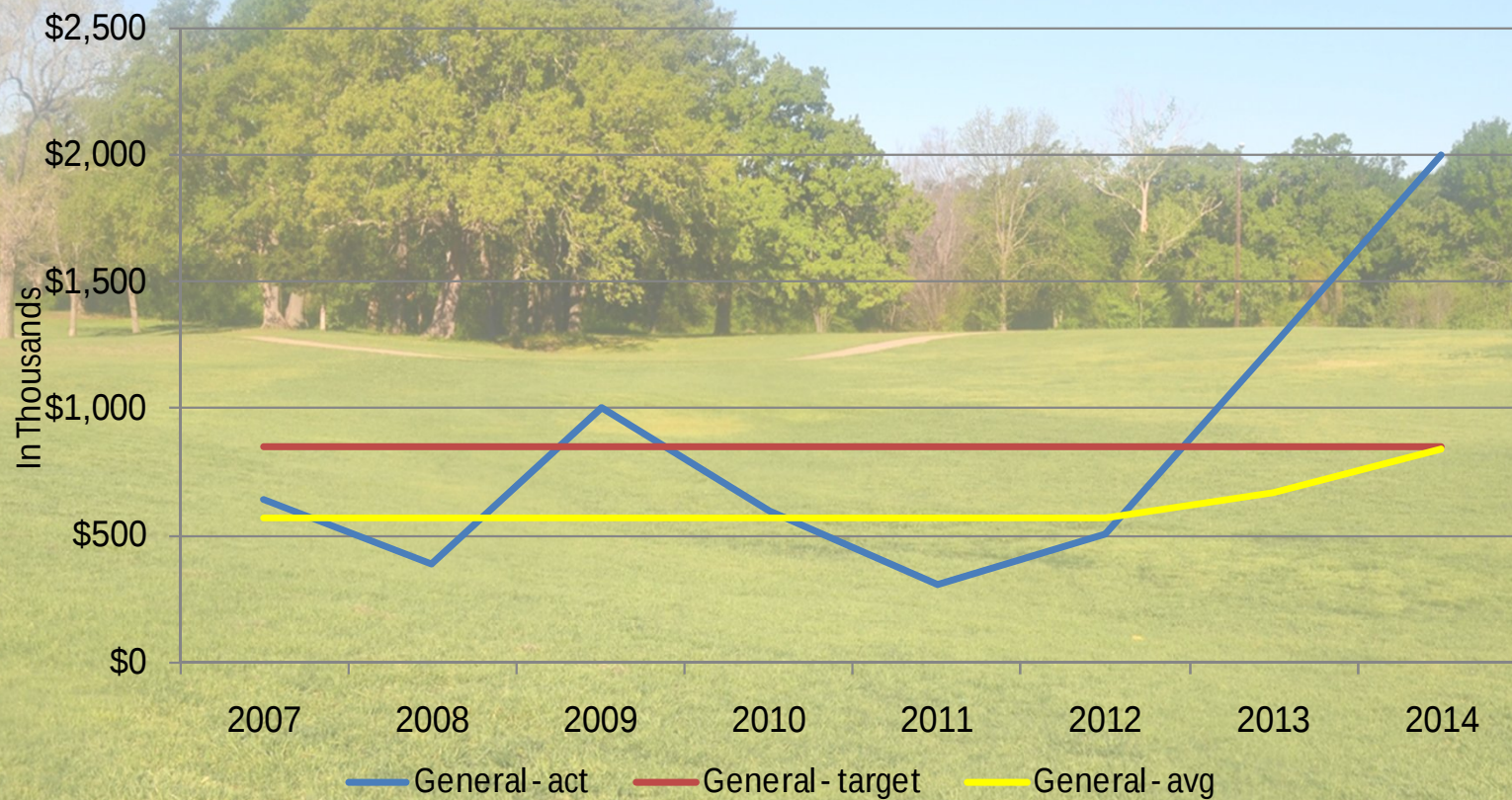
Overall Fleet Purchase History



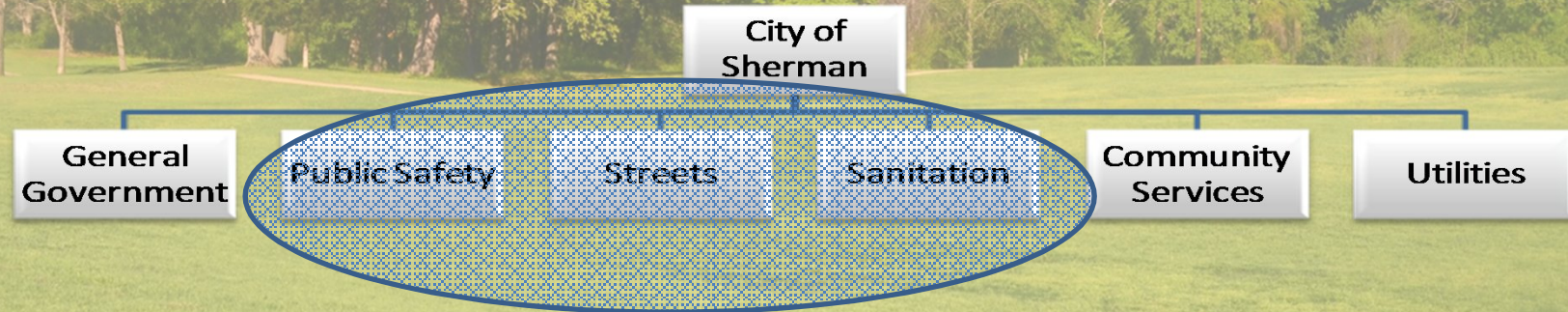
Overall Fleet Purchase History



General Fund Fleet Purchase History



Primary Operating Functions – Focus for 2014



2014 Budget Messages

- Primary services we've already started focusing on
 - Catching up - fleet and equipment
 - Group Health
 - Streets – sales tax initiative
- Primary services we haven't focused on
 - Alley/ROW maintenance
 - Succession planning
 - Technology
 - Facilities maintenance
 - Municipal bldg, fire stations, library (e.g.)
 - Emergency preparedness – back-up generators, servers (e.g.)

2014 Budget Messages

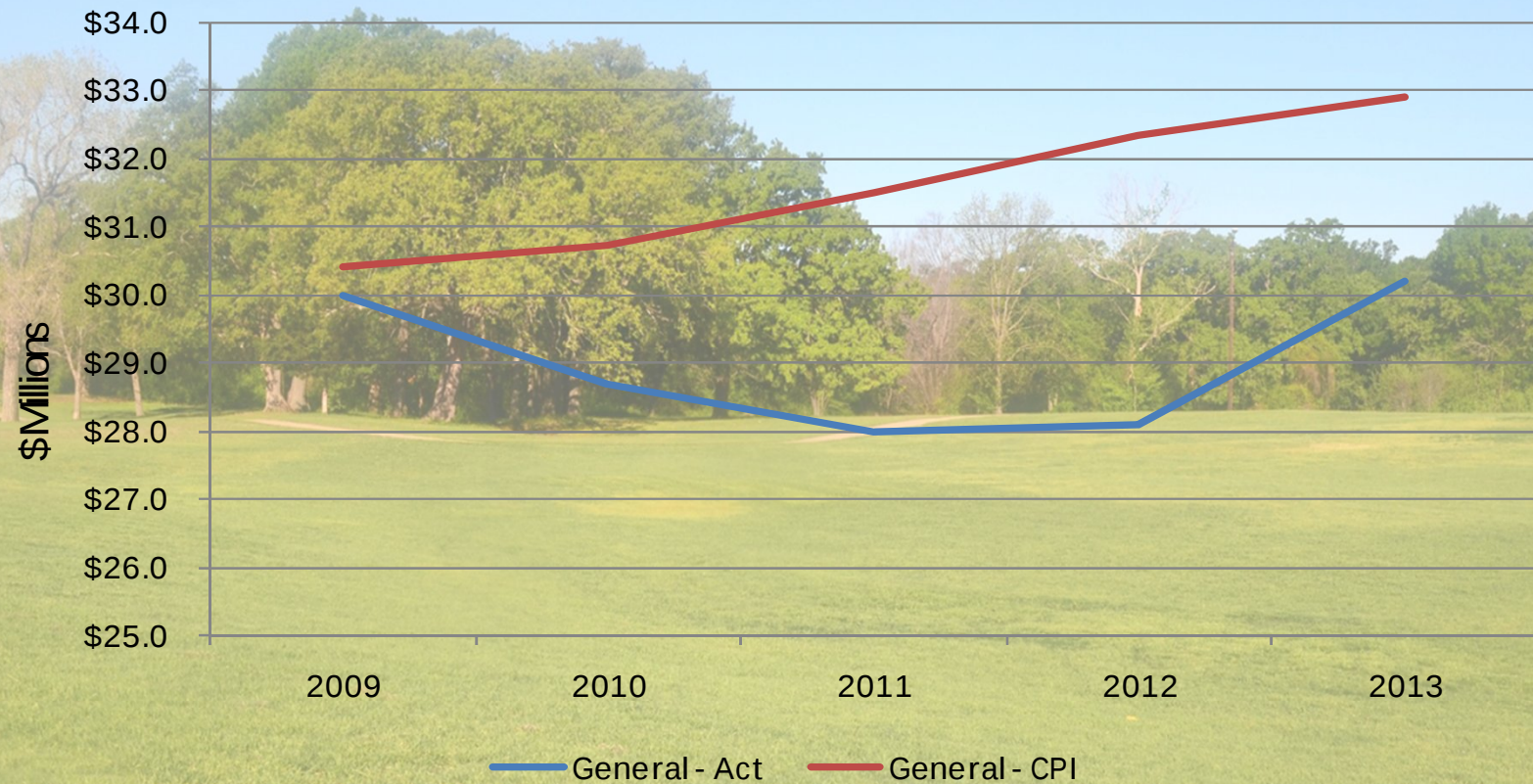
Focus points for FY2014

- Catching up fleet (Part II) \$2 million +/- for 2014 (may require borrowing)
- Group Health
- Streets – equipment and concrete maintenance program
- Hotel/Motel Tax Fund
- Airport – runway maintenance study pending
- Water & Wastewater
 - Expansion planning
 - Projects
- Stormwater plan and projects
- Building/development fees



ONGOING BALANCING

GENERAL FUND BUDGET HISTORY



General Fund
Summary of Revenues & Expenditures (Budget Basis)

	Actual 2011-2012	Amended Budget 2012-2013	Projected 2012-2013	Ongoing
Beginning Fund Balance	\$ 6,090,461	\$ 6,713,420	\$ 6,952,309	\$ 6,148,139
Revenues				
Property Taxes	6,028,695	6,094,500	6,026,500	6,280,000
Sales Taxes	12,060,814	13,350,000	13,069,000	13,070,000
Franchise Taxes	2,896,073	2,982,000	2,708,000	2,700,000
Other Taxes	115,322	109,000	106,000	125,000
Fines & Forfeitures	849,072	1,063,200	996,040	1,000,000
Recreation	271,267	281,800	272,300	270,000
Permits & Licenses	171,158	234,700	231,730	300,000
Rentals	61,252	69,700	63,295	60,000
Cemetery Sales and Services	134,643	151,200	126,200	125,000
Sales & Services	489,527	499,000	492,000	490,000
Ambulance Services	1,373,974	1,400,000	1,380,000	1,380,000
Interest	64,078	70,000	47,000	50,000
Grants and Miscellaneous	190,348	312,850	333,800	325,000
Total Revenues	24,706,223	26,617,950	25,851,865	26,175,000
Transfers In	3,563,626	3,670,766	3,670,766	3,500,000
Total Receipts	28,269,849	30,288,716	29,522,631	29,675,000
Total Funds Available	34,360,310	37,002,136	36,474,940	35,823,139
Expenditures				
Personnel	20,041,087	21,144,408	21,208,704	21,400,000
Supplies	1,085,161	1,452,232	1,457,200	1,450,000
Maintenance	971,899	1,205,829	1,168,946	1,150,000
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Computer Services	492,862	582,540	582,540	575,000
Debt Service	69,263	69,405	69,405	-
Contractual and Sundry Services	1,337,380	1,610,891	1,498,721	1,500,000
Vehicle Usage	1,231,087	1,271,470	1,270,355	1,300,000
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Transfer Out to Other Funds	75,563	-	-	-
Transfer Out to Fleet Fund	494,148	1,147,868	1,147,868	850,000
Total Expenditures	27,408,001	30,402,157	30,326,801	30,125,000
Excess Receipts over Expenditures	861,848	(113,441)	(804,170)	(450,000)
Ending Fund Balance	\$ 6,952,309	\$ 6,599,979	\$ 6,148,139	\$ 5,698,139
	92.59	79.24	74.00	70.96

Utility Fund
Summary of Revenues & Expenses (Budget Basis)

	Actual 2011-2012	Adjusted Budget 2012-2013	Projected 2012-2013	Ongoing
Beginning Reserve	\$ 5,375,980	\$ 6,848,028	\$ 6,588,906	\$ 6,600,591
Revenues				
Water Revenues	11,375,889	11,859,000	12,018,000	12,018,000
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Laboratory Charges	114,214	110,000	125,100	125,100
Service & Penalties	504,861	475,000	494,000	494,000
Earned Interest	25,541	10,000	16,000	16,000
Intergovernmental	453,447	449,700	449,700	453,092
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Expenses				
Personnel	4,417,642	4,627,761	4,610,698	4,700,000
Supplies	735,116	1,101,730	941,482	950,000
Maintenance & Repair	1,584,915	1,879,657	1,385,127	1,600,000
Utilities	2,478,388	2,835,796	2,613,800	2,700,000
Computer Services	78,114	85,670	85,670	85,000
Debt Service	5,837,171	4,768,807	4,571,294	4,700,000
Contract Wages	79,256	64,000	62,000	62,000
Contractual & Special Services	1,867,698	1,531,521	1,502,984	1,500,000
Vehicle Usage	279,578	302,310	302,310	305,000
Other	279,349	443,857	430,000	430,000
Capital Expenses	16,898	18,300	38,455	40,000
Total Expenses	17,654,125	17,659,409	16,543,820	17,072,000
 Transfers Out	 	 	 	
General Fund	1,544,000	3,044,000	3,044,000	3,100,000
Others	209,700	128,795	128,795	40,000
Total Transfers Out	1,753,700	3,172,795	3,172,795	3,140,000
Total Expenses	19,407,825	20,832,204	19,716,615	20,212,000
 Excess Revenues over Expenditures	 1,212,926	 (703,079)	 11,685	 (480,308)
 Ending Reserve	 \$ 6,588,906	 \$ 6,144,949	 \$ 6,600,591	 \$ 6,120,283
	123.92	107.67	122.19	110.52

Solid Waste Fund
Summary of Revenues & Expenditures (Budget Basis)

	Actual	Adjusted	Projected	
	2011-2012	Budget	2012-2013	Ongoing
	2012-2013			
Beginning Fund Balance	\$ 2,070,127	\$ 865,162	\$ 1,188,105	\$ 1,198,443
Revenues				
Solid Waste Fees	5,412,601	5,361,000	5,302,000	5,302,000
Service Penalties	48,675	45,000	47,000	47,000
Interest	7,028	5,000	500	500
Miscellaneous	148,462	186,000	92,000	92,000
Total Revenues	5,616,766	5,597,000	5,441,500	5,441,500
Total Funds Available	7,686,893	6,462,162	6,629,605	6,639,943
Expenses				
Personnel	1,431,856	1,507,108	1,498,340	1,535,000
Supplies	73,708	106,480	105,700	105,000
Maintenance & Repair	23,279	53,620	54,865	55,000
Utilities	18,854	17,850	25,000	30,000
Contract Wages	-	2,080	-	-
Computer Services	9,299	12,850	12,850	15,000
Solid Waste Debt Service	58,499	35,205	35,208	-
Contractual & Sundry Services	1,394,156	1,599,559	1,470,852	1,470,000
Vehicle Usage	906,570	1,045,300	1,046,827	1,050,000
Transfers Out	2,582,567	1,181,520	1,181,520	1,125,000
Total Expenses	6,498,788	5,561,572	5,431,162	5,385,000
Excess Receipts over Expenditures	(882,022)	35,428	10,338	56,500
Ending Fund Balance	\$ 1,188,105	\$ 900,590	\$ 1,198,443	\$ 1,254,943



Council Input for FY2014 Budget

Budget Calendar

Financial Update

March 13, 2013

Budget Planning Meeting with City Council

April 26, 2013

Budget Workshop*

June 19-20, 2013

Present Draft Budget to Council

July 15, 2013

Introduce Budget Ordinance

August 5, 2013

Final Action on Budget Ordinance

August 19, 2013

Introduce Tax Rate Ordinance

Final Action on Tax Rate Ordinance

September 3, 2013

Notes:

- * This is expected to be a one-day Workshop; but an additional day is scheduled as a placeholder in case more time is needed.

HOTEL/MOTEL TAX FUND COUNCIL PRIORITIES

- HOT SUMMER NIGHTS ● ● ● ● ●
- LIGHTS ON THE LAKE ● ● ● ●
- ADVERTISING ● ● ●
- EVENT GRANTS ● ● ● ● ●
- DOWNTOWN GRANT PROGRAM ● ● ●
- SHERMAN COUNCIL FOR ARTS: HUMANITIES
- SHERMAN MUSEUM ●

STATE OF TEXAS

§

May 6, 2013

COUNTY OF GRAYSON

§

BE IT REMEMBERED THAT A Regular Meeting of the City Council of the City of Sherman, Grayson County, Texas was begun and held in the Council Chambers of City Hall on May 6, 2013.

MEMBERS PRESENT: MAYOR CARY WACKER; DEPUTY MAYOR PAM HOWETH. COUNCIL MEMBERS JOHNSON, PLYLER, SMITH, SOFEY, SOFTLY.

MEMBERS ABSENT: NONE.

CALL TO ORDER

Mayor Wacker called the meeting to order at 5:00 p.m. The Pledge of Allegiance and the Invocation were given by Council Member Joe Smith.

CALL TO ORDER

APPROVE MINUTES

The Council reviewed the Minutes of the Regular City Council Meeting of April 15, 2013. Council Member Sofey moved to approve the Minutes as presented; Second by Council Member Smith. All present voted AYE. MOTION CARRIED.

APPROVE MINUTES

PROCLAMATION

"MOTORCYCLE SAFETY AND AWARENESS MONTH" – MAY 2013

Council Member Johnson presented a proclamation designating May 2013 as "Motorcycle Safety and Awareness Month" to Skee Dodson, Chapter Coordinator of Texoma ABATE.

MOTORCYCLE SAFETY & AWARENESS MONTH (MAY 2013)

Mr. Dodson said one of ABATE's major objectives is safety and awareness in the community. He said in the first six months of 2012, Texas enjoyed a 28% decrease in motorcycle fatalities. Even though Texas has one of the longest riding seasons and had an increase in motorcycle registrations, during the first nine months of 2012, they had a decrease in the fatality rate of 34% for the period. This made Texas number one in the nation for this drop in the fatality rate.

Mr. Dodson contributed the lower fatality rate to the proactive communities that want to educate the general public and encourage them to "look twice and save a life."

He thanked the City Council for the proclamation and presented them with a sign urging drivers to "Share the Road, Watch for Motorcycles."

"NATIONAL TRAVEL AND TOURISM WEEK" – MAY 4-12, 2013

Mayor Wacker presented a proclamation designating May 4

NATIONAL TRAVEL & TOURISM WEEK (MAY 4-12, 2013)

through 12, 2013 as “National Travel and Tourism Week” to Diana Adair, the City’s Tourism Manager.

Ms. Adair thanked the City Council for the proclamation and for their efforts to promote the importance of tourism and its effects on the economy. She said, in recognition of Tourism Week, the Sherman Department of Tourism and the Sherman Chamber of Commerce will partner with Denison to greet visitors at the Texas State Travel Center, north of Denison, on Friday, May 10, 2013.

She also invited everyone to the 2013 season of Hot Summer Nights and to the 4th Annual Lights on the Lake event.

INTRODUCTION AND PUBLIC HEARING OF ORDINANCES

Mayor Wacker called for the Public Hearing of Ordinance 5773:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ORDAINING THE CITY’S PARTICIPATION IN THE TEXAS ENTERPRISE ZONE PROGRAM PURSUANT TO THE TEXAS ENTERPRISE ZONE ACT, CHAPTER 2303, TEXAS GOVERNMENT CODE (ACT), PROVIDING TAX INCENTIVES, DESIGNATING A LIAISON FOR COMMUNICATION WITH INTERESTED PARTIES, AND NOMINATING TYSON FRESH MEATS, INC. TO THE OFFICE OF THE GOVERNOR ECONOMIC DEVELOPMENT & TOURISM (EDT) THROUGH THE ECONOMIC DEVELOPMENT BANK (BANK) AS AN ENTERPRISE PROJECT (PROJECT); PROVIDING FOR A REPEALER.

ORD 5773
TYSON FRESH MEATS
AS ENTERPRISE ZONE
PROJECT

Scott Connell, Sherman Economic Development Corporation President, explained that Tyson made an application to reauthorize their Enterprise Zone status at the State level. The City is the nominating entity.

Some of the requirements have changed from the past submissions and the company itself is now designated as the project instead of the actual project. The language of the ordinance needs to match the specific language of the tax identification number.

The language from the project has been removed and the actual name of the corporate entity has been included so they can benefit from the incentive. Mr. Connell added that the field is very competitive and he hoped Tyson would be awarded the incentive in the next few weeks.

No other citizens appeared before the City Council to discuss Ordinance 5773.

Mayor Wacker called for the Public Hearing of Ordinance 5774:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ESTABLISHING MAXIMUM, REASONABLE AND PRUDENT RATES OF SPEED ON CERTAIN PORTIONS OF STATE HIGHWAY 56 (SH 56) IN THE

ORD 5774
SPEED ZONE ON
S.H. 56

CORPORATE LIMITS OF SHERMAN, GRAYSON COUNTY, TEXAS; FIXING PENALTIES FOR VIOLATION THEREOF; DECLARING AN EMERGENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

Mayor Wacker explained that a recent traffic study had been conducted by the Texas Department of Transportation in conjunction with the Sherman Independent School District. Citizens had asked the City Street Department to review safe speed limits on S.H. 56, in front of Sherman High School.

Kiki Osterman, SISD Board of Trustees President, asked the City Council to support the effort to lower the speed limit in front of Sherman High School for the safety of everyone. She felt that great things could be done for Sherman when everyone worked together.

No other citizens appeared before the City Council to discuss Ordinance 5774.

The Public Hearing was closed.

ADOPTION OF ORDINANCES

Ordinance 5773

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ORDAINING THE CITY'S PARTICIPATION IN THE TEXAS ENTERPRISE ZONE PROGRAM PURSUANT TO THE TEXAS ENTERPRISE ZONE ACT, CHAPTER 2303, TEXAS GOVERNMENT CODE (ACT), PROVIDING TAX INCENTIVES, DESIGNATING A LIAISON FOR COMMUNICATION WITH INTERESTED PARTIES, AND NOMINATING TYSON FRESH MEATS, INC. TO THE OFFICE OF THE GOVERNOR ECONOMIC DEVELOPMENT & TOURISM (EDT) THROUGH THE ECONOMIC DEVELOPMENT BANK (BANK) AS AN ENTERPRISE PROJECT (PROJECT); PROVIDING FOR A REPEALER.

ORD 5773

**TYSON FRESH MEATS
AS ENTERPRISE ZONE
PROJECT**

Ordinance 5774

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ESTABLISHING MAXIMUM, REASONABLE AND PRUDENT RATES OF SPEED ON CERTAIN PORTIONS OF STATE HIGHWAY 56 (SH 56) IN THE CORPORATE LIMITS OF SHERMAN, GRAYSON COUNTY, TEXAS; FIXING PENALTIES FOR VIOLATION THEREOF; DECLARING AN EMERGENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

ORD 5774

**SPEED ZONE ON
S.H. 56**

ACTION TAKEN.

Motion by Council Member Smith to approve Ordinance Nos. 5773 and 5774, as presented. Second by Council Member Johnson.

VOTING AYE: Howeth, Johnson, Plyler, Smith, Sofey, Softly.

VOTING NAY: None.

MOTION CARRIED.

CONSENT AGENDA

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

RESOLUTIONS

RESOLUTION NO. 5765 – AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH VILBIG & ASSOCIATES, PLLC FOR THE DESIGN OF THE LOY LAKE ROAD IMPROVEMENTS

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH VILBIG & ASSOCIATES, PLLC FOR THE DESIGN OF THE LOY LAKE ROAD IMPROVEMENTS.

Clay Barnett, City Engineer, said the Loy Lake Road project will include a four-lane transition area between the six-lane bridge and the two-lane road at Sara Swamy Drive. The transition area will help alleviate the likelihood of a bottleneck at the intersection. He presented a drawing of the construction project.

Council Member Smith asked where the four-lane area would begin. George Olson, City Manager, said there is currently a three-lane road from Sara Swamy Drive, going north, with a divided median at McAlister's Deli.

ACTION TAKEN.

Motion by Council Member Sofey to approve Resolution No. 5765, as presented. Second by Deputy Mayor Howeth.

VOTING AYE: Howeth, Johnson, Plyler, Smith, Sofey, Softly.

VOTING NAY: None.

MOTION CARRIED.

RESOLUTION NO. 5766 – ABANDONING A TWENTY FOOT (20') CITY DRAINAGE AND UTILITY EASEMENT LOCATED ON THE NORTH SIDE OF LOT 2, BLOCK 1 OF THE CRESCENT OAKS PLAZA ADDITION AND SHOWN BY PLAT RECORDED IN VOLUME 21, PAGES 39-40 OF THE PLAT RECORDS OF GRAYSON COUNTY, TEXAS

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ABANDONING A TWENTY FOOT (20') CITY DRAINAGE AND UTILITY EASEMENT LOCATED ON THE NORTH SIDE OF LOT 2, BLOCK 1 OF THE CRESCENT OAKS PLAZA ADDITION AND SHOWN BY PLAT RECORDED IN VOLUME 21, PAGES 39-40 OF THE PLAT RECORDS OF GRAYSON COUNTY, TEXAS.

CONSENT AGENDA.

OTHER BUSINESS

RECEIVE CHIEF ANIMAL CONTROL OFFICER SCOTT PARKER'S REPORT ON THE SHERMAN ANIMAL

CONSENT AGENDA

**RES 5765
LOY LAKE ROAD
IMPROVEMENTS**

**RES 5766
ABANDONING
DRAINAGE & UTILITY
EASEMENT
(CRESCENT OAKS
PLAZA ADDITION)**

**ANIMAL SHELTER
ADOPT-A-THON**

SHELTER'S ADOPT-A-THON SCHEDULED FOR SATURDAY, JUNE 1, 2013 AND SUNDAY, JUNE 2, 2013

UPDATE

Scott Parker, Chief Animal Control Officer, invited the City Council and staff to attend the Annual Adopt-A-Thon, scheduled for June 1 and 2, 2013, from 10:00 a.m. to 6:30 p.m. at the Animal Shelter, 1800 East Ida Road. They have participated in the national event since 1996.

Mr. Parker said he had previously spoke about the volunteer program, which still continues. The adoption trailer continues to set up at PetCo on Friday, Saturday, and Sunday, from 12:00 p.m. until 6:30 p.m. He said they have had no adoptable animals since October 1, 2012.

The donation program continues to grow and that money is being used to make animals more presentable and to nurse animals back to health when they are sick. The program is working.

Mr. Parker thanked the City Council for their support and Mayor Wacker thanked the Animal Control Staff for their hard work.

A kitten and puppy from the Animal Shelter also “wowed” those in attendance.

APPROVE QUARTERLY INVESTMENT REPORTS FOR PERIOD ENDING MARCH 31, 2013

QUARTERLY
INVESTMENT REPORT

The City Council approved the Quarterly Investment Report for the period ending March 31, 2013. The report included the Operating portfolio and the CO Debt Proceeds portfolio, which were both in compliance with applicable State laws and the Investment Policy, as of March 31, 2013.

The Operating portfolio has a book value of about \$22.3 million and was appropriately liquid. Its weighted-average maturity increased to about 302 days, up from 257 days last period, because additional securities were purchased during the quarter. The portfolio yield of 0.36% for the quarter is higher than the benchmark yield of 0.11%. The portfolio value on the City's books was essentially equal to the market value of the overall portfolio.

The CO Debt Proceeds portfolio balance of about \$56,000 is down approximately \$3,000 from the previous quarter due to payment on a construction project. The portfolio remains adequately liquid, with all of the funds available within one day. Its yield of 0.11% for the quarter was equal to the benchmark yield. The portfolio value on the City's books is equal to the market value of the overall portfolio.

CONSENT AGENDA.

SITE PLAN APPROVAL FOR AMERICAN REALTY CAPITOL OPERATING PARTNERSHIP, LP, OWNERS; FEDEX GROUND PACKAGE HANDLING FACILITY, TENANT; VORTEX ENGINEERING & ARCHITECTURE, INC., ENGINEER/

APPROVE SITE PLAN
BLALOCK PARK
FEDEX GROUND

ARCHITECT; AND ROBERT W. JONES, II, REPRESENTATIVE, UNDER ORDINANCE NO. 2252, ARTICLE IV, SECTION 410(2)(J) FOR AN OFFICE AND PARKING LOT ADDITION IN THE BLALOCK INDUSTRIAL PARK DISTRICT AT 3221 NORTHGATE DRIVE

The City Council approved the Site Plan for an office and parking lot addition for the FedEx Ground Package Handling Facility located in the Blalock Industrial Park District at 3221 Northgate Drive.

The project includes constructing a 575 square foot office addition and adding 20 employee parking spaces and 13 FedEx Home Delivery van parking spaces. The exterior of the addition will be metal panels with a stucco finish to match the existing building.

The Planning and Zoning Commission recommended approval of the Site Plan, subject to the Staff Review Letter.
CONSENT AGENDA.

REPLAT APPROVAL OF LOTS 3 AND 4, BLOCK 1, FAIRVIEW PARK PATIO HOMES, REPLAT OF LOTS 1-7, CONTAINING 0.742 ACRES; SHREETEJAS LLC, OWNER; AND DATA LAND SERVICES, SURVEYOR (1400 BLOCK OF PARK PLACE)

The City Council approved the Replat of Lots 3 and 4, Block 1, Fairview Park Patio Homes, Replat of Lots 1 through 7, containing 0.742 acres, located in the 1400 block of Park Place.

The property is across from Fairview Park and is zoned in a R-2 Multi-Family Residential District. The owner would like to replat the two lots by moving lot lines for multi-family residential development.

The Planning and Zoning Commission recommended approval of the Replat, subject to the Staff Review Letter.
CONSENT AGENDA.

CITIZENS REQUESTS

There were no citizen's requests.

MEDIA QUESTIONS

There were no media questions.

COUNCIL COMMENTS

S.H. 56 NEAR SHERMAN HIGH SCHOOL

Deputy Mayor Howeth expressed concern about students walking along S.H. 56 near Sherman High School and trying to cross the street. She understood it was TxDOT's responsibility to provide a safe crossing. She has received several requests about the problem and felt a safe crossing and sidewalks should be provided. She urged TxDOT to add sidewalks for the students when funding becomes available.

APPROVE REPLAT
FAIRVIEW PARK
PATIO HOMES
(1400 BLOCK OF
PARK PLACE)

CITIZEN'S REQUESTS

MEDIA QUESTIONS

S.H. 56 NEAR
SHERMAN HIGH
SCHOOL

PANDA POWER WINS GREEN DEAL OF THE YEAR DESIGNATION

Council Member Johnson congratulated Panda Power Funds and SEDCO for winning the Dallas Business Journal's Real Estate Green Project of the Year. He felt the recognition and notoriety for the community was good and let the people in the Metroplex know that Sherman was here and has a lot to offer.

Mayor Wacker urged promotion of the designation on the City's website.

FRIENDS OF HAGERMAN

Mayor Wacker recognized the Friends of Hagerman for their tremendously successful Birding Festival this past weekend at the Hagerman Wildlife Refuge. The City of Sherman supported the event with tourism funding. She added that there were many visitors to the event and it is a beautiful natural area.

ADJOURNMENT

On Motion duly made and carried, the meeting adjourned at 5:25 p.m.

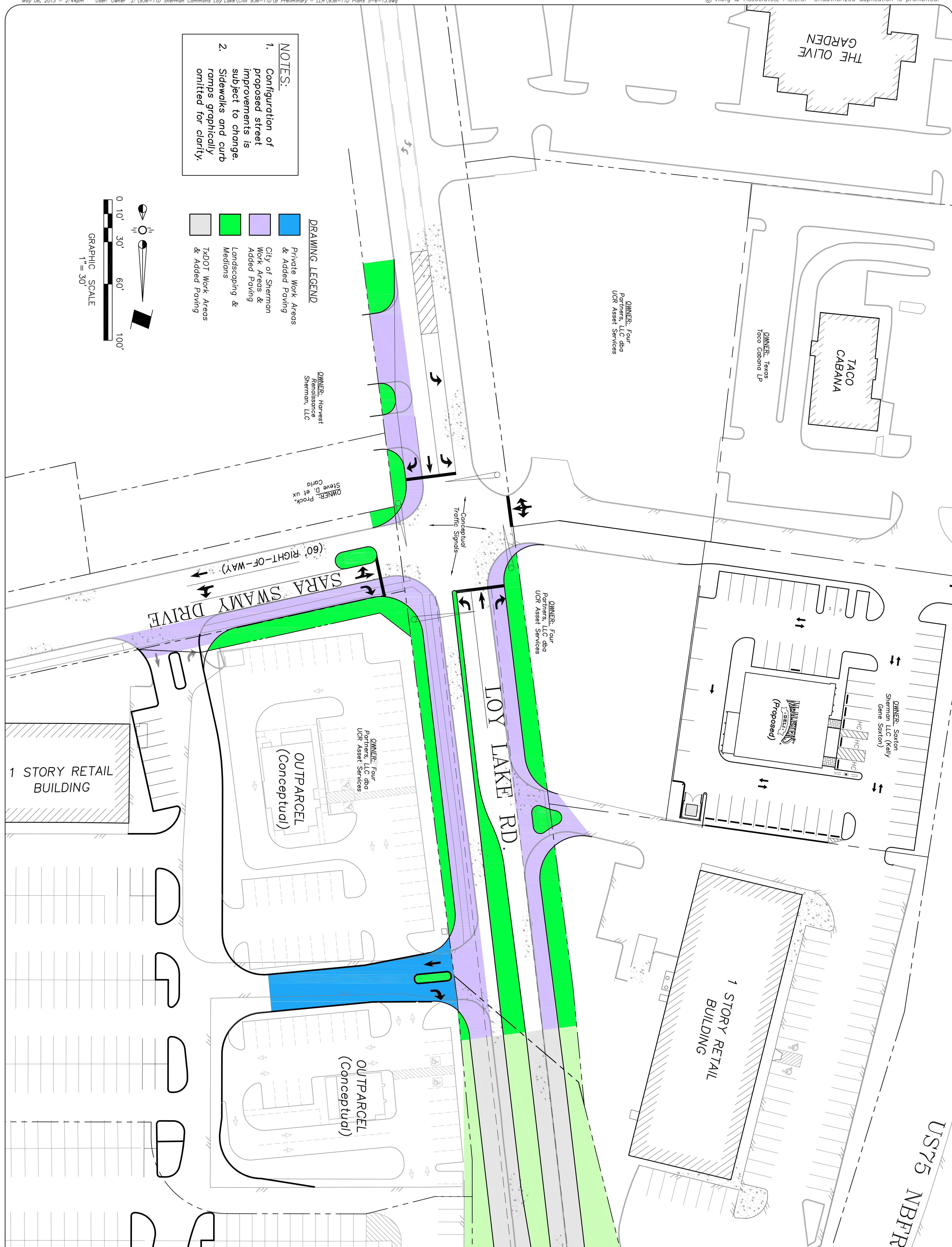
**PANDA POWER WINS
GREEN DEAL OF THE
YEAR DESIGNATION**

**FRIENDS OF
HAGERMAN**

ADJOURNMENT

MAYOR

CITY CLERK



- NOTES:
1. Configuration of proposed street improvements is subject to change
 2. Sidewalks and curbs ramps graphically omitted for clarity

DRAWING LEGEND

	Private Work Areas & Added Paving
	City of Sherman Work Areas & Added Paving
	Landscaping & Medians
	TXDOT Work Areas & Added Paving

1 STORY RETAIL
BUILDING

OUTPARCEL
(Conceptual)

OWNER: Four Partners, LLC dba UCR Asset Services

OWNER: Four Partners, LLC dba UCR Asset Services

JOY LAKE RD

SARA SWAMY DRIVE

US75 NBFR

1 STORY RETAIL BUILDING

Sherman LLC (Kelly
Gene Saxton)

(Proposed)

PROGRESS PLOTS
FOR INTERIM DESIGN
REVIEW ONLY
NOT FOR CONSTRUCTION
DATE: 05/06/13

[illegible]

LOY LAKE /
SARA SWAMY
EXHIBIT



UNIVERSITY OF CALIFORNIA, RIVERSIDE

SHERMAN COMMONS
LOY LAKE ROAD WIDENING
NEC OF LOY LAKE RD. AND U.S. 75
SHERMAN, TEXAS

THIS DOCUMENT IS RELEASED
FOR THE PURPOSE OF
INTERIM REVIEW UNDER THE
AUTHORITY OF DAVID A.
VILBIG, P.E., 67207 ON
06 MAY 2013. IT IS NOT TO
BE USED FOR CONSTRUCTION,
FINAL BID, OR PERMIT PURPOSES.

VILBIG & ASSOCIATES, PLLC.
CONSULTING ENGINEERS & SURVEYORS
10132 MONROE DRIVE DALLAS, TEXAS 75229
(214) 352-7333 www.vilbig.com
TEXAS ENGINEERING FIRM # F-5614

SHEET
DDC5.2
- OF (TBD)



City Council Regular Meeting

Agenda Item No. B. 1.

Meeting Date: 05/20/2013

Prepared By: Brandon Shelby, City Attorney

Approved By: George Olson, City Manager

Caption:

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5775

Approving and Adopting Rate Schedule "RRM - Rate Review Mechanism" for Atmos Energy Corporation, Mid-Tex Division to be in Force in the City for a Period of Time as Specified in the Rate Schedule; Declaring an Effective Date; Requiring Delivery of this Ordinance to the Company and the Atmos Cities Steering Committee Legal Counsel

Issue:

Approval and adoption of the new Rate Review Mechanism ("RRM") Tariff for Atmos Energy Corporation, Mid-Tex Division ("Atmos Mid-Tex" or "Company"), as recommended by the Atmos Cities Steering Committee ("ACSC") Executive Committee and the ACSC legal counsel

Background:

Under the proposed Rate Review Mechanism ("RRM") Tariff, Cities will receive the benefit of the following:

- Ratepayers in the Cities will receive a discount of at least \$3 million from each RRM filing, which reduces the amount of rate increase Atmos would otherwise obtain under the RRM.
- The discount will increase each year by the same percentage that Atmos' total requested revenues increase for that year.
- The rate increase resulting from the annual RRM filing will be split 40/60 between customer charge and usage charge, with no increase to customer charges to exceed \$0.50 in any one year. In the first year, there will be no increase to the residential customer charge.
- The annual rate adjustment will use the Company's actual capital structure, but the equity portion of the capital structure will not exceed 55% (currently the Company's capital structure is approximately 52% equity/48% long-term debt).
- The Cities will maintain the ability to review each filing and make adjustments to the Company's requested increase; and the Company will reimburse the Cities' rate case expenses incurred for the annual review on a monthly basis.

A continuation of the RRM Tariff will maintain the favorable working relationship between ACSC and the Company that has included quarterly face-to-face meetings, and will avoid the automatic imposition of GRIP rate increases over which the Cities have no control.

Origination:

Geoffrey Gay of Lloyd Gosselink Rochelle & Townsend, P.C., Legal Counsel to ACSC

Financial Consideration:

Approval of this ordinance will result in rates effective October 15, 2013 and a monthly increase of not more than \$0.50 for the average residential customer.

Staff Recommendation:

It is recommended that the City Council adopt the ordinance and approve the Rate Review Mechanism ("RRM") Tariff.

Alternatives:

As the ACSC Negotiation Team has negotiated the most beneficial settlement, no other alternatives are recommended.

Attachments

ACSC Legal Counsel Communication of May 2, 2013

Ordinance No. 5775

Attachment A - RRM Tariff

Model Staff Report

Fact Sheet

Cloer, Pam

From: Geoffrey Gay [gmg@lglawfirm.com]
Sent: Thursday, May 02, 2013 1:18 PM
To: Abilene - Place 6 (Odis Dolton) ; Abilene (Daniel Santee); Abilene (Mindy Patterson); Addison (Chris Terry); Addison (Ronald Whitehead); Allen (Eric Ellwanger); Allen (Kevin Hammeke); Allen (Shelli Siemer); Alvarado (Debbie Thomas); Anna (Natha Wilkison); Anna (Philip Sanders); Argyle (Codi Delcambre); Argyle, Bedford, Colleyville, Farmers Branch, Grapevine, Hurst, Parker (Matthew Boyle); Arlington - Place 5 (Jay Doegey); Arlington (Mary Bunkley); Bedford (beverly.griffith@bedfordtx.gov); Bedford (david.miller@bedfordtx.gov); Bedford (Mirenda McQuagge-Walden); Bellmead (Everett "Bo" Thomas); Benbrook (David Ragsdale) ; Beverly Hills (Donna Hawkins); Blossom (Stacey Prestridge); Blue Ridge (Dan Standeford); Blue Ridge (Nacy Southard); Bowie (James R. Cantwell); Bowie (Tracey Jennings); Boyd (Joy Patterson); Bridgeport (Jessica McEachern); Brownwood (Bobby Rountree); Brownwood (Pat Chesser); Brownwood (Walter Middleton)
Cc: Geoffrey Gay; Georgia Crump; Eileen McPhee; Barbara Kimmell
Subject: Action Required - RRM Ordinance
Attachments: 2013.04.29 model ordinance adopting RRM Tariff.DOC; 2013.04.30 Atmos MidTex RRM FINAL (2).DOC; 2013.04.29 Model Staff Report for ordinance adopting RRM.DOC; 2013 04 29 RRM info sheet comp to GRIP.DOCX
Importance: High

ACSC Members – As I described in my email to you last Friday, it is the recommendation of the ACSC Executive Committee and the ACSC legal counsel that the ACSC member cities adopt the new Rate Review Mechanism ("RRM") Tariff for Atmos Mid-Tex. Because Atmos Mid-Tex intends to file for its first rate adjustment under this new tariff on July 15, it is important that you take action to approve this tariff prior to that date.

Attached to this email are 4 documents:

1. A model ordinance for your use approving and adopting the RRM Tariff for Atmos Mid-Tex.
2. Attachment A for the model ordinance, which is the RRM Tariff.
3. A model staff report for your use describing the proposed tariff and recommended action.
4. A bullet point fact sheet comparing the RRM Tariff (prior and proposed) to the GRIP filings.

Please let us know if you have any questions regarding this Tariff, or if you foresee delays in adopting the tariff by July 15. You may contact us as follows:

	Phone:	Email:
Geoffrey Gay	(512) 322-5875	gmg@lglawfirm.com
Georgia Crump	(512) 322-5832	gcrump@lglawfirm.com
Eileen McPhee	(512) 322-5817	emcphee@lglawfirm.com

Geoffrey M. Gay

Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
(512) 322-5800 phone
(512) 322-5875 direct

If you would like more information about the firm, please visit our website at <http://www.lglawfirm.com>, or about our **Utilities Practice Group**, please visit http://www.lglawfirm.com/PracticeAreas_Utility.asp

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ORDINANCE NO. 5775

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, APPROVING AND ADOPTING RATE SCHEDULE “RRM – RATE REVIEW MECHANISM” FOR ATMOS ENERGY CORPORATION, MID-TEX DIVISION TO BE IN FORCE IN THE CITY FOR A PERIOD OF TIME AS SPECIFIED IN THE RATE SCHEDULE; PROVIDING FOR A REPEALER; PROVIDING FOR SEVERABILITY; DECLARING AN EFFECTIVE DATE; REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE ATMOS CITIES STEERING COMMITTEE LEGAL COUNSEL; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Sherman, Texas (“City”) is a gas utility customer of Atmos Energy Corporation, Mid-Tex Division (“Atmos Mid-Tex” or “Company”), and a regulatory authority with an interest in the rates and charges of Atmos Mid-Tex; and

WHEREAS, the City is a member of the Atmos Cities Steering Committee (“ACSC”), a coalition of cities, most of which retain original jurisdiction over the rates and services of Atmos Mid-Tex; and

WHEREAS, in 2007, ACSC member cities and Atmos Mid-Tex collaboratively developed the Rate Review Mechanism (“RRM”) Tariff that allows for an expedited rate review process controlled by cities as a substitute for the legislatively-constructed Gas Reliability Infrastructure Program (“GRIP”); and

WHEREAS, the GRIP mechanism does not permit the City to review rate increases and constitutes piecemeal ratemaking; and

WHEREAS, the RRM process permits City review of requested rate increases and provides for a holistic review of the true cost of service for Atmos Mid-Tex; and

WHEREAS, the initial RRM tariff expired in 2011; and

WHEREAS, ACSC’s representatives have worked with Atmos Mid-Tex to negotiate a renewal of the RRM process that avoids litigation and Railroad Commission filings; and

WHEREAS, the ACSC’s Executive Committee and ACSC’s legal counsel recommend ACSC members approve the negotiated new RRM tariff; and

WHEREAS, the attached Rate Schedule “RRM – Rate Review Mechanism” (“RRM Tariff”) provides for a reasonable expedited rate review process that is a substitute for, and is superior to, the statutory GRIP process; and

WHEREAS, the expedited rate review process as provided by the RRM Tariff avoids piecemeal ratemaking; and

WHEREAS, the RRM Tariff reflects the ratemaking standards and methodologies authorized by the Railroad Commission in the most recent Atmos Mid-Tex rate case, G.U.D. No. 10170; and

WHEREAS, the RRM Tariff provides for an annual reduction in Atmos Mid-Tex’s requested rate increase of at least \$3 million; and

WHEREAS, the RRM Tariff provides for a lower customer charge than if Atmos Mid-Tex pursued GRIP filings; and

WHEREAS, the attached RRM Tariff as a whole is in the public interest;

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

SECTION 1. That the findings set forth in this Ordinance are hereby in all things approved.

SECTION 2. That the City Council finds that the RRM Tariff, which is attached hereto and incorporated herein as Attachment A, is reasonable and in the public interest, and is hereby in force and effect in the City.

SECTION 3. That to the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

SECTION 4. That if any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

SECTION 5. That this Ordinance shall become effective from and after its passage

SECTION 6. That a copy of this Ordinance shall be sent to Atmos Mid-Tex, care of Christopher Felan, Vice President of Rates and Regulatory Affairs for Atmos Mid-Tex Division, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1600, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

SECTION 7. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

INTRODUCED on this the _____ day of _____, 2013.

ADOPTED on this the _____ day of _____, 2013.

EFFECTIVE DATE on this the _____ day of _____, 2013.

CITY OF SHERMAN, TEXAS

BY: _____
CAROLYN S. WACKER, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

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

RATE SCHEDULE:	RRM – Rate Review Mechanism	
APPLICABLE TO:	ALL AREAS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS CUSTOMERS	
EFFECTIVE DATE:	Bills Rendered on and after October 15, 2013	PAGE 1 OF 6

I. Applicability

Applicable to Residential, Commercial, Industrial, and Transportation tariff customers in the Mid-Tex Division of Atmos Energy Corporation ("Company") except such customers within the City of Dallas. This Rate Review Mechanism ("RRM") provides for an annual adjustment to the Company's Rate Schedules R, C, I and T ("Applicable Rate Schedules"). Rate calculations and adjustments required by this tariff shall be determined on a System-Wide cost basis.

II. Definitions

"Test Period" is defined as the twelve months ending December 31 of each preceding calendar year.

The "Effective Date" is the date that adjustments required by this tariff are applied to customer bills. The annual Effective Date is June 1. The 2013 filing Effective Date is October 15, 2013.

Unless otherwise noted in this tariff, the term "Final Order" refers the final order issued by the Railroad Commission of Texas in GUD 10170.

The term "System-Wide" means all incorporated and unincorporated areas served by the Company.

"Review Period" is defined as the period from the Filing Date until the Effective Date.

The "Filing Date" is as early as practicable but no later than March 1 of each year with the exception of 2013, which shall have a Filing Date of July 15, 2013. The last annual Effective Date is June 1, 2017.

III. Calculation

The RRM shall calculate an annual, System-Wide cost of service ("COS") that will be used to adjust applicable rate schedules prospectively as of the Effective Date. The annual cost of service will be calculated according to the following formula:

$$\text{COS} = \text{OM} + \text{DEP} + \text{RI} + \text{TAX} + \text{CD} - \text{ADJ}$$

Where:

OM = all reasonable and necessary operation and maintenance expenses from the

RATE SCHEDULE:	RRM – Rate Review Mechanism	
APPLICABLE TO:	ALL AREAS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS CUSTOMERS	
EFFECTIVE DATE:	Bills Rendered on and after October 15, 2013	PAGE 2 OF 6

Test Period adjusted for known and measurable items and prepared consistent with the rate making treatments approved in the Final Order. Known and measurable adjustments shall be limited to those changes that have occurred prior to the Filing Date. OM may be adjusted for atypical and non-recurring items. Shared Services allocation factors shall be recalculated each year based on the latest component factors used during the Test Period, but the methodology used will be that approved in the Final Order.

DEP = depreciation expense calculated at depreciation rates approved by the Final Order.

RI = return on investment calculated as the Company's pretax return multiplied by rate base at Test Period end. Rate base is prepared consistent with the rate making treatments approved in the Final Order, except that no post Test Period adjustments will be permitted. Pretax return is the Company's weighted average cost of capital before income taxes. The Company's weighted average cost of capital is calculated using the methodology from the Final Order including the Company's actual capital structure and long term cost of debt as of the Test Period end (adjusted for any known and measurable changes) and the return on equity from the Final Order. However, in no event will the percentage of equity exceed 55%. Regulatory adjustments due to prior regulatory rate base adjustment disallowances will be maintained. Cash working capital will be calculated using the lead/lag days approved in the Final Order. With respect to pension and other postemployment benefits, the Company will record a regulatory asset or liability for these costs until the amounts are included in the next annual rate adjustment implemented under this tariff. Each year, the Company's filing under this Rider RRM will clearly state the level of pension and other postemployment benefits recovered in rates.

TAX = income tax and taxes other than income tax from the Test Period adjusted for known and measurable changes occurring after the Test Period and before the Filing Date, and prepared consistent with the rate making treatments approved in the Final Order.

CD = interest on customer deposits.

ADJ = Downward adjustment to the overall, System-Wide test year cost of service in the amount of \$3,000,000.00, adjusted by a percentage equal to the total percentage increase in base-rate revenue sought pursuant to this tariff.

RATE SCHEDULE:	RRM – Rate Review Mechanism	
APPLICABLE TO:	ALL AREAS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS CUSTOMERS	
EFFECTIVE DATE:	Bills Rendered on and after October 15, 2013	PAGE 3 OF 6

IV. Annual Rate Adjustment

The Company shall provide schedules and work papers supporting the Filing's revenue deficiency/sufficiency calculations using the methodology accepted in the Final Order. The result shall be reflected in the proposed new rates to be established for the effective period. The Revenue Requirement will be apportioned to customer classes in the same manner that Company's Revenue Requirement was apportioned in the Final Order. For the Residential Class, 40% of the increase may be recovered in the customer charge. The increase to the Residential customer charge shall not exceed \$0.50 per month in any given year. The remainder of the Residential Class increase not collected in the customer charge will be recovered in the usage charge. The Company will forgo any change in the Residential customer charge with the first proposed rate adjustment pursuant to this tariff. For all other classes, the change in rates will be apportioned between the customer charge and the usage charge, consistent with the Final Order. Test Period billing determinants shall be adjusted and normalized according to the methodology utilized in the Final Order.

V. Filing

The Company shall file schedules annually with the regulatory authority having original jurisdiction over the Company's rates on or before the Filing Date that support the proposed rate adjustments. The schedules shall be in the same general format as the cost of service model and relied-upon files upon which the Final Order was based. A proof of rates and a copy of current and proposed tariffs shall also be included with the filing. The filing shall be made in electronic form where practical. The Company's filing shall conform to Minimum Filing Requirements (to be agreed upon by the parties), which will contain a minimum amount of information that will assist the regulatory authority in its review and analysis of the filing. The Company and regulatory authority will endeavor to hold a technical conference regarding the filing within ten (10) calendar days after the Filing Date.

The 2013 Filing Date will be July 15, 2013.

A sworn statement shall be filed by an Officer of the Company affirming that the filed schedules are in compliance with the provisions of this Rate Review Mechanism and are true and correct to the best of his/her knowledge, information, and belief. No testimony shall be filed, but a brief narrative explanation shall be provided of any changes to corporate structure, accounting methodologies, allocation of common costs, or atypical or non- recurring items included in the filing.

VI. Evaluation Procedures

RATE SCHEDULE:	RRM – Rate Review Mechanism	
APPLICABLE TO:	ALL AREAS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS CUSTOMERS	
EFFECTIVE DATE:	Bills Rendered on and after October 15, 2013	PAGE 4 OF 6

The regulatory authority having original jurisdiction over the Company's rates shall review and render a decision on the Company's proposed rate adjustment prior to the Effective Date. The Company shall provide all supplemental information requested to ensure an opportunity for adequate review by the relevant regulatory authority. The Company shall not unilaterally impose any limits upon the provision of supplemental information and such information shall be provided within seven (7) working days of the original request. The regulatory authority may propose any adjustments it determines to be required to bring the proposed rate adjustment into compliance with the provisions of this tariff.

The regulatory authority may disallow any net plant investment that is not shown to be prudently incurred. Approval by the regulatory authority of net plant investment pursuant to the provisions of this tariff shall constitute a finding that such net plant investment was prudently incurred. Such finding of prudence shall not be subject to further review in a subsequent RRM or Statement of Intent filing.

During the Review Period, the Company and the regulatory authority will work collaboratively and seek agreement on the level of rate adjustments. If, at the end of the Review Period, the Company and the regulatory authority have not reached agreement, the regulatory authority shall take action to modify or deny the proposed rate adjustments. The Company shall have the right to appeal the regulatory authority's action to the Railroad Commission of Texas. Upon the filing of an appeal of the regulatory authority's order relating to an annual RRM filing with the Railroad Commission of Texas, the regulatory authority having original jurisdiction over the Company's rates shall not oppose the implementation of the Company's proposed rates subject to refund, nor will the regulatory authority advocate for the imposition of a third party surety bond by the Company. Any refund shall be limited to and determined based on the resolution of the disputed adjustment(s) in a final, non-appealable order issued in the appeal filed by the Company at the Railroad Commission of Texas.

In the event that the regulatory authority and Company agree to a rate adjustment(s) that is different from the adjustment(s) requested in the Company's filing, the Company shall file compliance tariffs consistent with the agreement. No action on the part of the regulatory authority shall be required to allow the rate adjustment(s) to become effective on June 1. To the extent that the regulatory authority does not take action on the Company's RRM filing by May 31, the rates proposed in the Company's filing shall be deemed approved effective June 1. (2013 filing RRM rate will be effective October 15, 2013 if no action is taken). Notwithstanding the preceding sentence, a regulatory authority may choose to take affirmative action to approve a rate adjustment under this tariff. In those instances where such approval cannot reasonably occur by May 31, the rates finally approved by the regulatory authority shall be deemed effective as of June 1.

RATE SCHEDULE:	RRM – Rate Review Mechanism	
APPLICABLE TO:	ALL AREAS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS CUSTOMERS	
EFFECTIVE DATE:	Bills Rendered on and after October 15, 2013	PAGE 5 OF 6

To defray the cost, if any, of regulatory authorities conducting a review of the Company's annual RRM filing, the Company shall reimburse the regulatory authorities on a monthly basis for their reasonable expenses incurred upon submission of invoices for such review. Any reimbursement contemplated hereunder shall be deemed a reasonable and necessary operating expense of the Company in the year in which the reimbursement is made. A regulatory authority seeking reimbursement under this provision shall submit its request for reimbursement to the Company no later than August 1 of the year in which the RRM filing is made and the Company shall reimburse regulatory authorities in accordance with this provision on or before August 30 of the year the RRM filing is made.

To the extent possible, the provisions of the Final Order shall be applied by the regulatory authority in determining whether to approve or disapprove of Company's proposed rate adjustment.

This Rider RRM does not limit the legal rights and duties of a regulatory authority. Nothing herein shall abrogate the jurisdiction of the regulatory authority to initiate a rate proceeding at any time to review whether rates charged are just and reasonable. Similarly, the Company retains its right to utilize the provisions of Texas Utilities Code, Chapter 104, Subchapter C to request a change in rates. The provisions of this Rider RRM are implemented in harmony with the Gas Utility Regulatory Act (Texas Utilities Code, Chapters 101-105).

The annual rate adjustment process set forth in this tariff shall remain in effect during the pendency of any Statement of Intent rate filing.

VII. Reconsideration, Appeal and Unresolved Items

Orders issued pursuant to this mechanism are ratemaking orders and shall be subject to appeal under Sections 102.001(b) and 103.021, et seq., of the Texas Utilities Code (Vernon 2007).

VIII. Notice

Notice of each annual RRM filing shall be provided by including the notice, in conspicuous form, in the bill of each directly affected customer no later than forty-five (45) days after the Company makes its annual filing pursuant to this tariff. The notice to customers shall include the following information:

- a) a description of the proposed revision of rates and schedules;

RATE SCHEDULE:	RRM – Rate Review Mechanism	
APPLICABLE TO:	ALL AREAS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS CUSTOMERS	
EFFECTIVE DATE:	Bills Rendered on and after October 15, 2013	PAGE 6 OF 6

- b) the effect the proposed revision of rates is expected to have on the rates applicable to each customer class and on an average bill for each affected customer;
- c) the service area or areas in which the proposed rates would apply;
- d) the date the annual RRM filing was made with the regulatory authority; and
- e) the Company's address, telephone number and website where information concerning the proposed rate adjustment be obtained.

MODEL STAFF REPORT

The City, along with 154 other cities served by Atmos Energy Corporation, Mid-Tex Division (“Atmos Mid-Tex” or “Company”), is a member of the Atmos Cities Steering Committee (“ACSC” or “Steering Committee”). In 2007, ACSC and Atmos Mid-Tex agreed to implement an annual rate review mechanism for Atmos Mid-Tex, known as the Rate Review Mechanism (“RRM”), as a temporary replacement for the statutory mechanism known as GRIP (the “Gas Reliability Infrastructure Program”). This first RRM tariff expired in 2011, and although ACSC and Atmos Mid-Tex met many times to attempt to reach an agreement on a renewed or replacement tariff, they were unable to do so. Atmos Mid-Tex filed a full rate case in 2012. The resulting rates were approved by the Railroad Commission in December 2012 in G.U.D. No. 10170.

ACSC and the Company renewed discussions to develop revisions to the RRM tariff, and have reached a tentative agreement on the form of the RRM tariff to be in effect for a four-year period from 2013 to 2017. If the RRM process is to continue to function as a substitute for the GRIP process, cities that exercise original jurisdiction must adopt a tariff that authorizes the process. For the reasons outlined below, the ACSC Executive Committee and ACSC legal counsel recommend approval of the new RRM tariff by all ACSC member cities.

RRM Background:

The RRM tariff was originally approved by ACSC member cities as part of the settlement agreement resolving the Atmos Mid-Tex 2007 system-wide rate filing at the Railroad Commission. The RRM process was created collaboratively by ACSC and Atmos Mid-Tex as an alternative to the legislatively-authorized GRIP rate adjustment process. GRIP, like the RRM, is a form of expedited rate relief for gas utilities that avoids the long and costly process of a full rate filing. However, ACSC strongly opposes the GRIP process because it constitutes piecemeal ratemaking, does not allow any review by cities of the reasonableness of capital expenditures, and does not allow participation by cities in the Railroad Commission’s review of the annual GRIP filings, or recovery by cities of their rate case expenses. The Railroad Commission undertakes only an administrative review of GRIP filings (instead of a full hearing) and the rate increases go into effect without any material adjustments. In ACSC’s view, the GRIP process unfairly raises customers’ rates without any real regulatory oversight. In contrast, the RRM process has allowed for a more comprehensive rate review and annual adjustment as a substitute for GRIP filings.

Purpose of the Ordinance:

The purpose of the Ordinance is to approve the RRM tariff (“Attachment A”) that reflects the negotiated RRM process. For the RRM process to continue, cities exercising original jurisdiction must approve a tariff that authorizes the process.

Reasons Justifying Approval of the Negotiated RRM Tariff:

In the opinion of ACSC's Executive Committee, the RRM process is a better deal for customers than the GRIP process. Atmos Mid-Tex has stated if it were to file for a rate adjustment in 2013 under the GRIP provisions, it would request approximately \$5 million more in rate relief than it plans to request in a filing under this revised RRM tariff. ACSC assumes that is because the GRIP process only evaluates changes to capital investment. The RRM process looks at revenues (that may be increasing) and expenses (that may be declining), as well as capital investment.

Additionally, the statute authorizing the GRIP rate adjustment process allows the Company to place the entirety of any rate increase in the unavoidable monthly customer charge portion of its rates. If the Company were to file for an increase under the GRIP provisions, the entire amount of the increase would be collected through the fixed portion of the bill, rather than the volumetric charge that varies by a customer's usage. Between 2007 and 2012, ACSC was able to negotiate rate design results that constrained residential customer charges to the \$7.00 to \$7.50 range. However, the Railroad Commission has recently raised the residential customer charge to \$17.70.

The Company has agreed that for the first filing under the revised RRM tariff, there will be no increase to the residential customer charge. Thus, some of the primary benefits of the attached RRM tariff are that it moderates the impact of rate adjustments on residential customers by not changing the residential customer charge for the first RRM period. In subsequent years only 40% of the proposed increase in revenues to the residential class will be recovered through the fixed customer charge, and in no event will the residential customer charge increase by more than \$.50 per month. No such constraints exist under the GRIP process.

Additionally, the attached RRM tariff provides a discount as an incentive for cities permitting the Company annual rate relief. The RRM tariff includes an adjustment amount that is a reduction to the Company's requested increase. The adjustment lowers the Company's rate request by at least \$3 million each year. Additional reductions will also be made each year depending on the size of the Company's requested increase. The attached RRM tariff also caps at 55% the percentage of equity that can be used to calculate the Company's capital structure. Railroad Commission policy allows rates to be based on a parent company's actual capital structure, which for Atmos could mean increases in equity above the most recent level of 52%.

Under the RRM tariff, cities are also able to review the Company's annual expenses and capital investments and make adjustments, or disallowances, for any such expenses or investments that are considered to be unreasonable or unnecessary. The cities' costs in reviewing the annual filings, such as fees associated with the hiring of expert consultants and legal counsel, will be reimbursed by the Company on a monthly basis.

If cities do not approve the RRM tariff, the Company has stated that it will reinstitute its annual filings under the GRIP provisions. The anticipated GRIP adjustment for 2013 would be approximately \$5 million higher than the Company anticipates requesting through an RRM filing. Additionally, GRIP rate adjustments would place the entire amount of the Company's

requested increase into the customer charge. The ACSC Executive Committee recommends that ACSC city members take action to approve the Ordinance authorizing the RRM tariff.

Explanation of “Be It Ordained” Paragraphs:

1. This section approves all findings in the Ordinance.
2. This section adopts the attached RRM Tariff (“Attachment A”) and finds the adoption of the tariff to be just, reasonable, and in the public interest. Note that only the new tariff being revised is attached to the Ordinance. The initial RRM Tariff has expired by its own terms, and other existing tariffs not being changed in any way are not attached to the Ordinance.
3. This section repeals any resolution or ordinance that is inconsistent with this Ordinance.
4. This section finds that the meeting was conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.
5. This section is a savings clause, which provides that if any section is later found to be unconstitutional or invalid, that finding shall not affect, impair, or invalidate the remaining provisions of this Ordinance. This section further directs that the remaining provisions of the Ordinance are to be interpreted as if the offending section or clause never existed.
6. This section provides for an effective date upon passage.
7. This section paragraph directs that a copy of the signed Ordinance be sent to a representative of the Company and legal counsel for ACSC.

The New RRM: How Does It Stack Up?

RRM (2007-2011)

- Negotiated limits to the amount of increase included in customer charge.
- Less money requested from ratepayers, because it considers the Company's entire cost of providing service, including declining expenses.
- Cities can review reasonableness of expenses and negotiate disallowances.
- Reimbursement of Cities' rate case expenses.
- Cities can order reductions to requested increase.
- Better working relationship between Cities and Company.

GRIP

- All increase included in customer charge.
- More costly to ratepayers, because it does not consider the Company's entire cost of providing service, including declining expenses.
- Cities have no input as to reasonableness or recovery of expenses.
- No reimbursement of Cities' rate case expenses.
- No reduction in requested increase.
- Poorer working relationship between Cities and Company.

New RRM Tariff

- Includes limits on percentage of increase to be included in monthly customer charge.
- Shorter turn-around on discovery.
- Technical conference to expedite receipt of information from Company.
- No post-test year adjustments.
- Time limit for O&M known and measurable adjustments.
- Reduction in requested increase of at least \$3 million each year.
- Tracks the methodologies approved by the Railroad Commission in the most recent Mid-Tex rate case.



City Council Regular Meeting

Agenda Item No. B. 2.

Meeting Date: 05/20/2013

Approved by: George Olson, City Manager

Caption:

ADOPTION OF ORDINANCES

Consider Adoption of Ordinance Number: 5775

List of Agenda Items:

B.1. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5775

Approving and Adopting Rate Schedule "RRM - Rate Review Mechanism" for Atmos Energy Corporation, Mid-Tex Division to be in Force in the City for a Period of Time as Specified in the Rate Schedule; Declaring an Effective Date; Requiring Delivery of this Ordinance to the Company and the Atmos Cities Steering Committee Legal Counsel



City Council Regular Meeting

Agenda Item No. B. 3.

Meeting Date: 05/20/2013

Prepared By: Pamela Cloer, Assistant to the City Manager

Approved by: George Olson, City Manager

Caption:

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

List of Agenda Items:

C.1. * RESOLUTION NO. 5767

Accepting the Contract with W. Brown Enterprises, Inc. as Complete for the Surface Water Distribution Pipeline East – Schedule “A”

C.2. * RESOLUTION NO. 5768

Awarding a Bid to and Authorizing Execution of a Contract with Weisinger Incorporated for the Stephens Woodbine #2 Well Repairs

C.3. * RESOLUTION NO. 5769

Awarding a Bid to and Authorizing Execution of a Contract with Weisinger Incorporated for the Stephens Trinity #1 Well Repairs

C.4. * RESOLUTION NO. 5770

Awarding a Bid to and Authorizing Execution of a Contract with Weisinger Incorporated for the Old Settlers Trinity #1 Well Repairs

D.1. * CHANGE ORDER NO. 2

Surface Water Distribution Pipeline East – Schedule “A”; W. Brown Enterprises, Inc.;
\$6,468.00 Decrease

E.2. * OTHER BUSINESS

Consider Request of the 2013 Neighborhood Recreational Committee to Temporarily Close Certain Streets for the Annual "Juneteenth Celebration" on Saturday, June 22, 2013

E.3. * *OTHER BUSINESS*

Consider Request of Mr. John Arriazola to Temporarily Close Certain Streets for a Cancer Benefit for Ainsley Moravec on Saturday, June 29, 2013; and Consider Mr. Arriazola's Request to Apply for a Liquor Permit to Sell Alcohol on the Street during the Event



City Council Regular Meeting

Agenda Item No. C. 1.

Meeting Date: 05/20/2013

Prepared By: Mark Gibson, Director of Engineering & Utilities

Approved By: George Olson, City Manager

Caption:

*** RESOLUTION NO. 5767**

Accepting the Contract with W. Brown Enterprises, Inc. as Complete for the Surface Water Distribution Pipeline East – Schedule “A”

Issue:

To consider acceptance of the contract with W. Brown Enterprises, Inc. as complete for the Surface Water Distribution Pipeline East – Schedule “A”

Background:

W. Brown Enterprises, Inc. has completed all work required under its contract for the Schedule “A” portion of the second feed from the Water Treatment Plant. This portion of the pipeline runs from the Water Treatment Plant along La Cima Drive, Plainview Road, Kreager Road and Travis Street to the City's distribution system.

Origination:

Greater Texoma Utility Authority (GTUA)

Financial Consideration:

The project was funded through a GTUA revenue bond issue.

Staff Recommendation:

It is recommended that the attached resolution be approved by the City Council.

Alternatives:

As may be directed by the City Council

Attachments

Resolution No. 5767

Morris Letter

Contractor Application

Contractor's Certification

Map

RESOLUTION NO. 5767

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ACCEPTING THE CONTRACT WITH W. BROWN ENTERPRISES, INC. AS COMPLETE FOR THE SURFACE WATER DISTRIBUTION PIPELINE EAST – SCHEDULE “A”; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Sherman has entered into a Contract for the Surface Water Distribution Pipeline East – Schedule “A” with W. Brown Enterprises, Inc.; and

WHEREAS, representatives of the City of Sherman and the project engineer have inspected the Surface Water Distribution Pipeline East – Schedule “A” and found the project to be complete;

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

SECTION 1. That the City of Sherman hereby formally accepts the contracted work of W. Brown Enterprises, Inc., for the Surface Water Distribution Pipeline East – Schedule “A”.

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 _____, 2013.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
CAROLYN S. WACKER, MAYOR

**APPROVED AS TO FORM
AND CONTENT:**

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

MORRIS ENGINEERS

April 29, 2013

Mark Gibson, P.E., Director of Engineering & Utilities
City of Sherman
P.O. Box 1106
Sherman, TX 75091-1106

Jerry Chapman, General Manager
Greater Texoma Utility Authority
5100 Airport Drive
Denison, Texas 75020

**RE: Surface Water Distribution Pipeline East – Schedule “A” in the City of
Sherman
W. Brown Enterprises, Inc.
Project Close-out**

Dear Mark and Jerry:

Enclosed are a final payment request and project close-out documents for work completed by W. Brown Enterprises, Inc., on the referenced project, Schedule “A”. The total value of work is \$759,444.50. You previously paid the Contractor \$716,384.88. The amount of final payment due is \$43,059.62.

I am also enclosing the following documents for your records:

Contractor’s Certification and Guarantee
Consent of Surety to Final Payment
Engineer’s Certificate of Project Completion

Item 44 of the General Requirements of the contract documents provides that the Contractor guarantee all the work under the contract to be free from faulty materials and improper workmanship and agree to replace without cost to the Owner such work as may be found to be improper. If the Contractor fails to correct defective work, Owner may, after seven days written notice to Contractor, correct and remedy the deficiency and bill the Contractor for expenses incurred. This guarantee covers a period of one year and is documented by the Contractor’s Certification and Guarantee.

Also enclosed is Change Order No. 2 to the contract, to reconcile the contract price to final quantities of work. It decreases the contract amount by \$6,468.00 to \$759,444.50, and has been signed by the contractor. If it meets approval from Sherman and GTUA, please sign it where indicated and return a copy to us for our files.

Please call me if you have any questions or require additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tim", written in dark ink.

Timothy L. Morris, P.E.

Enclosures

c: W. Brown Enterprises, Inc. (w/encl.)
Contract file (w/encl.)

Contractor's Application For Payment No. 7(Final)

To: GTUA / City of Sherman	Application Period: 4-1-13 to 4-20-13	Application Date: 4/20/2013	
Project: Surface Water Distribution Pipeline (Schedule A)	From: W. Brown Enterprises, Inc.	Morris Engineers	
Owner's Contract No.:	Contract:	Original : \$763,932.50	Revised : 759,444.50
	Contractor's Project No.:	Engineer's Project No.:	

Application for Payment

Change Order Summary

Approved Change Orders		
Number	Additions	Deductions
1	\$ 1,980.00	\$ -
2		\$ 6,468.00
	\$ -	
	\$ -	\$ -
	\$ -	\$ -
	\$ -	\$ -
	\$ -	\$ -
	\$ -	\$ -
TOTALS	\$ (4,488.00)	
NET CHANGE BY	\$ (4,488.00)	
CHANGE ORDERS	\$ -	

1. ORIGINAL CONTRACT PRICE	\$ 763,932.50
2. Net change by Change Orders	\$ (4,488.00)
3. CURRENT CONTRACT PRICE (Line 1 + 2)	\$ 759,444.50
4. TOTAL COMPLETED AND STORED TO DATE (Column F on Progress Estimate)	\$ 759,444.50
5. RETAINAGE: (After 50% of job completed drop to 5%)	
a. 5% x \$ 603,304.95 Total Contract/Work Completed	\$ -
b. 5% x \$ - Stored Materials	\$ -
c. Total Retainage (Line 5a + Line 5b)	\$ -
6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5c)	\$ 759,444.50
7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application)	\$ 716,384.88
8. AMOUNT DUE THIS APPLICATION	\$ 43,059.62
9. BALANCE TO FINISH, PLUS RETAINAGE (Column G on Progress Estimate + Line 5 above)	\$ -

Contractor's Certification

The undersigned Contractor certifies that: (1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Liens, security interest or encumbrances); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

By: W. Brown Enterprises, Inc. Date: 4-20-13

Payment of: \$ 43,059.62
 (Line 8 or other - attach explanation of other amount)

Is recommended by: Ref J. Morris 4/29/13
 (Engineer) (Date)

Payment of: \$ 43,059.62
 (Line 8 or other - attach explanation of other amount)

Is approved by: _____
 (Owner) (Date)

Approved by: _____
 Funding Agency (if applicable) (Date)

Contractor's Application

Page 2 of 3

Stored Materials Summary

Contractor's Application

For: GTUA / City of Sherman Surface Water Distribution Pipeline East (Schedule A)							Application Number 7		
Application Period:							Pay		
A	B	C	D		E		F		G
Invoice No.	Shop Drawing Transmittal No.	Materials Description	Stored Previously		Total Amount Stored		Incorporated in Work		Materials Remaining in Storage (\$) (D+E+F)
			Date (Month/Year)	Amount (\$)	Amount (\$)	Subtotal	Date (Month/Year)	Amount (\$)	
0581132-1		2520 LF 24" C905 DR26 CL 165 PVC GJ Blue Pipe	Sep-12	\$ 97,322.40	\$ 97,322.40		\$ 97,322.40	100.00%	\$ -
0581132-1		1960 LF 12" C900 DR18 PVC GJ BLUE PIPE	Sep-12	\$ 20,382.00	\$ 20,382.00		\$ 20,382.00	100.00%	\$ -
0581132-2		1440 LF 24" C905 DR26 CL 165 PVC GJ Blue Pipe	Sep-12	\$ 55,612.80	\$ 55,612.80		\$ 55,612.80	100.00%	\$ -
0581132-2		3920 LF 12" C900 DR18 PVC GJ BLUE PIPE	Sep-12	\$ 52,724.00	\$ 52,724.00		\$ 52,724.00	100.00%	\$ -
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CONTRACTOR'S CERTIFICATION AND GUARANTEE

Date: 4/25/2013

Project: Surface Water Distribution (Schedule A)

Owner: GTUA / City of Sherman

Contractor: W. Brown Enterprises, Inc.

Date of Contract: 10/12/2012

Date of Project Completion: 4/25/2013

Final Contract Amount: 759,444.50

The CONTRACTOR certifies that (1) all payments received from OWNER on account of Work done under the Contract have been applied to discharge in full all obligations of CONTRACTOR incurred in connection with Work; and (2) title to all materials and equipment incorporated in said Work will pass to OWNER at time of payment free and clear of all liens, claims, security interests and encumbrances.

The CONTRACTOR shall guarantee all materials and equipment furnished and WORK performed for a period of one (1) year from the date of completion as evidenced by the Engineer's Final Certificate. The CONTRACTOR warrants and guarantees for a period of one (1) year from the date of completion that all work under the Contract is free from faulty materials and equipment in every particular and free from improper workmanship, and against injury from proper and usual wear, and agrees to replace or to re-execute without cost to the OWNER such work as may be found to be improper or imperfect and to make good all damage caused to the other work or materials, due to such required replacement or re-execution. The OWNER will give notice of observed defects with reasonable promptness. In the event that the CONTRACTOR should fail to make such repairs, adjustments, or other work that may be made necessary to such defects, the OWNER may do so and charge the CONTRACTOR the cost thereby incurred. The PERFORMANCE BOND shall remain in full force and effect through the guarantee period.

Warranties and guarantees provided by manufacturers of devices and equipment shall not diminish CONTRACTOR's responsibility under this certification and guarantee.

CONTRACTOR: W. Brown Enterprises, Inc.

BY: W. Scott Brown

DATE: 4-25-2013

ATTEST: [Signature]

**CONSENT OF
SURETY COMPANY
TO FINAL PAYMENT**

PROJECT: Surface Water Distribution Pipeline East - Schedule "A"

CONTRACT DATE: October 12, 2012

OWNER: Greater Texoma Utility Authority

CONTRACTOR: W. Brown Enterprises, Inc.

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the
(here insert name and address of Surety Company)

Developers Surety and Indemnity Company

P.O. Box 19725

Irvine, CA 92623-9725

, SURETY COMPANY,

on bond of (here insert name and address of Contractor)

W. Brown Enterprises, Inc.

2905 N. 1st Avenue

Durant, OK 74701

, CONTRACTOR,

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not
relieve the Surety Company of any of its obligations to (here insert name and address of Owner)

, OWNER,

as set forth in the said Surety Company's Bond No. 769868P, dated October 12, 2012

IN WITNESS WHEREOF,

the Surety Company has hereunto set its hand this 22nd day of April, 20 13.

Developers Surety and Indemnity Company

Surety Company

Signature of Authorized Representative

Title

Brock Baldwin, Attorney-in-Fact

Attest:
(Seal)

REV. 1/26/98
MORRIS ENGINEERS

POWER OF ATTORNEY FOR
DEVELOPERS SURETY AND INDEMNITY COMPANY
PO Box 19725, IRVINE, CA 92623 (949) 263-3300

KNOW ALL BY THESE PRESENTS that except as expressly limited, DEVELOPERS SURETY AND INDEMNITY COMPANY, does hereby make, constitute and appoint:
Brent Baldwin, Brock Baldwin, William D. Baldwin, Michael B. Hill, Brady K. Cox, Blaine Allen, jointly or severally

as its true and lawful Attorney(s)-in-Fact, to make, execute, deliver and acknowledge, for and on behalf of said corporation, as surety, bonds, undertakings and contracts of suretyship giving and granting unto said Attorney(s)-in-Fact full power and authority to do and to perform every act necessary, requisite or proper to be done in connection therewith as each of said corporation could do, but reserving to each of said corporation full power of substitution and revocation, and all of the acts of said Attorney(s)-in-Fact, pursuant to these presents, are hereby ratified and confirmed.

This Power of Attorney is granted and is signed by facsimile under and by authority of the following resolution adopted by the Board of Directors of DEVELOPERS SURETY AND INDEMNITY COMPANY, effective as of January 1st, 2008.

RESOLVED, that a combination of any two of the Chairman of the Board, the President, any Executive Vice-President, Senior Vice-President or Vice-President of the corporation be, and that each of them hereby is, authorized to execute this Power of Attorney, qualifying the attorney(s) named in the Power of Attorney to execute, on behalf of the corporation, bonds, undertakings and contracts of suretyship; and that the Secretary or any Assistant Secretary of the corporation be, and each of them hereby is, authorized to attest the execution of any such Power of Attorney;

RESOLVED, FURTHER, that the signatures of such officers may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures shall be valid and binding upon the corporation when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached.

IN WITNESS WHEREOF, DEVELOPERS SURETY AND INDEMNITY COMPANY has caused these presents to be signed by its officers and attested by its Secretary or Assistant Secretary this January 1st, 2008.

By: Daniel Young
Daniel Young, Vice-President

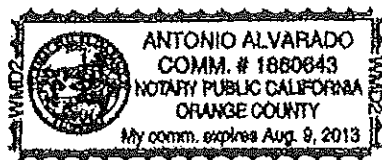
By: Stephen T. Pate
Stephen T. Pate, Senior Vice-President



State of California
County of Orange

On January 31, 2011 before me, Antonio Alvarado, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Daniel Young and Stephen T. Pate
Name(s) of Signer(s)



Place Notary Seal Above

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Antonio Alvarado

Antonio Alvarado, Notary Public

CERTIFICATE

The undersigned, as Secretary or Assistant Secretary of DEVELOPERS SURETY AND INDEMNITY COMPANY does hereby certify that the foregoing Power of Attorney remains in full force and has not been revoked and, furthermore, that the provisions of the resolution of the Board of Directors of said corporation set forth in the Power of Attorney are in force as of the date of this Certificate.

This Certificate is executed in the City of Irvine, California, this 22nd day of April, 2013

By: Gregg Okura
Gregg Okura, Assistant Secretary

ID-1438 (Rev. 01/11)



CERTIFICATE OF PROJECT COMPLETION

PROJECT: Surface Water Distribution Pipeline East – Schedule “A”, Sherman, TX

DATE OF ISSUANCE: 4/22/13

OWNER: Greater Texoma Utility Authority

CONTRACTOR: W. Brown Enterprises, Inc.

ENGINEER: Morris Engineers

This Certificate of Project Completion applies to all Work under the Contract Documents or to the following specified parts thereof:

all specified work

To: Greater Texoma Utility Authority
[OWNER]

And To: W. Brown Enterprises, Inc.
[CONTRACTOR]

The Work to which this Certificate applies has been inspected by authorized representatives of OWNER, CONTRACTOR and ENGINEER, and that Work is hereby declared to be substantially complete in accordance with the Contract Documents on

4/25/13
DATE OF COMPLETION

From the date of Completion the responsibilities between OWNER and CONTRACTOR for security, operation, safety, maintenance, heat, utilities, insurance and warranties and guarantees shall be as follows:

RESPONSIBILITIES

OWNER: Security, operation, safety, maintenance, heat, utilities, insurance

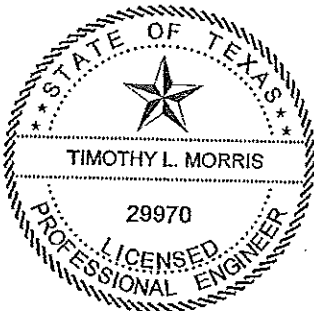
CONTRACTOR: Warranties and guarantees

The following documents are attached to and made a part of this Certificate:

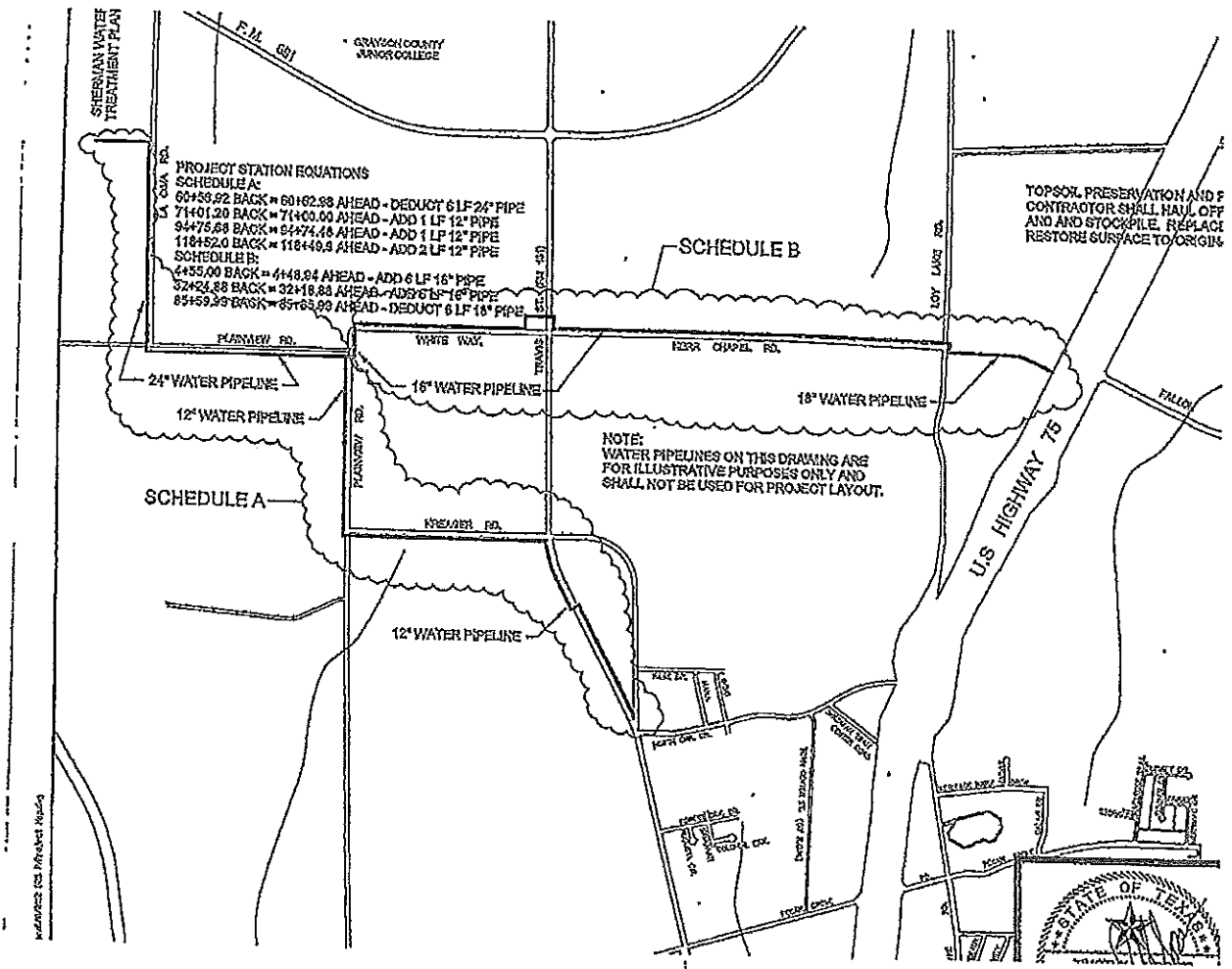
n/a

This certificate does not constitute an acceptance of work not in accordance with the Contract Documents nor is it a release of CONTRACTOR's obligation to complete the Work in accordance with the Contract Documents.

Executed by ENGINEER on 4-29, 2013.



By: Morris Engineers
[ENGINEER]
TIMOTHY L. MORRIS, P.E.



DESIGNED BY: [illegible]
DRAWN BY: [illegible]



City Council Regular Meeting

Agenda Item No. C. 2.

Meeting Date: 05/20/2013

Prepared By: Mark Gibson, Director of Engineering & Utilities

Approved By: George Olson, City Manager

Caption:

*** RESOLUTION NO. 5768**

Awarding a Bid to and Authorizing Execution of a Contract with Weisinger Incorporated for the Stephens Woodbine #2 Well Repairs

Issue:

Awarding a bid to and authorizing execution of a contract with Weisinger Incorporated for well repairs at the Stephens Woodbine #2

Background:

The pump on the above referenced well needs to be pulled and inspected, followed by repairs and/or replacements as needed. The well casing and well screen will be camera inspected, followed by repairs as needed. Two well repair contractors responded to the request for proposals. A tabulation of the proposals for the lump sum portion of the repair work is attached.

Origination:

Utilities Administration Department

Financial Consideration:

The projected cost of these repairs is \$107,325. Funding for this repair is available in the Utility Capital Improvement Funds.

Staff Recommendation:

It is recommended that the City Council award the contract to Weisinger Incorporated based on their bid of \$107,325.00, which is based on the staff's estimated cost of repairs utilizing unit bid prices.

Alternatives:

As may be directed by the City Council

Attachments

Bid Tab

Resolution No. 5768

Contract

Stephen's 2 Woodbine Submersible Pump								
Description				Weisinger		Layne		
Item No.	Description of Item	Approx. Quantity	Unit	Unit Price	Total Amount Bid	Approx. Quantity	Unit Price	Total Amount Bid
1	Mobilization, pull motor and pump	22	HR	\$235.00	\$5,170.00	35	\$ 245.00	\$ 8,575.00
2	Transportation of pump, motor and cable to and from shop. All replaced parts need to be transported back to City of Sherman.	1	LS	\$6,000.00	\$6,000.00	1	\$ 5,900.00	\$ 5,900.00
3	Bail oil and Prep. Well for camera survey	2	HR	\$150.00	\$300.00	12	\$ 380.00	\$ 4,560.00
4	Shop labor: (1) disassemble, clean, inspect pump, motor and cable. (2) Provide written report on the condition of the equipment	16	HR	\$150.00	\$2,400.00	75	\$ 125.00	\$ 9,375.00
5	Camera survey	1	LS	\$1,400.00	\$1,400.00	1	\$ 1,800.00	\$ 1,800.00
	Lump sum				\$15,270.00			\$ 30,210.00
6	Additional rig time for cleaning screens and Well rehabilitation		EA					
7	8" X 20' X 0.322 8 round thread column pipe		EA					
8	3" X 5' oil tube		EA					
9	3" X 1-1516" bronze bearings		EA					
10	1-15/16" X 20' Line shaft		EA					
11	8" X 3" rubber spiders		EA					
12	10RKIC-28 stage pump, 400GPM @ 950' or equivalent		EA					
13	weld lugs on pipe		EA					
14	cost for special tools		%	30			25	
15	1/4" stainless steel airline	1500	LF	\$2.32	\$ 3,480.00	1500	\$ 1.90	\$ 2,850.00
16	1-15/16" X 10' line shaft							
17	alternate submersible pump (complete)	1	LS	\$80,025.00	\$ 80,025.00	1	\$ 104,300.00	\$ 104,300.00
18	Jump coupling from pump shaft to line shaft		EA			1		
19	8" X 10' X 0.322 column pipe with adjustable threads		EA			1		
20	3" top special oil tube		EA			1		
21	1-15/16" top special shaft		EA			1		
22	1-15/16" motor shaft		EA			1		
23	8" X 3" X 1-15/16" X 5' X 0.322 midway stretch joint		EA			1		
24	8" X 10' Fab steel discharge head with base plate		EA			1		
25	Reset pump, disinfect Well and return Well to service	30	HR	\$235.00	\$ 7,050.00		\$ 12,300.00	\$ 12,300.00
26	Test Pump	12	HR	\$ 125.00	\$ 1,500.00	12	\$ 160.00	\$ 1,920.00
	Total Base Bid				\$107,325.00			\$ 164,503.00

RESOLUTION NO. 5768

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH WEISINGER INCORPORATED FOR THE STEPHENS WOODBINE #2 WELL REPAIRS; 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 Weisinger Incorporated be and is hereby awarded the bid in the total amount of One Hundred Seven Thousand Three Hundred Twenty-Five Dollars and Zero Cents (\$107,325.00) for the Stephens Woodbine #2 Well repairs; and that the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form and content by the City Attorney, to execute a contract with Weisinger Incorporated for the Stephens Woodbine #2 Well repairs, in accordance with all contract documents attached hereto and made a part hereof for all purposes.

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

PASSED AND APPROVED on this the ____ day of _____, 2013.

CITY OF SHERMAN, TEXAS

BY: _____
CAROLYN S. WACKER, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

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

CITY OF SHERMAN §
COUNTY OF GRAYSON §

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

THIS AGREEMENT is by and between the CITY OF SHERMAN ("CITY" or "OWNER") and
and _____ ("CONTRACTOR").

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

ARTICLE 1 - PROJECT

1.01 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Project is generally described as follows:

Stephen's 2 Woodbine Well Repair

This Project will be completed with/without change orders and all extra work in connection with the project, as described in the contract documents, shall be at the CONTRACTOR'S sole cost and expense all the materials, supplies, machinery, equipment, tools, superintendence, labor, necessary and customary insurance, and other accessories and services necessary to complete the Project in accordance with the Contract Documents.

ARTICLE 2 – INDEPENDENT CONTRACTOR

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

ARTICLE 3 - CONTRACT TIMES

3.01 *Commencement of Contract*

A. CONTRACTOR agrees to commence work under this Contract on or before the date specified in the written "Notice to Proceed" of the CITY and to fully complete the contract within ninety (90) days

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 *Dates for Substantial Completion and Final Payment*

A. The Work will be substantially completed by CONTRACTOR on or before _____, and completed and ready for final payment in accordance with paragraph 5.05 of the General Conditions on or before _____.

3.03 *Liquidated Damages*

A. CONTRACTOR and CITY recognize that time is of the essence of this Contract and that CITY will suffer loss that is difficult to calculate if the Work is not completed within the times specified in paragraph 3.02 above, plus any extensions thereof allowed in accordance with paragraph 4.02 of the General Conditions. The parties also recognize the expense, and difficulties involved with a delay make it impossible to evaluate the actual loss suffered by CITY due to the nature of this project if the Work is not completed on time. Accordingly, CITY and CONTRACTOR agree that as liquidated damages for the delay (but not as a penalty), CONTRACTOR shall pay CITY \$ 100.00 for each day that expires after the time specified in paragraph 3.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by CITY, CONTRACTOR shall pay CITY \$ 100.00 for each day that expires after the time specified in paragraph 3.02 for completion and readiness for final payment until the Work is completed and ready for final payment. The parties agree that the amount of \$ 100.00 represents a fair and reasonable estimate of the CITY'S damages.

ARTICLE 4 - CONTRACT PRICE/CONSIDERATION

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

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

_____ (\$ _____)
(use words) (figure)

B. If the payment for the Project is based on Unit Pricing, the Contract Price shall be as set forth in the Unit Pricing portion of the Proposal.

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

ARTICLE 5 - PAYMENT PROCEDURES

5.01 *Submittal and Processing of Payments*

A. CONTRACTOR shall submit Applications for Payment in accordance with Article 5 of the General Conditions. Applications for Payment will be processed by the ENGINEER (defined in Article 9 of this Contract) as provided in the General Conditions.

ARTICLE 6 - CONTRACTOR'S REPRESENTATIONS

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

A. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. CONTRACTOR has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. CONTRACTOR has carefully studied all Contract Documents and understands the Work and Performance required in the Contract Documents and represents to the CITY that CONTRACTOR is fully capable of completing the work specified in the Contract Documents.

E. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by CONTRACTOR, and safety precautions and programs incident thereto

F. CONTRACTOR does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. CONTRACTOR is aware of the general nature of work to be performed by CITY and others at the Site that relates to the Work as indicated in the Contract Documents.

H. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

I. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract

Documents, and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 7 - CONTRACT DOCUMENTS

7.01 *Contents*

A. The Contract Documents consist of the following and are incorporated into this Contract for all purposes:

1. This Contract;
2. Performance Bond;
3. If applicable, the Unit Pricing in the Proposal;
4. Payment Bond;
5. Other Bonds;
 - a. Bid Bond (pages 1 to 2, inclusive);
 - b. _____;
 - c. _____;
6. General Conditions of Agreement;
7. Special Conditions of Agreement;
8. Any Other Documents listed in the Table of Contents of the Project Manual;
9. Any Drawings associated with the Project;
10. Addenda (if applicable);
11. Exhibits to this Contract(enumerated as follows):
 - a. Notice to Proceed;
 - b. CONTRACTOR'S Bid;
 - c. Documentation submitted by CONTRACTOR prior to Notice of Award;
 - d. _____;

12. The following which may be delivered or issued on or after the *Effective Date* of the Contract and are not attached hereto:

- a. Written Amendments;
- b. Work Change Directives;
- c. Change Order(s), if permissible under the Resolution enacted by the City.

B. There are no Contract Documents other than those listed above in this Article 7.

C. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 9.09 of this Contract.

ARTICLE 8 – NOTICE

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

If intended for CITY to:

If intended for CONTRACTOR, to:

Designee: _____

Designee: _____

Address:

Address:

ARTICLE 9 - MISCELLANEOUS

9.01 *Terms*

A. Terms used in this Contract will have the meanings indicated in the General Conditions.

B. In addition to the terms in the General Conditions, the term "ENGINEER" in this Contract shall mean a person designated as the ENGINEER by the City.

9.02 *Assignment of Contract*

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

any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.03 *Successors and Assigns*

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

9.04 *Severability and Conflict*

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon CITY and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

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

9.05 *Captions*

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

9.06 *INDEMNITY AND DUTY TO DEFEND*

A. CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES INCLUDING ATTORNEYS FEES, FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM, FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, STRICTLY LIABLE ACT, OR ANY OMISSION OF CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THIS AGREEMENT (HEREINAFTER "CLAIMS"); EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF CITY, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. IN ADDITION, THIS INDEMNIFICATION AND SAVE HARMLESS SHALL APPLY TO ANY IMPUTED OR ACTUAL JOINT ENTERPRISE LIABILITY. FURTHERMORE, THE CONTRACTOR SHALL ACQUIRE A POLICY OF INSURANCE IN THE MAXIMUM STATUTORY LIMITS FOR TORT LIABILITY OF THE CITY NAMING THE CITY OF SHERMAN AS AN ADDITIONAL INSURED UNDER ITS TERMS.

B. CONTRACTOR IS EXPRESSLY REQUIRED TO DEFEND THE CITY AGAINST ALL CLAIMS FOR WHICH THE CITY BECOMES LIABLE. IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO

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

C. This indemnification and duty to defend is subject to and does not waive any governmental immunity available to the CITY under Texas law, and any defenses of the parties under Texas law. The provisions of this paragraph are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

9.08 *Deletion of Arbitration Clause*

The parties agree that Paragraph 6.03 entitled Arbitration in the General Conditions, is not binding on the parties. This paragraph is not designed to prevent the parties from mutually agreeing to select arbitration as a means of resolving any disputes related to this Contract. The parties, however, agree not to be bound by the terms of 6.03 entitled Arbitration in the General Conditions.

9.07 *Choice of Law: Venue.*

This contract, the entire relationship of the parties, and any litigation between the parties (whether grounded in contract, tort, statute, law or equity) shall be governed by, construed in accordance with, and interpreted pursuant to the laws of the State of Texas, without giving effect to its choice of laws principles. This contract is wholly performable in Grayson County, Texas. Exclusive venue for any litigation between the parties shall be brought in Grayson County, Texas, and shall be brought in the State District Courts of Grayson County, Texas, or in the United States District Court for the Eastern District of Texas. The parties waive any challenge to personal jurisdiction or venue (including without limitation a challenge based on inconvenience) in Grayson County, Texas, and specifically consent to the jurisdiction of the State District Courts of Grayson County, Texas, or in the United States District Court for the Eastern District of Texas, Sherman Division.

9.08 *Binding Authority*

By their signatures below, the individuals represent that they have reviewed Contract with their attorney and that the individuals have the express authority to enter into this Contract.

Brandon Shelby
City Attorney



City Council Regular Meeting

Agenda Item No. C. 3.

Meeting Date: 05/20/2013

Prepared By: Mark Gibson, Director of Engineering & Utilities

Approved By: George Olson, City Manager

Caption:

*** RESOLUTION NO. 5769**

Awarding a Bid to and Authorizing Execution of a Contract with Weisinger Incorporated for the Stephens Trinity #1 Well Repairs

Issue:

Awarding a bid to and authorizing execution of a contract with Weisinger Incorporated for well repairs at the Stephens Trinity #1

Background:

The pump on the above referenced well needs to be pulled and inspected, followed by repairs and/or replacements as needed. The well casing and well screen will be camera inspected, followed by repairs as needed. Two well repair contractors responded to the request for proposals. A tabulation of the proposals for the lump sum portion of the repair work is attached.

Origination:

Utilities Administration Department

Financial Consideration:

Budgeted funds of \$172,821.40 are available in the Utility Capital Improvement Fund.

Staff Recommendation:

It is recommended that the City Council award the contract to Weisinger Incorporated based on their bid of \$172,821.40, which is based on the staff's estimated cost of repairs utilizing unit bid prices.

Alternatives:

As may be directed by the City Council

Attachments

Bid Tab

Resolution No. 5769

Contract

Stephen's 1 Trinity Submersible Pump

Stephen's 1 Trinity Submersible Pump								
Description				Weisinger		Layne		
Item No.	Description of Item	Approx. Quantity	Unit	Unit Price	Total Amount Bid	Approx. Quantity	Unit Price	Total Amount Bid
1	Mobilization, pull motor and pump	32	HR	\$235.00	\$7,520.00	45	\$ 245.00	\$ 11,025.00
2	Transportation of pump, motor and cable to and from shop. All replaced parts need to be transported back to City of Sherman.	1	LS	\$6,000.00	\$6,000.00	1	\$ 5,900.00	\$ 5,900.00
3	Bail oil and Prep. Well for camera survey	4	HR	\$150.00	\$600.00	12	\$ 380.00	\$ 4,560.00
4	Shop labor: (1) disassemble, clean, inspect pump, motor and cable. (2) Provide written report on the condition of the equipment	20	HR	\$150.00	\$3,000.00	100	\$ 125.00	\$ 12,500.00
5	Camera survey	1	LS	\$1,400.00	\$1,400.00	1	\$ 1,800.00	\$ 1,800.00
	Lump sum				\$18,520.00			\$ 35,785.00
6	Additional rig time for cleaning screens and Well rehabilitation							
7	8" X 20' X 0.322 8 round thread column pipe							
8	3-1/2" X 5' oil tube							
9	3-1/2" X 2-3/16" bronze bearings							
10	2-3/16" X 20' Line shaft							
11	8" X 3-1/2" rubber spiders							
12	10RKHC-27 stage pump,500GPM@1107' or equivalent							
13	weld lugs on pipe	55	EA	\$50.00	\$ 2,750.00	55	\$ 75.00	\$ 4,125.00
14	cost for special tools		%	30			25	
15	1/4" stainless steel airline	2170	LF	\$2.32	\$ 5,034.40	2170	\$ 1.90	\$ 4,123.00
16	2-3/16" X 10' line shaft							
17	alternate submersible pump (complete)	1	LS	\$136,557.00	\$ 136,557.00	1	\$ 173,400.00	\$ 173,400.00
18	Jump coupling from pump shaft to line shaft							
19	8" X 10' X 0.322 column pipe with adjustable threads							
20	3-1/2" top special oil tube							
21	2-3/16" top special shaft							
22	2-3/16" motor shaft							
23	8" X 3-1/2" X 2-3/16" X 5' X 0.322 midway stretch joint							
24	8" X 10' Fab steel discharge head with base plate							
25	Reset pump, disinfect Well and return Well to service	36	HR	\$235.00	\$ 8,460.00		\$ 17,200.00	\$ 17,200.00
26	Test Pump	12	HR	\$ 125.00	\$ 1,500.00	12	\$ 160.00	\$ 1,920.00
	Total Base Bid				\$172,821.40			\$ 236,553.00

RESOLUTION NO. 5769

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH WEISINGER INCORPORATED FOR THE STEPHENS TRINITY #1 WELL REPAIRS; 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 Weisinger Incorporated be and is hereby awarded the bid in the total amount of One Hundred Seventy Two Thousand Eight Hundred Twenty-One Dollars and Forty Cents (\$172,821.40) for the Stephens Trinity #1 Well repairs; and that the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form and content by the City Attorney, to execute a contract with Weisinger Incorporated for the Stephens Trinity #1 Well repairs, in accordance with all contract documents attached hereto and made a part hereof for all purposes.

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

PASSED AND APPROVED on this the ____ day of _____, 2013.

CITY OF SHERMAN, TEXAS

BY: _____
CAROLYN S. WACKER, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

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

CITY OF SHERMAN §
COUNTY OF GRAYSON §

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

THIS AGREEMENT is by and between the **CITY OF SHERMAN** ("CITY" or "OWNER") and
and _____ ("CONTRACTOR").

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

ARTICLE 1 - PROJECT

- 1.01 **CONTRACTOR** shall complete all Work as specified or indicated in the Contract Documents. The Project is generally described as follows:

Stephens Trinity #1 Well Repair

This Project will be completed with/without change orders and all extra work in connection with the project, as described in the contract documents, shall be at the **CONTRACTOR'S** sole cost and expense all the materials, supplies, machinery, equipment, tools, superintendence, labor, necessary and customary insurance, and other accessories and services necessary to complete the Project in accordance with the Contract Documents.

ARTICLE 2 – INDEPENDENT CONTRACTOR

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

ARTICLE 3 - CONTRACT TIMES

- 3.01 *Commencement of Contract*

- A. **CONTRACTOR** agrees to commence work under this Contract on or before the date specified in the written "Notice to Proceed" of the **CITY** and to fully complete the contract within ninety (90) days
- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 *Dates for Substantial Completion and Final Payment*

A. The Work will be substantially completed by CONTRACTOR on or before _____, and completed and ready for final payment in accordance with paragraph 5.05 of the General Conditions on or before _____.

3.03 *Liquidated Damages*

A. CONTRACTOR and CITY recognize that time is of the essence of this Contract and that CITY will suffer loss that is difficult to calculate if the Work is not completed within the times specified in paragraph 3.02 above, plus any extensions thereof allowed in accordance with paragraph 4.02 of the General Conditions. The parties also recognize the expense, and difficulties involved with a delay make it impossible to evaluate the actual loss suffered by CITY due to the nature of this project if the Work is not completed on time. Accordingly, CITY and CONTRACTOR agree that as liquidated damages for the delay (but not as a penalty), CONTRACTOR shall pay CITY \$ 100.00 for each day that expires after the time specified in paragraph 3.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by CITY, CONTRACTOR shall pay CITY \$ 100.00 for each day that expires after the time specified in paragraph 3.02 for completion and readiness for final payment until the Work is completed and ready for final payment. The parties agree that the amount of \$ 100.00 represents a fair and reasonable estimate of the CITY'S damages.

ARTICLE 4 - CONTRACT PRICE/CONSIDERATION

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

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

_____ (\$ _____)
(use words) (figure)

B. If the payment for the Project is based on Unit Pricing, the Contract Price shall be as set forth in the Unit Pricing portion of the Proposal.

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

ARTICLE 5 - PAYMENT PROCEDURES

5.01 *Submittal and Processing of Payments*

A. CONTRACTOR shall submit Applications for Payment in accordance with Article 5 of the General Conditions. Applications for Payment will be processed by the ENGINEER (defined in Article 9 of this Contract) as provided in the General Conditions.

ARTICLE 6 - CONTRACTOR'S REPRESENTATIONS

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

A. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. CONTRACTOR has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. CONTRACTOR has carefully studied all Contract Documents and understands the Work and Performance required in the Contract Documents and represents to the CITY that CONTRACTOR is fully capable of completing the work specified in the Contract Documents.

E. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by CONTRACTOR, and safety precautions and programs incident thereto

F. CONTRACTOR does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. CONTRACTOR is aware of the general nature of work to be performed by CITY and others at the Site that relates to the Work as indicated in the Contract Documents.

H. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

I. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract

Documents, and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 7 - CONTRACT DOCUMENTS

7.01 *Contents*

A. The Contract Documents consist of the following and are incorporated into this Contract for all purposes:

1. This Contract;
2. Performance Bond;
3. If applicable, the Unit Pricing in the Proposal;
4. Payment Bond;
5. Other Bonds;
 - a. Bid Bond (pages 1 to 2, inclusive);
 - b. _____;
 - c. _____;
6. General Conditions of Agreement;
7. Special Conditions of Agreement;
8. Any Other Documents listed in the Table of Contents of the Project Manual;
9. Any Drawings associated with the Project;
10. Addenda (if applicable);
11. Exhibits to this Contract(enumerated as follows):
 - a. Notice to Proceed;
 - b. CONTRACTOR'S Bid;
 - c. Documentation submitted by CONTRACTOR prior to Notice of Award;
 - d. _____;

12. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:

- a. Written Amendments;
- b. Work Change Directives;
- c. Change Order(s), if permissible under the Resolution enacted by the City.

B. There are no Contract Documents other than those listed above in this Article 7.

C. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 9.09 of this Contract.

ARTICLE 8 – NOTICE

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

If intended for CITY to:

If intended for CONTRACTOR, to:

Designee: _____

Designee: _____

Address:

Address:

ARTICLE 9 - MISCELLANEOUS

9.01 *Terms*

A. Terms used in this Contract will have the meanings indicated in the General Conditions.

B. In addition to the terms in the General Conditions, the term "ENGINEER" in this Contract shall mean a person designated as the ENGINEER by the City.

9.02 *Assignment of Contract*

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

any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.03 *Successors and Assigns*

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

9.04 *Severability and Conflict*

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon CITY and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

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

9.05 *Captions*

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

9.06 *INDEMNITY AND DUTY TO DEFEND*

A. CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES INCLUDING ATTORNEYS FEES, FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM, FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, STRICTLY LIABLE ACT, OR ANY OMISSION OF CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THIS AGREEMENT (HEREINAFTER "CLAIMS"); EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF CITY, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. IN ADDITION, THIS INDEMNIFICATION AND SAVE HARMLESS SHALL APPLY TO ANY IMPUTED OR ACTUAL JOINT ENTERPRISE LIABILITY. FURTHERMORE, THE CONTRACTOR SHALL ACQUIRE A POLICY OF INSURANCE IN THE MAXIMUM STATUTORY LIMITS FOR TORT LIABILITY OF THE CITY NAMING THE CITY OF SHERMAN AS AN ADDITIONAL INSURED UNDER ITS TERMS.

B. CONTRACTOR IS EXPRESSLY REQUIRED TO DEFEND THE CITY AGAINST ALL CLAIMS FOR WHICH THE CITY BECOMES LIABLE. IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO

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

C. This indemnification and duty to defend is subject to and does not waive any governmental immunity available to the CITY under Texas law, and any defenses of the parties under Texas law. The provisions of this paragraph are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

9.08 *Deletion of Arbitration Clause*

The parties agree that Paragraph 6.03 entitled Arbitration in the General Conditions, is not binding on the parties. This paragraph is not designed to prevent the parties from mutually agreeing to select arbitration as a means of resolving any disputes related to this Contract. The parties, however, agree not to be bound by the terms of 6.03 entitled Arbitration in the General Conditions.

9.07 *Choice of Law: Venue.*

This contract, the entire relationship of the parties, and any litigation between the parties (whether grounded in contract, tort, statute, law or equity) shall be governed by, construed in accordance with, and interpreted pursuant to the laws of the State of Texas, without giving effect to its choice of laws principles. This contract is wholly performable in Grayson County, Texas. Exclusive venue for any litigation between the parties shall be brought in Grayson County, Texas, and shall be brought in the State District Courts of Grayson County, Texas, or in the United States District Court for the Eastern District of Texas. The parties waive any challenge to personal jurisdiction or venue (including without limitation a challenge based on inconvenience) in Grayson County, Texas, and specifically consent to the jurisdiction of the State District Courts of Grayson County, Texas, or in the United States District Court for the Eastern District of Texas, Sherman Division.

9.08 *Binding Authority*

By their signatures below, the individuals represent that they have reviewed Contract with their attorney and that the individuals have the express authority to enter into this Contract.

9.09 *Entire Agreement*

This Contract embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Contract, and except as otherwise provided herein cannot be modified without written agreement of both the parties to be attached to and made a part of this Contract.

IN WITNESS WHEREOF, CITY and CONTRACTOR have signed this Contract in duplicate. One counterpart each has been delivered to CITY and CONTRACTOR. All portions of the Contract Documents have been signed or identified by CITY and CONTRACTOR or on their behalf.

This Contract will be effective on _____, _____ (which is the Effective Date of the Contract).

CITY: CITY OF SHERMAN, TEXAS

CONTRACTOR:

By: _____
City Manager

By: _____

Attest _____
City Clerk

Attest _____
Notary Public

Commission Expires: _____

Agent for service of process: _____

(If CONTRACTOR is a corporation or a partnership,
attach evidence of authority to sign.)

Approved as to form:

Brandon Shelby
City Attorney



City Council Regular Meeting

Agenda Item No. C. 4.

Meeting Date: 05/20/2013

Prepared By: Mark Gibson, Director of Engineering & Utilities

Approved By: George Olson, City Manager

Caption:

*** RESOLUTION NO. 5770**

Awarding a Bid to and Authorizing Execution of a Contract with Weisinger Incorporated for the Old Settlers Trinity #1 Well Repairs

Issue:

Awarding a bid to and authorizing execution of a contract with Weisinger Incorporated for well repairs at the Old Settlers Trinity #1

Background:

The pump on the above referenced well needs to be pulled and inspected, followed by repairs and/or replacements as needed. The well casing and well screen will be camera inspected, followed by repairs as needed. Two well repair contractors responded to the request for proposals. A tabulation of the proposals for the lump sum portion of the repair work is attached.

Origination:

Utilities Administration Department

Financial Consideration:

The estimated repair cost for this improvement is \$128,303. Funds are available in the Utility Capital Improvement Fund for this purchase.

Staff Recommendation:

It is recommended that the City Council award the contract to Weisinger Incorporated based on their bid of \$128,303.00, which is based on the staff's estimated cost of repairs utilizing unit bid prices.

Alternatives:

As may be directed by the City Council

Attachments

Bid Tab

Resolution No. 5770

Contract

Old settler's 1 Trinity Submersible Pump

Description				Weisinger		Layne		
Item No.	Description of Item	Approx. Quantity	Unit	Unit Price	Total Amount Bid	Approx. Quantity	Unit Price	Total Amount Bid
1	Mobilization, pull motor and pump	32	HR	\$235.00	\$7,520.00	40	\$ 245.00	\$ 9,800.00
2	Transportation of pump, motor and cable to and from shop. All replaced parts need to be transported back to City of Sherman.	1	LS	\$6,000.00	\$6,000.00	1	\$ 5,900.00	\$ 5,900.00
3	Bail oil and Prep. Well for camera survey	4	HR	\$150.00	\$600.00	12	\$ 380.00	\$ 4,560.00
4	Shop labor: (1) disassemble, clean, inspect pump, motor and cable. (2) Provide written report on the condition of the equipment	20	HR	\$150.00	\$3,000.00	85	\$ 125.00	\$ 10,625.00
5	Camera survey	1	LS	\$1,400.00	\$1,400.00	1	\$ 1,800.00	\$ 1,800.00
	Lump sum				\$18,520.00			\$ 32,685.00
6	Additional rig time for cleaning screens and Well rehabilitation		EA					
7	8" X 20' X 0.322 8 round thread column pipe		EA					
8	3" X 5' oil tube		EA					
9	3" X 1-1516" bronze bearings		EA					
10	1-15/16" X 20' Line shaft		EA					
11	8" X 3" rubber splders		EA					
12	10RKIC-28 stage pump, 400GPM@950' or equivalent		EA					
13	weld lugs on pipe		EA					
14	cost for special tools		%	30			25	
15	1/4" stainless steel airline	2100	LF	\$2.32	\$ 4,872.00	2100	\$ 1.90	\$ 3,990.00
16	1-15/16" X 10' line shaft							
17	alternate submersible pump (complete)	1	LS	\$94,951.00	\$ 94,951.00	1	\$ 140,900.00	\$ 140,900.00
18	Jump coupling from pump shaft to line shaft		EA					
19	8" X 10' X 0.322 column pipe with adjustable threads		EA					
20	3" top special oil tube		EA					
21	1-15/16" top special shaft		EA					
22	1-15/16" motor shaft		EA					
23	8" X 3" X 1-15/16" X 5' X 0.322 midway stretch joint		EA					
24	8" X 10' Fab steel discharge head with base plate		EA					
25	Reset pump, disinfect Well and return Well to service	36	HR	\$235.00	\$ 8,460.00		\$ 14,800.00	\$ 14,800.00
26	Test Pump	12	HR	\$ 125.00	\$ 1,500.00	12	\$ 160.00	\$ 1,920.00
	Total Base Bid				\$128,303.00			\$ 194,295.00

RESOLUTION NO. 5770

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH WEISINGER INCORPORATED FOR THE OLD SETTLERS TRINITY #1 WELL REPAIRS; 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 Weisinger Incorporated be and is hereby awarded the bid in the total amount of One Hundred Twenty-Eight Thousand Three Hundred Three Dollars and Zero Cents (\$128,303.00) for the Old Settlers Trinity #1 Well repairs; and that the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form and content by the City Attorney, to execute a contract with Weisinger Incorporated for the Old Settlers Trinity #1 Well repairs, in accordance with all contract documents attached hereto and made a part hereof for all purposes.

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

PASSED AND APPROVED on this the ____ day of _____, 2013.

CITY OF SHERMAN, TEXAS

BY: _____
CAROLYN S. WACKER, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

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

CITY OF SHERMAN §
COUNTY OF GRAYSON §

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

THIS AGREEMENT is by and between the CITY OF SHERMAN ("CITY" or "OWNER") and
and _____ ("CONTRACTOR").

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

ARTICLE 1 - PROJECT

- 1.01 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Project is generally described as follows:

Old Settler Trinity #1 Well Repair

This Project will be completed with/without change orders and all extra work in connection with the project, as described in the contract documents, shall be at the CONTRACTOR'S sole cost and expense all the materials, supplies, machinery, equipment, tools, superintendence, labor, necessary and customary insurance, and other accessories and services necessary to complete the Project in accordance with the Contract Documents.

ARTICLE 2 – INDEPENDENT CONTRACTOR

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

ARTICLE 3 - CONTRACT TIMES

- 3.01 *Commencement of Contract*

- A. CONTRACTOR agrees to commence work under this Contract on or before the date specified in the written "Notice to Proceed" of the CITY and to fully complete the contract within ninety (90) days
- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 *Dates for Substantial Completion and Final Payment*

A. The Work will be substantially completed by CONTRACTOR on or before _____, and completed and ready for final payment in accordance with paragraph 5.05 of the General Conditions on or before _____.

3.03 *Liquidated Damages*

A. CONTRACTOR and CITY recognize that time is of the essence of this Contract and that CITY will suffer loss that is difficult to calculate if the Work is not completed within the times specified in paragraph 3.02 above, plus any extensions thereof allowed in accordance with paragraph 4.02 of the General Conditions. The parties also recognize the expense, and difficulties involved with a delay make it impossible to evaluate the actual loss suffered by CITY due to the nature of this project if the Work is not completed on time. Accordingly, CITY and CONTRACTOR agree that as liquidated damages for the delay (but not as a penalty), CONTRACTOR shall pay CITY \$ 100.00 for each day that expires after the time specified in paragraph 3.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by CITY, CONTRACTOR shall pay CITY \$ 100.00 for each day that expires after the time specified in paragraph 3.02 for completion and readiness for final payment until the Work is completed and ready for final payment. The parties agree that the amount of \$ 100.00 represents a fair and reasonable estimate of the CITY'S damages.

ARTICLE 4 - CONTRACT PRICE/CONSIDERATION

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

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

_____ (\$ _____)
(use words) (figure)

B. If the payment for the Project is based on Unit Pricing, the Contract Price shall be as set forth in the Unit Pricing portion of the Proposal.

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

ARTICLE 5 - PAYMENT PROCEDURES

5.01 *Submittal and Processing of Payments*

A. CONTRACTOR shall submit Applications for Payment in accordance with Article 5 of the General Conditions. Applications for Payment will be processed by the ENGINEER (defined in Article 9 of this Contract) as provided in the General Conditions.

ARTICLE 6 - CONTRACTOR'S REPRESENTATIONS

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

A. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. CONTRACTOR has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. CONTRACTOR has carefully studied all Contract Documents and understands the Work and Performance required in the Contract Documents and represents to the CITY that CONTRACTOR is fully capable of completing the work specified in the Contract Documents.

E. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by CONTRACTOR, and safety precautions and programs incident thereto

F. CONTRACTOR does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. CONTRACTOR is aware of the general nature of work to be performed by CITY and others at the Site that relates to the Work as indicated in the Contract Documents.

H. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

I. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract

Documents, and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 7 - CONTRACT DOCUMENTS

7.01 *Contents*

A. The Contract Documents consist of the following and are incorporated into this Contract for all purposes:

1. This Contract;
2. Performance Bond;
3. If applicable, the Unit Pricing in the Proposal;
4. Payment Bond;
5. Other Bonds;
 - a. Bid Bond (pages 1 to 2, inclusive);
 - b. _____;
 - c. _____;
6. General Conditions of Agreement;
7. Special Conditions of Agreement;
8. Any Other Documents listed in the Table of Contents of the Project Manual;
9. Any Drawings associated with the Project;
10. Addenda (if applicable);
11. Exhibits to this Contract(enumerated as follows):
 - a. Notice to Proceed;
 - b. CONTRACTOR'S Bid;
 - c. Documentation submitted by CONTRACTOR prior to Notice of Award;
 - d. _____;

12. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:

- a. Written Amendments;
- b. Work Change Directives;
- c. Change Order(s), if permissible under the Resolution enacted by the City.

B. There are no Contract Documents other than those listed above in this Article 7.

C. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 9.09 of this Contract.

ARTICLE 8 – NOTICE

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

If intended for CITY to:

Designee: _____

Address: _____

If intended for CONTRACTOR, to:

Designee: _____

Address: _____

ARTICLE 9 - MISCELLANEOUS

9.01 *Terms*

A. Terms used in this Contract will have the meanings indicated in the General Conditions.

B. In addition to the terms in the General Conditions, the term "ENGINEER" in this Contract shall mean a person designated as the ENGINEER by the City.

9.02 *Assignment of Contract*

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

any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.03 *Successors and Assigns*

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

9.04 *Severability and Conflict*

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon CITY and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

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

9.05 *Captions*

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

9.06 *INDEMNITY AND DUTY TO DEFEND*

A. CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES INCLUDING ATTORNEYS FEES, FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM, FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, STRICTLY LIABLE ACT, OR ANY OMISSION OF CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THIS AGREEMENT (HEREINAFTER "CLAIMS"); EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF CITY, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. IN ADDITION, THIS INDEMNIFICATION AND SAVE HARMLESS SHALL APPLY TO ANY IMPUTED OR ACTUAL JOINT ENTERPRISE LIABILITY. FURTHERMORE, THE CONTRACTOR SHALL ACQUIRE A POLICY OF INSURANCE IN THE MAXIMUM STATUTORY LIMITS FOR TORT LIABILITY OF THE CITY NAMING THE CITY OF SHERMAN AS AN ADDITIONAL INSURED UNDER ITS TERMS.

B. CONTRACTOR IS EXPRESSLY REQUIRED TO DEFEND THE CITY AGAINST ALL CLAIMS FOR WHICH THE CITY BECOMES LIABLE. IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO

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

C. This indemnification and duty to defend is subject to and does not waive any governmental immunity available to the CITY under Texas law, and any defenses of the parties under Texas law. The provisions of this paragraph are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

9.08 *Deletion of Arbitration Clause*

The parties agree that Paragraph 6.03 entitled Arbitration in the General Conditions, is not binding on the parties. This paragraph is not designed to prevent the parties from mutually agreeing to select arbitration as a means of resolving any disputes related to this Contract. The parties, however, agree not to be bound by the terms of 6.03 entitled Arbitration in the General Conditions.

9.07 *Choice of Law: Venue.*

This contract, the entire relationship of the parties, and any litigation between the parties (whether grounded in contract, tort, statute, law or equity) shall be governed by, construed in accordance with, and interpreted pursuant to the laws of the State of Texas, without giving effect to its choice of laws principles. This contract is wholly performable in Grayson County, Texas. Exclusive venue for any litigation between the parties shall be brought in Grayson County, Texas, and shall be brought in the State District Courts of Grayson County, Texas, or in the United States District Court for the Eastern District of Texas. The parties waive any challenge to personal jurisdiction or venue (including without limitation a challenge based on inconvenience) in Grayson County, Texas, and specifically consent to the jurisdiction of the State District Courts of Grayson County, Texas, or in the United States District Court for the Eastern District of Texas, Sherman Division.

9.08 *Binding Authority*

By their signatures below, the individuals represent that they have reviewed Contract with their attorney and that the individuals have the express authority to enter into this Contract.

9.09 *Entire Agreement*

This Contract embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Contract, and except as otherwise provided herein cannot be modified without written agreement of both the parties to be attached to and made a part of this Contract.

IN WITNESS WHEREOF, CITY and CONTRACTOR have signed this Contract in duplicate. One counterpart each has been delivered to CITY and CONTRACTOR. All portions of the Contract Documents have been signed or identified by CITY and CONTRACTOR or on their behalf.

This Contract will be effective on _____ (which is the Effective Date of the Contract).

CITY: CITY OF SHERMAN, TEXAS

CONTRACTOR:

By: _____
City Manager

By: _____

Attest _____
City Clerk

Attest _____
Notary Public

Commission Expires: _____

Agent for service of process: _____

(If CONTRACTOR is a corporation or a partnership,
attach evidence of authority to sign.)

Approved as to form:

Brandon Shelby
City Attorney



City Council Regular Meeting

Agenda Item No. D. 1.

Meeting Date: 05/20/2013

Prepared By: Mark Gibson, Director of Engineering & Utilities

Approved By: George Olson, City Manager

Caption:

*** CHANGE ORDER NO. 2**

Surface Water Distribution Pipeline East – Schedule “A”; W. Brown Enterprises, Inc.; \$6,468.00
Decrease

Issue:

To consider approval of a change order for the Water Treatment Plant second feed project Schedule “A”

Background:

Change Order No. 2 is a final reconciliatory change order to adjust the final project quantities for the west portion of the Water Treatment Plant second feed project.

Origination:

Department of Utilities Administration
Greater Texoma Utility Authority (GTUA)

Financial Consideration:

The change order results in a \$6,468.00 decrease in the contract amount, yielding a final contract price of \$759,444.50. The Project was funded through GTUA and was part of the City’s Capital Improvement Program.

Staff Recommendation:

It is recommended that Change Order No. 2 be approved.

Alternatives:

As may be directed by the City Council

Attachments

Change Order No. 2

CHANGE ORDER

No. 2

PROJECT Surface Water Distribution Pipeline East - Schedule "A", in the City of Sherman

DATE OF ISSUANCE 4/11/13

EFFECTIVE DATE _____

OWNER Greater Texoma Utility Authority

OWNER's Contract No. _____

CONTRACTOR W. Brown Enterprises, Inc.

ENGINEER Morris Engineers

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

Description:

Reason for Change Order: Reconcile contract price to quantities of work completed

Attachments: Schedule of changes

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price \$ 763,932.50	Original Contract Times Substantial Completion: Ready for Final Payment:
Net changes from previous Change Orders No. <u>1</u> to <u>1</u> . \$ 1,980.00	Net change from previous Change Orders No. <u> </u> to <u> </u> . Days
Contract Price prior to this Change Order \$ 765,912.50	Contract times prior to this Change Order Substantial Completion: Ready for Final Payment:
Net Increase (Decrease) of this Change Order \$ (6,468.00)	Net Increase (Decrease) of this Change Order Days
Contract Price with all approved Change Orders \$ 759,444.50	Contract Times with all approved Change Orders Substantial Completion: Ready for Final Payment:

RECOMMENDED:
Morris Engineers

By: [Signature]
Engineer (Auth. Signature)

Date: 4/29/13

APPROVED:
Greater Texoma Utility Authority

By: _____
Owner (Auth. Signature)

Date: _____

APPROVED:
City of Sherman

By: _____
Municipality (Auth. Signature)

Date: _____

ACCEPTED:
W. Brown Enterprises, Inc.

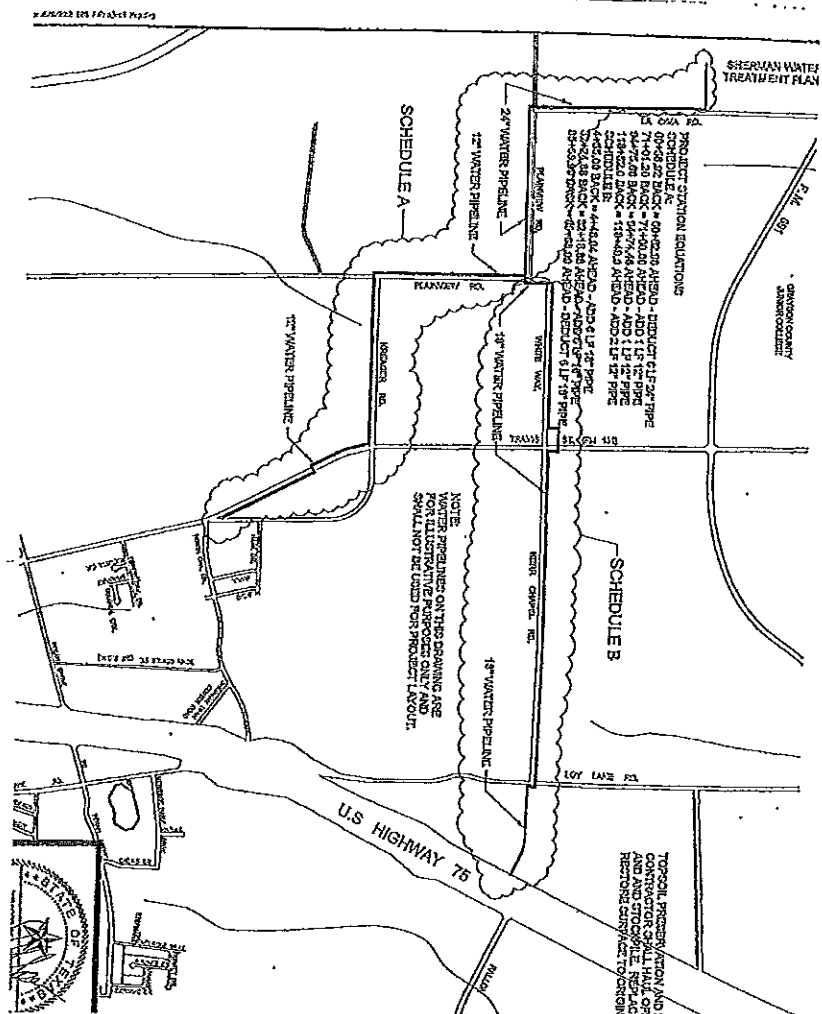
By: [Signature]
Contractor (Auth. Signature)

Date: 4-20-13

GREATER TEXOMA UTILITY AUTHORITY
SURFACE WATER DISTRIBUTION PIPELINE EAST - SCHEDULE "A"
FOR THE CITY OF SHERMAN, TEXAS
W. BROWN ENTERPRISES, INC.

4/11/2013

ITEM NO	ITEM DESCRIPTION	EST. QTY.	UNIT	UNIT COST	ORIGINAL CONTRACT	CHANGE ORDER NO. 1			CHANGE ORDER NO. 2			REV'D QTY.	TOTAL ITEM COST
						ADD	DEDUCT	TOTAL	ADD	DEDUCT	TOTAL		
1	24" dia. water pipeline	5957	LF	55.00	327,635.00	36		1,980.00				5,993	329,615.00
2	12" dia. water pipeline	7339	LF	20.00	146,780.00							7,339	146,780.00
3	24" butterfly valve	6	EA	5,200.00	31,200.00							6	31,200.00
4	18" butterfly valve @ 60+56.92 = 0+00	1	JOB		5,900.00							1	5,900.00
5	12" dia. AWWA gate valves	7	EA	2,250.00	15,750.00							7	15,750.00
6	Blowoff assy. - 24" line tee	1	EA	3,550.00	3,550.00							1	3,550.00
7	Fire hydrant assembly - 12" line tee	7	EA	3,600.00	25,200.00							6	21,600.00
8	Cement lined D.I. Fittings - 24"		LS		18,372.00					-1	(3,600.00)	0	18,372.00
8	Cement lined D.I. Fittings - 12"		LS		12,185.00							0	12,185.00
9	Combination air valve assembly - 4"	3	EA	4,850.00	14,550.00							3	14,550.00
9	Combination air valve assembly - 2"	2	EA	4,400.00	8,800.00							2	8,800.00
10	Bore/case crossing at 6+40 for 24" pipeline	1	JOB		36,000.00							1	36,000.00
11	Bore/case Travis St crossing for 12" pipeline	1	JOB		12,500.00							1	12,500.00
12	Creek xing with 12" dia. D.I.P.	180	LF	62.00	11,160.00					-20	(1,240.00)	160	9,920.00
13	Asphalt driveway and street repairs - 24"	25	LF	65.00	1,625.00							25	1,625.00
13	Asphalt driveway and street repairs - 12"	35	LF	60.00	2,100.00							35	2,100.00
14	Gravel driveway and street repairs - 24"	0	LF	-	-							0	-
14	Gravel driveway and street repairs - 12"	70	LF	50.00	3,500.00							70	3,500.00
15	Trench excavation protection - 24"	5957	LF	1.00	5,957.00							5,957	5,957.00
15	Trench excavation protection - 12"	7339	LF	0.50	3,669.50							7,339	3,669.50
16	SWPPP - 24"	1	JOB		5,000.00							1	5,000.00
16	SWPPP - 12"	1	JOB		5,000.00							1	5,000.00
17	TxDOT traffic controls - 12"	1	JOB		7,500.00							1	7,500.00
18	Replace fence	3037	LF	11.00	33,407.00					-148	(1,628.00)	2,889	31,779.00
19	Seeding work areas & watering	13296	LF	2.00	26,592.00							13,296	26,592.00
TOTAL CONTRACT					763,932.50			1,980.00			(6,468.00)		759,444.50





City Council Regular Meeting

Agenda Item No. E. 1.

Meeting Date: 05/20/2013

Prepared By: Pamela Cloer, Assistant to the City Manager

Approved By: George Olson, City Manager

Caption:

OTHER BUSINESS

Receive Presentation from Texoma Council of Governments (TCOG) Executive Director Dr. Susan B. Thomas on a Regional Tourism Branding Initiative and its Economic Impact to the Region

Issue:

TCOG Executive Director Dr. Susan B. Thomas will brief the City Council on a regional tourism branding initiative and its economic impact to our region.

Origination:

Mayor Carolyn S. Wacker

Financial Consideration:

There is no financial impact to this agenda item.

Staff Recommendation:

This presentation is for informational purposes only; no Council action is needed.

Alternatives:

None



City Council Regular Meeting

Agenda Item No. E. 2.

Meeting Date: 05/20/2013

Prepared By: Don Keene, Director of Public Works

Approved By: George Olson, City Manager

Caption:

*** OTHER BUSINESS**

Consider Request of the 2013 Neighborhood Recreational Committee to Temporarily Close Certain Streets for the Annual "Juneteenth Celebration" on Saturday, June 22, 2013

Issue:

The 2013 Neighborhood Recreational Committee proposes to hold the annual "Juneteenth Celebration" on Saturday, June 22nd and requests barricades and a street closure.

Background:

Ms. Tracey Ross, representing the 2013 Neighborhood Recreational Committee, proposes to hold the annual "Juneteenth Celebration" at Martin Luther King, Jr. Park from 8:00 a.m. to 6:00 p.m. on Saturday, June 22nd. In order to accommodate the celebration, the Committee requests delivery and pick up of barricades for the closure of East Street between Vernon Holland Street and College Street. The event organizers have been reminded that, although East Street will be closed with barricades, accessibility through East Street by emergency vehicles must be maintained at all times throughout the event.

Origination:

Ms. Tracey Ross, President, 2013 Neighborhood Recreational Committee

Financial Consideration:

The event will require minimal staff overtime to close and open the streets on the day of the event. The event organizers will pay park and pavilion rental fees for the use of Martin Luther King Jr Park.

Staff Recommendation:

It is recommended that the City Council authorize the street closure, the utilization of Martin Luther King, Jr. Park, and City resources to accommodate this event.

Alternatives:

As directed by the Council

Attachments

Barricade Location Map



MLK Park

MLK Park

MLK Park

Kerr East Complex

Martin Luther King Park

0 32 64 128 192 256 Feet



City Council Regular Meeting

Agenda Item No. E. 3.

Meeting Date: 05/20/2013

Prepared By: Don Keene, Director of Public Works

Approved By: George Olson, City Manager

Caption:

*** OTHER BUSINESS**

Consider Request of Mr. John Arriazola to Temporarily Close Certain Streets for a Cancer Benefit for Ainsley Moravec on Saturday, June 29, 2013; and Consider Mr. Arriazola's Request to Apply for a Liquor Permit to Sell Alcohol on the Street during the Event

Issue:

Mr. John Arriazola proposes to hold a Cancer Benefit for Ainsley Moravec on Saturday, June 29th and requests barricades and a street closure. Mr. Arriazola also requests permission to apply for an alcohol permit from the Texas Tobacco and Alcohol Commission.

Background:

Mr. John Arriazola proposes to hold a Cancer Benefit for Ainsley Moravec at Lupe's World Famous Tamales on Saturday, July 29th from 7:00 p.m. to 10:00 p.m. In order to accommodate the benefit, Mr. Arriazola requests delivery and pick up of barricades for the closure of Wall Street between Travis Street and Walnut Street. Mr. Arriazola also requests permission to apply for a liquor permit from the Texas Tobacco and Alcohol Commission to sell alcohol on the street during this event. Mr. Arriazola has been reminded that accessibility by emergency vehicles through all streets must be maintained throughout the event.

Origination:

Mr. John Arriazola

Financial Consideration:

The event will require minimal staff overtime to close and open the street on the day of the event.

Staff Recommendation:

It is recommended that the City Council authorize the street closure and City resources to accommodate this event.

Alternatives:

As directed by the Council

Attachments

Barricade Location Map



Satellite

Traffic



E Pecan St

N Walnut St

N Walnut St

E Wall St

E Wall St

E Wall St

GCEC
Telecom

Roto-Rooter

Texoma Carpet
Cleaning

Lupe's
Tamales

Grayson County
Appraisal

Spirit Ink

Home Instead
Senior Care

Painting

Map data ©2013 Google

Edit in Google Map Maker

Report a problem



100 ft
20 m



City Council Regular Meeting

Agenda Item No. E. 4.

Meeting Date: 05/20/2013

Prepared By: Brandon Shelby, City Attorney

Approved By: George Olson, City Manager

Caption:

OTHER BUSINESS

Receive the City Attorney's Presentation on a Proposed Substandard Structure Ordinance

Issue:

The City Attorney will present a draft of a revised substandard structure ordinance and walk the Council through the proposed enforcement process.

Background:

Council has requested revisions to the City's substandard structure ordinance with the goal of encouraging property owner maintenance and reducing blight throughout the City. The proposed draft to be presented is a result of numerous meetings with City management and staff as well as input from the Mayor and her appointed committee.

Origination:

Council and City Attorney

Financial Consideration:

It is anticipated that the ordinance will be administered and enforced by existing staff. Additional staffing may eventually be necessary. Abatement costs may prove to be significant and require budgetary consideration.

Staff Recommendation:

None

Alternatives:

None

Attachments

Substandard Structure Draft Ordinance

Flowchart

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 3 OF THE CODE OF ORDINANCES, ENTITLED "BUILDING REGULATIONS", AT ARTICLE 3.06, ENTITLED "HOUSING CODE", DIVISION 2, ENTITLED "DANGEROUS BUILDINGS", AT SECTIONS 3.06.011 THROUGH 3.06.022; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That, from and after the passage of this ordinance, Chapter 3, Article 3.06, be and is hereby amended at Division 2, Sections 3.06.011 through 3.06.022, so that such sections shall read as follows:

**~~Sec. 3.06.011 Standard Unsafe Building Code Board of Adjustments and Appeals~~
*Substandard Structure Commission***

(a) ~~A Standard Unsafe Building Code Board of Adjustments and Appeals.~~ ("Board *Substandard Structure Commission*. ("Commission") is hereby created and established for the express purpose of providing for the final interpretation and implementation of the provisions of this Article. The ~~Board~~Commission shall consist of three (3) members and two (2) alternates who are not employees of the jurisdiction having authority and shall be appointed by the Council. The composition of the Board shall be architects, engineers, real property owners, or members at large from the electrical, plumbing, air-conditioning, construction or housing industry.

(b) Two (2) members of the ~~board~~commission shall constitute a quorum. In the application of any provisions of this code, affirmative votes of the majority present, but not less than two affirmative votes, shall be required. A board member shall not act in a case in which he has a personal interest.

~~Sec. 3.06.012 Abatement of Dangerous Buildings~~*Substandard Structures*

(a) It shall be unlawful for any owner, ~~occupant~~, or other person in control of a building to allow that building to be in a condition that does not conform to the minimum standards.

(b) Any building that does not conform to the minimum standards is hereby declared to be a public nuisance and shall be ~~abated by vacation, relocation of occupants,~~subject to abatement by repair, demolition, or removal as necessary upon the issuance of an order to abate issued by the ~~Board~~Commission in accordance with the procedures specified in this article.

Sec. 3.06.013 Minimum Standards

(a) A building is considered not to meet the minimum standards of the City of Sherman ~~for continued use and occupancy of a building~~, regardless of its date of construction, under any of the following conditions:

(1) Any building that is dilapidated, substandard, or unfit for human habitation and a hazard to public health, safety and welfare; including, but not limited to:

(A) any building with roof, ceiling, floors, walls, sills, windows, or foundation or any combination thereof rotted or decayed, and falling apart; or that is uninhabitable due to obsolescence and deterioration caused by neglect, vandalism, fire damage, ~~old age~~, or the elements;

(B) ~~Any building intended for human occupancy that is in danger of falling and injuring persons or property;~~*any structure or building that is in a state of dilapidation, deterioration or decay, faulty construction, open, vacant or abandoned, damaged by fire to the extent as not to provide shelter, in danger of collapse or failure and dangerous to anyone on or near the premises;*

(C) any building that is a fire ~~menace~~*hazard* because it is in a dilapidated condition, as described in (A) and (B) above or that is likely to become a fire ~~menace~~*hazard* or be set on fire;

(D) any building that is in unsanitary condition and is likely to create disease because of the presence of insects, rodents or vermin;

(E) any building that is damp and in unsanitary condition and is likely to create disease and sickness because of being in the condition in (A), (B), (C) or (D) above, or for other reasons;

(F) *any building that because of any physical condition, use or occupancy of any premises or its appurtenances would be considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations, swimming pools and unsafe fences or structures;*

(G) *any building that because of the state of disrepair is such that it could reasonably cause injury, damage, or harm to a considerable portion of the community in the use and enjoyment of property, materially interfering with the proper use or comfort and enjoyment of surrounding property, taking into consideration the nature and use of the properties in the area and the character of the community in which they are situated, which condition would be substantially offensive and annoying to persons of ordinary sensibilities living in the community.*

(2) Any building that is not occupied by its owners, lessees or other invitees and is not secure from unauthorized entry so that it could be entered or used by vagrants, other uninvited persons or children regardless of its structural condition.

(3) Any building that is boarded up, fenced or secured if:

(A) the building constitutes a danger to the public even though secured from entry; or

(B) the means used to secure the building are inadequate to prevent unauthorized entry or use of the building.

Sec. 3.06.014 Inspection and Notice of Abatement

(a) The city manager shall designate an appropriate official ("*building official*") of the city to inspect or cause to be inspected any building that he has probable cause to believe does not meet the minimum standards. If the inspecting official is unable to obtain permission to search the building from the owner or a person in control of the premises, the city shall apply for an administrative search warrant pursuant to Texas Code of Criminal Procedure section 18.05, as amended, unless an exception to the warrant requirement exists.

(b) After completing the inspection, the inspecting official shall determine if the building is a ~~dangerous building~~ *substandard structure*.

(c) After an initial determination that a building is a ~~dangerous building~~ *substandard structure*, the inspecting official will notify the owner of record of the building, by certified mail, return receipt requested, of the nature of the violation(s) of the minimum standards.

(d) The inspecting official shall also notify the owner of record of the building, *by certified mail, return receipt requested*, that the building is ~~dangerous~~ *a substandard structure* and that the owner must ~~vacate and/or~~ repair, demolish, or remove the building for the good of the public health, safety and welfare.

(e) *The inspecting official shall also notify the owner of record of the building, by certified mail, return receipt requested, that if said violations have not been cured after a period of thirty (30) days the inspection official will cause a hearing to be held with the Substandard Structure Commission in accordance with this Article.*

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

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

CONTACT _____ AT _____ FOR FURTHER INFORMATION.

DATE: _____”

Sec. 3.06.015. Commission’s Order to Abate

(a) General. Whenever the building official has inspected or caused to be inspected any structure or lot and has found and determined that such structure or lot is substandard, he may commence proceedings to cause repair, rehabilitation, or demolition of the structure or lot.

(b) Notice and administrative order to abate. The building official shall issue a notice and administrative order to abate a substandard structure or lot. The notice and administrative order shall contain:

(1) The street address and a legal description sufficient for identification of the premises upon which the structure is located.

(2) A statement that the building official has found the structure or lot to be substandard with a brief and concise description of the conditions found to render the structure or lot substandard under the provisions of this Chapter.

(3) A statement of the action recommended to be taken, as determined by the building official as follows:

(A) if the building official has determined that the structure or lot must be repaired or remediated, the administrative order shall require that all required permits be secured and work physically commenced within thirty (30) days from the date of the administrative order.

(B) if the building official has determined that the structure must be demolished, the administrative order shall require that all required permits be secured and work physically commenced within thirty (30) days from the date of the administrative order.

(4) A statement advising that a notice of hearing is forthcoming and a description of the hearing. The hearing shall provide the commission the means to consider or determine whether a structure or lot complies with the standards set forth herein and to consider or determine whether a structure or lot must be repaired or demolished, as recommended by the building official in the notice and administrative order.

(5) Statements advising that if the owner or owners of record are in full agreement with a demolition order, and that if the owner or owners of record are financially unable to abate such nuisance, then the owner or owners of record may grant the city written permission to abate said nuisance, and, in doing so shall grant the city a lien against the real property as described in this Article

(c) Notice of hearing. The building official shall give notice of a public hearing to all known owners, lienholders, or mortgagees for the commission to consider or determine whether a

structure or lot complies with this code and to consider or determine whether a structure or lot must be repaired, secured or demolished. The notice shall be mailed and posted as provided herein, and published in the official newspaper of the city on one occasion, on or before the tenth (10th) day before the date of the hearing. The notice of hearing shall contain:

- (1) The name and address of the owner of the affected property, if known;*
- (2) A legal description of the property, as well as the physical address;*
- (3) A description of the hearing;*
- (4) The date, time, and place of the public hearing. This date shall be established not less than ten (10) days from the date of the administrative order;*
- (5) A statement advising that securing the required permits and physically commencing the required action shall be considered as intent to comply with the administrative order to abate, and that the hearing shall be temporarily postponed. Should abatement halt, or not progress at a rate determined to be reasonable by the building official, the hearing shall be recalled; and*
- (6) statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work.*

(d) Service of notice and administrative order to abate and notice of hearing. The notice of the administrative order to abate, the notice of hearing and any supplemental notices or orders shall be served upon the owner, lessor, lienholder, and mortgagees of record and occupant, if different than the owner of the structure or lot. Service of these notices and orders shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice by certified mail, return receipt requested, and an optional second copy by regular mail, to each such person at his address as it appears on the county tax rolls, or as discovered by due diligence, as defined by subsections (d)(1)—(d)(6) of this section, and the notice shall be posted on the front door of each improvement situated on the affected property or as close to the front door as practical. The following of these procedures shall be prima facie evidence of notification. If a certified notice is returned as refused or unclaimed, the validity of the notice is not affected, and the notice shall be deemed delivered. The city has satisfied the requirements of this section to make a diligent effort to determine the identity and address of an owner, a lienholder, or a mortgagee if the city searches the following records:

- (1) County real property records of the county in which the building is located;*
- (2) Appraisal district records of the appraisal district in which the building is located;*
- (3) Records of the secretary of state;*

- (4) *Assumed name records of the county in which the building is located;*
- (5) *City tax records; and*
- (6) *City utility records.*

(e) *Filing of notice and administrative order at the county.* *A copy of the notice and any administrative orders, or such orders as may be issued pursuant to these provisions, shall be filed with the county deed records in the county where the property is located. The notice must contain the name and address of the owner of the affected property if that information can be determined from a reasonable search of the instruments on file in the office of the county clerk, or upon a due diligence search as set forth herein, a legal description of the affected property, and a description of the proceeding. The filing of said notice and any said orders, is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of said notice or any said orders, and constitutes notice of said hearing and notice of any said orders, on any subsequent recipient of any interest in the property who acquires such interest after the filing of said notice or filing of any said orders.*

(f) *Meeting/public hearing.* *During an officially convened meeting, the commission shall hold a public hearing on each case and shall hear such testimony as may be presented by any department of the city, the housing inspector, or the owner, occupant, mortgagee or any other person having an interest in such building to determine whether a building complies with the standards of this code. The owner, lienholder, or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with this code and the time it will take to perform the work. After all testimony has been received, the public hearing shall be closed and the commission shall deliberate on the case in open session. The commission shall make written findings of fact from the testimony offered as to whether the building complies with the standards of this code.*

(1) *After the meeting, if a building is found in violation of the standards set forth herein, the commission may order that the building be secured, repaired, removed, or demolished by the owner within a reasonable time as provided herein. The commission reserves the right to determine what is a reasonable amount of time to perform the ordered work.*

(2) *The commission shall require the owner, lienholder, or mortgagee of the building to, within thirty (30) days:*

(A) *secure the building from unauthorized entry or use; or*

(B) *repair, remove, or demolish the building, unless the owner, lienholder, or mortgagee establishes at the hearing that the work cannot reasonably be performed within thirty (30) days.*

If the commission allows the owner, lienholder, or mortgagee more than thirty (30) days to repair, remove, or demolish the building, the commission shall

establish specific schedules for the commencement and performance of the work and shall require the owner, lienholder, or mortgagee to secure the property in an approved manner from unauthorized entry while the work is being performed, as determined by the commission.

(3) The commission may not allow the owner, lienholder, or mortgagee more than ninety (90) days to repair, remove, or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder, or mortgagee:

(A) submits a detailed plan and time schedule for the work at the hearing; and

(B) establishes at the hearing that the work cannot justifiably be completed within ninety (90) days because of the scope and complexity of the work.

If the commission allows the owner, lienholder, or mortgagee more than ninety (90) days to complete any part of the work required to repair, remove, or demolish the building, the commission shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the building official and to the commission to demonstrate that the owner, lienholder, or mortgagee has complied with the time schedules established for commencement and performance of work. The order may require that the owner, lienholder, or mortgagee appear before the commission to demonstrate compliance with the time schedule.

(g) Post meeting procedure. The secretary for the commission shall, within ten (10) days after the date the order is issued:

(1) File a copy of the order in the office of the city clerk;

(2) Publish in a newspaper of general circulation in the city a notice containing:

(A) the street address or legal description of the property;

(B) the date of the hearing;

(C) a brief statement indicating the results of the order; and

*(D) instructions stating where a complete copy of the order may be obtained;
and*

(3) Shall promptly mail by certified mail, return receipt requested, and an optional second copy by regular mail, a copy of the order to the owner, any lienholder, and any mortgagee of the building, as determined by due diligence, as defined herein.

Sec. 3.06.016 Enforcement

(a) Criminal.

(1) A person who violates a provision of this code, or who fails to perform an act required of him by this code, or who fails to adhere to an order issued by the Commission under this code, commits a Class C misdemeanor offense. A person commits a separate offense each day or portion of a day during which a violation is committed, permitted, or continued.

(2) An offense under this code is punishable by a fine of \$250.00 per day per violation.

(3) Allegation and evidence of a culpable mental state is not required for the commission of an offense under this code.

(b) Civil.

(1) The city may, in accordance with sections 54.012 et seq. of the Texas Local Government Code, as amended, bring a civil action against a person violating a provision of this code relating to dangerously damaged or deteriorated structures or improvements or for conditions caused by accumulations of trash, garbage, refuse, vegetation, or other matter that creates breeding and living places for insects and rodents.

(2) The civil action may include, but is not limited to, a suit to recover a civil penalty not to exceed \$1,000.00 for each day or portion of a day during which the violation is committed, continued, or permitted by the owner or occupant of the property, as provided below.

(3) The city, by order of the commission, may assess and recover a civil penalty against a property owner, if the owner fails to take the requisite action as ordered by the commission, after an administrative hearing on the matter. The civil penalty may not exceed \$1,000.00 a day for each violation if the city proves:

(A) the property owner was notified of the requirements of this code and the owner's need to comply with the requirements; and

(B) after notification, the property owner committed an act in violation of this code or failed to take an action necessary for compliance with this code.

(4) A determination by the commission which involves the establishment of an amount and duration of a civil penalty shall be final and binding and constitute prima facie evidence of the penalty in any court of competent jurisdiction in a civil suit brought by the city for final judgment in accordance with the established penalty.

(5) To enforce any civil penalty under this section, the City must file in the district clerk's office in which the municipality and property is located, a certified copy of the order of the commission establishing the amount and duration of the penalty. No other proof is required for a district court to enter final judgment on the penalty.

(c) *Other available remedies. The city shall have all other available remedies at law and in equity to enforce the provisions of this Article.*

Sec. 3.06.017 Authority to Secure ~~Building~~—Unoccupied, Unsecured, Substandard, Open Buildings and Structures

(a) ~~The city may secure a building that it determines does not meet the minimum standards and is unoccupied or occupied only by persons who do not have a right to possess the building.~~
Purpose. The owner or person in control of an unoccupied structure shall ensure that the building is in such condition that an unauthorized person cannot enter the structure through missing or unlocked doors or windows or through other openings into the building. The city may secure unoccupied, unsecured structures, or structures occupied by persons who do not have the right of possession to the building. A lien may be filed on real property to ensure the cost of securing the structure as set forth in this Article.

(b) Definitions.

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

(2) *An unoccupied structure is hereby defined to be any structure or building that appears vacant or abandoned as evidenced by: no active utility accounts, absence of personalty, general conditions of neglect and any other substantiated evidence of vacancy or abandonment that may be presented by the building official.*

(c) City may secure.

(1) *The building official may secure a building that:*

(A) *violates the standards of this code; and*

(B) *is an unsecured structure.*

(2) *This authority is in addition to that regarding substandard structures.*

(d) Notice.

~~(b) Before the 11th day after the date the building is secured, the city shall give notice to the owner of record by: (1) Before the eleventh (11th) day after the date the building is secured, the building official shall give notice to the owner of record by:~~

~~(1)~~ (A) *personally serving the owner with written notice; or*

~~(2) (B) depositing~~ *sending a copy of the notice in the United States mail by certified mail, return receipt requested, and an optional copy by regular mail, addressed to the owner at the owner's last known post office or physical address; or*

~~(3) (C) publishing the notice at least twice within a ten (10) day period in a-the city's official newspaper of general circulation in Grayson County~~ *if personal service cannot be obtained and the owner's post office or physical address is unknown; or*

~~(4) (D) posting the notice on or near the front door of the building if personal service cannot be obtained and-or the owner's post office or physical address is unknown.~~

~~(c) The notice shall contain an identification of the building and the property on which it is located, a description of the existing violation(s) of the minimum standards, and a statement that the municipality will secure or has secured the building.~~

~~(d) The notice shall also state that the owner may request a hearing about any matter related to the city's securing of the building, and that if such a hearing is requested, it shall be held pursuant to Texas Local Government Code section 214.0011(e), as amended~~

(2) The notice must contain the following:

(A) an identification, which is not required to be a legal description, of the building and the property on which it is located;

(B) a description of the violation of this code that is present at the building;

(C) a statement that the city will secure or has secured, as the case may be, the building; and

(D) a statement that the owner may request a hearing about any matter related to the city's securing of the building, and that if such a hearing is requested, it shall be held pursuant to Texas Local Government Code section 214.0011(e), as amended

(3) The city shall conduct a hearing before the commission at which the owner may testify or present witnesses or written information about any matter relating to the city's securing of the building if, within thirty (30) days after the date the city secures the building, the owner files with the secretary for the commission, or the city secretary, a written request for the hearing. The city shall conduct the hearing within twenty (20) days after the date the request is filed.

~~Sec. 3.06.016~~—Notice of Public Hearing

~~(a) If the owner does not reply or take action within fifteen (15) days from the date the notice was mailed, the inspecting official shall request that the Standard Unsafe Building Code Board~~

~~of Adjustments and Appeals (the “Board” herein) hold a public hearing to determine whether the building complies with the minimum standards set forth in this article. The Board shall then order a public hearing.~~

~~(b) When the Board orders a public hearing, the city shall make a diligent effort to discover the identity and address of the owner(s) of record and any lienholders or mortgagees of the building and the underlying property.~~

~~(c) The city shall notify each owner, lienholder, or mortgagee by personal delivery or by certified mail, return receipt requested, and notify any unknown owners by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practicable, that the Board will hold a public hearing in reference to the building and that the interested party may appear at the public hearing, be heard, and present evidence in reference to the condition of the building.~~

~~(d) The notice shall further advise the owner, lienholder, or mortgagee or unknown owner that it will have the burden of proof at such hearing and will be required to submit at the hearing proof of the scope of any work that may be required to make the building comply with the ordinance and the amount of time it will take to reasonably perform the work.~~

~~(e) The city may also file a notice of the public hearing in the official public records of real property in Grayson County. The notice must contain the name and address of the owner of the property (if it can be determined from a reasonable search of county records), a legal description of the affected property and a description of the hearing.~~

Sec. 3.06.017 — Order to Abate

~~(a) If the Board finds at the public hearing that the building is in violation of the minimum standards, the Board shall require the owner, lienholder, or mortgagee to complete the following within thirty (30) days:~~

~~(1) secure the building from unauthorized entry;~~

~~(2) repair, demolish or remove the building unless the lienholder, or mortgagee establishes at the hearing that the work cannot reasonably be performed within thirty (30) days.~~

~~(b) If the Board finds at the public hearing that the building is in violation of the minimum standard and the building is occupied, the Board may order the relocation of the occupants within a reasonable time.~~

~~(c) The city shall promptly serve by personal delivery or by certified mail, return receipt requested, a copy of any order issued pursuant to subsection (a) of this section, to the owner of record of the building and to any lienholder or mortgagee along with a notice containing:~~

~~(1) an identification of the building and the property on which it is located;~~

~~(2) — a description of the violation(s) of the minimum standards; and~~

~~(3) — a statement that the municipality will secure, vacate, repair, remove or demolish the building if the ordered action is not taken by the owner within a reasonable time.~~

~~(d) — The order shall allow the owner thirty (30) days to complete the ordered action, unless the Board determines from the evidence presented at the public hearing that additional time is required. If the Board allows more than thirty (30) days to repair, remove or demolish the building, it shall establish specific time schedules for the commencement and performance of the work and require the owner, lienholder, or mortgagee to secure the property in a reasonable manner from unauthorized entry until the work is completed.~~

~~(e) — The order shall also state that any lienholders or mortgagees of the building and/or the underlying property shall have an additional thirty (30) days to complete the ordered action if the owner fails to comply within the time allotted in subsection (c) above.~~

~~(f) — The Board may not allow the owner, lienholder or mortgagee more than ninety (90) days to complete any part of the work required to repair, remove or demolish the building unless the requirements of Texas Local Government Code section 214.001(j) and section 214.001(k), as amended, are met.~~

~~Sec. 3.06.018 — Filing and Publication of Order~~

~~Within ten (10) days following the date that an order is issued, the city shall:~~

~~(1) — file a copy of the order in the office of the city clerk of the City of Sherman; and~~

~~(2) — publish in a newspaper of general circulation in the City of Sherman a notice containing the following:~~

~~(A) — the street address or legal description of the property;~~

~~(B) — the date the hearing was held;~~

~~(C) — a brief statement indicating the results of the order; and~~

~~(D) — instructions stating where a complete copy of the order may be obtained.~~

~~Sec. 3.06.0198 — Appeals~~

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

~~Sec. 3.06.020 — Penalty~~

~~Any person convicted of violating any provision of this division shall be guilty of a Class C misdemeanor and shall be subject to a fine in accordance with the general penalty provision found in section 1.01.009 of this code. Each day or fraction of a day such violation continues shall constitute a separate offense.~~

Sec. 3.06.019 Abatement by City and Liens

(a) If an owner or other interested party does not take the action required by an order issued pursuant to this Article within the time specified and has not filed a timely appeal in accordance with this Article and the Texas Local Government Code section 214.0012 the city may take the appropriate action at its expense at the direction of the City Council in accordance with the laws of the State of Texas.

(b) Any expenses incurred by the city pursuant to subsection (a) of this section will be assessed against the property on which the building stands or stood. The city will have a privileged lien upon filing same in the official public records of the Grayson County Clerk subordinate only to tax liens against the property unless it is a homestead as protected by the Texas Constitution. The lien will be extinguished if the property owner or other interested party reimburses the city for all expenses and penalties.

Sec. 3.06.020 Receiver

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

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

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

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

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

INTRODUCED on this the _____ day of _____, 2013.

ADOPTED on this the _____ day of _____, 2013.

EFFECTIVE DATE on this the _____ day of _____, 2013.

CITY OF SHERMAN, TEXAS

BY: _____
CAROLYN S. WACKER, MAYOR

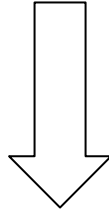
ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

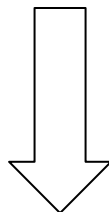
**APPROVED AS TO FORM
AND CONTENT:**

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

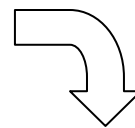
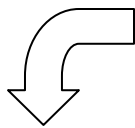
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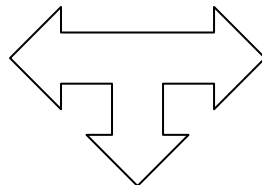
HEARING
BEFORE
COMMISSION



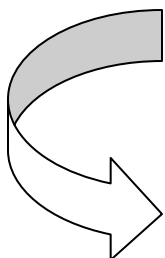
ENFORCEMENT



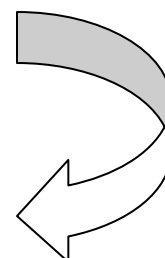
CRIMINAL



CIVIL



DISTRICT COURT
RULING ON
NUISANCE AND
ABATEMENT
ACTION BY CITY





City Council Regular Meeting

Agenda Item No. H. 1.

Meeting Date: 05/20/2013

Prepared By: Linda Ashby, City Clerk

Approved By: George Olson, City Manager

Caption:

APPOINT/REMOVE OR CONSIDER QUALIFICATIONS TO BOARDS AND COMMISSIONS

(a) Parks and Recreation Advisory Board (2)

Issue:

Lauren Roth's and Jason Howard's terms on the Parks and Recreation Advisory Board expired on May 17, 2013. Both are eligible for reappointment. Ms. Roth does wish to be reappointed. Mr. Howard has not attended a Board Meeting in several months. Tracey Brown has also submitted an application for service on the Board.

Background:

The Parks and Recreation Advisory Board advises the City Council on long-range planning and implementation of programs and activities conducted by the Parks and Recreation Department.

Origination:

The appointments originated with the City Clerk's Office.

Financial Consideration:

There is no financial consideration.

Staff Recommendation:

It is recommended that the City Council consider appointments to the Parks and Recreation Advisory Board.

Alternatives:

The alternative is to delay the appointments to the Board.

Attachments

Roster

Fact Sheet

Applicant List

Lauren Roth Letter

Tracey Brown Application

MEMBERSHIP ROSTER

PARKS & RECREATION BOARD

LENGTH OF TERMS: TWO YEARS

Ord. 4112 Consecutive Term Limit (3)*effective 7/24/89

MEMBER	DISTRICT	TERM BEGINS	TERM EXPIRES	TERMS	MEMBERSHIP REQUIREMENTS
Jason Howard	3	A 5/17/2011	5/17/2013	1	
Rhonda McCollum	1	A 10/2/2012	10/2/2014	1	
Lauren Roth	4	A 5/17/2011	5/17/2013	1	
Michael Gillum	2	A 10/4/2011	10/4/2013	1	
Jencie Bolin	1	A 10/2/2012	10/2/2014	1	
John Murphy	1	A 10/6/2009 R 10/6/2011	10/6/2011 10/6/2013	1 2	
Trent Bass	1	U 3/17/2009 R 11/8/2009 R 11/8/2011	11/8/2009 11/8/2011 11/8/2013	0 1 2	

NOTE:

Chair: Trent Bass
Vice Chair:

Term: October 2009

FACT SHEET

PARKS AND RECREATION BOARD

Established by ORDINANCE 3181 – MARCH 28, 1977

1. Number of Members: SEVEN (7)
2. Term of Appointment: TWO (2) YEARS
3. Consecutive Term Rule: THREE (3) TERMS – ORDINANCE 4112 (7/24/89)
4. Qualifications for Membership: INTEREST IN PROGRAMS AND ACTIVITIES CONDUCTED BY PARKS AND RECREATION DEPARTMENT. A STUDENT OF SHERMAN HIGH SCHOOL DESIGNATED BY STUDENT COUNCIL, AND THE DIRECTOR OF PARKS AND RECREATION SHALL BE EX-OFFICIO, NON-VOTING MEMBERS
5. Appointed by: MAYOR AND CITY COUNCIL
6. Board Organization

CHAIRPERSON E VICE CHAIRPERSON SECRETARY A

ELECTED APPOINTED
7. Departmental Responsibility: PARKS AND RECREATION DEPARTMENT
8. Meeting Date: FIRST WEDNESDAY OF EACH MONTH
9. Attendance Requirements: WILL FORFEIT SEAT BY MISSING 3 CONSECUTIVE MEETING WITHOUT GOOD CAUSE

=====

PURPOSE:

To assist in long-range planning and implementation of programs and activities conducted by the Parks and Recreation Department.

RESPONSIBILITIES:

Advise concerning future development; to study and make recommendations concerning additional park land or sites; and to recommend means for maximum utilization of facilities.

APPLICANT LIST

Parks and Recreation Advisory Board

Positions Vacant 2

Applicant	Address	District	Qualifications
Lauren Roth	1400 W. Laurel	4	Current Member; Wishes to be Reappointed
Tracey Brown	3608 W. Houston	4	United Healthcare

COMMENTS:

PUBLIC RECORDS DEPARTMENT

Phone No. (903) 892-7204

Fax No. (903) 892-7394

April 24, 2013

Lauren Roth
1400 W. Laurel
Sherman, Texas 75090



RE: Parks and Recreation Advisory Board

Dear Ms. Roth:

Your term on the Parks and Recreation Advisory Board expires on May 17, 2013. You are eligible for reappointment to the Board. Please let me know whether or not you are interested in reappointment to this board by checking the appropriate statement at the bottom of this letter and returning a copy to me at the address below. If you have any questions or need additional information, please don't hesitate to contact me.

Best regards,

Linda Ashby

Linda Ashby
City Clerk

cc: Kevin Winkler, Parks and Recreation Administrator

X

I do wish to be considered for reappointment to this board

I do not wish to be considered for reappointment to this board

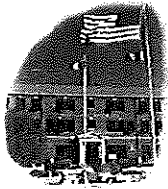
Kevin Winkler

Signature

5/8/13

Date

Please return to: City of Sherman
City Clerk's Office
P.O. Box 1106
Sherman, Texas 75091-1106



CITY OF SHERMAN APPLICATION FOR BOARD OR COMMISSION MEMBERSHIP

Return completed application to:

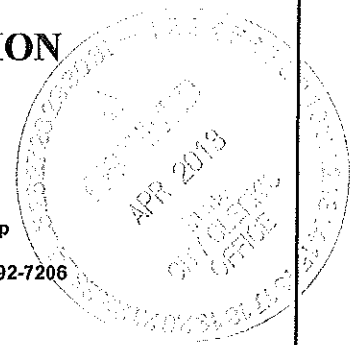
City Clerk's Office
220 W. Mulberry
P.O. Box 1106
Sherman, TX 75091
Fax: (903) 892-7394

Please type or use black ink

Please complete one application for each board or commission membership

Please limit attachments to two pages

For questions or additional information, call the City Clerk's Office, (903) 892-7206



Name:

Tracey Brown

(Please print legal name and your name as you wish it to appear, if different.)

Name of Board
or Commission:

Parks & Recreation Board

☒ Yes, I would be interesting in serving on subcommittees that may be formed.

Personal Information

Home Address: 2608 W. Houston St.
Mailing Address: same
Telephone: 9032710661 Fax: —
E-Mail: browntracey16@gmail.com
Sherman Resident for 32 years County: Grayson
Drivers License No.: 17431657
Voter Registration No.: 1025422619 ✓

Occupational Information

Business Name: United Healthcare
Occupation: Provider Installation Specialist
Address: —
Telephone: 9038935059 Fax: —
E-Mail: —

Which Council District do you live in? (see attached map)

4 ✓

Prior work experience: (please include dates)

Hospice Plus - Mar 2012 to Jun 2012

Traditions Senior Living - Sept 2010 to Jan 2012

NWEA - Aug 2008 to Aug 2010

* resume attached

Educational Achievement:

High School Graduate? ☒ Yes ☐ No Year Graduated/Left School? 1998

Business College, Correspondence School, Adult Education, Other? —

Name of College/University: SGSU

☒ Bachelor's ☐ Master's ☐ PhD

Volunteer Work: (please include dates)

Faith Church of Sherman - 2007 to present

The Rehabilitation Center - Jan 2008 to December 2011

American Cancer Society Relay For Life - Jan 2009 - June 2010

Have you ever been convicted of a crime (except for minor traffic offenses that resulted only in a fine)? ☐ Yes ☒ No

If yes, please explain in complete detail. State the nature and approximate date of the conviction, the sentence imposed, whether the sentence has been completed, and any other information you consider to be relevant.

Application held for 12 months from date received

Taxes - No

Are you presently serving on a City board or commission? ☐ Yes ☒ No

If so, which one? _____

Why do you want to become a member of this particular board or commission (how would you use this experience to benefit the City)?

I would like to serve on the Parks & Recreation Board to help give a fresh perspective of the City's needs, wants and desires. I grew up in Sherman and spent a lot of time in our local parks and I want to see the parks flourish for future generations of young and old. I believe I could add value to this Board.

Briefly explain what you believe are the three most important issues facing this board or commission and how you believe this board or commission should address each issue?

1) See attached

2) See attached

3) See attached

List any abilities, skills, licenses, certificates, specialized training, or interests you have which are applicable to this board or commission:

Please specify any business or personal relationships with the City or other activities, which might create a serious conflict of interest or affect your ability to serve if you should be appointed to this board or commission:

None.

Have you attended a meeting of the board/commission you are applying to or talked to anyone currently on the board? ☒ Yes ☐ No

Comments: I've spoken to Lauren Brown about the board.

Statement of Intent

I am aware of the requirements of the City regarding conflicts of interest of appointees to the City of Sherman Boards and Commissions, as noted in the overview. I am aware of meeting dates and times of the Board/Commission for which I have applied, and that Board/Commission members are expected to attend a minimum of 75 percent of regularly scheduled meetings annually of their Board/Commission. If appointed, I agree to serve on the Board/Commission for which I have applied. Applications, including those received after the posted deadline, will remain on file for one year from the date of receipt.

Signature: _____

Lauren Brown

Date: _____

4/29/13

In compliance with Chapter 552, Vernon's Texas Codes Annotated (Open Records Law), information provided on this application may be available to the public, upon request.

Sherman
CLASSIC TOWN. BROAD HORIZON.

Briefly explain what you believe are the three most important issues facing this board or commission and how you believe this board or commission should address each issue?

1. Beautification of the Parks - I believe that even though all parks are mowed on a regular routine basis, that all hedges and trees should be trimmed and maintained at least twice per year as well as more planting of flowers/trees/shrubs, if money allows. With money possibly being tight, the City could initiate an 'Adopt A Park' program much like the 'Adopt a School' works where local businesses or churches are solicited to adopt a park and donate money for its beautification. This will alleviate the City having to provide monies for this.
2. Promote and Advertise - Initiate a program to promote/advertise the use of the park for various functions by the public. In years past, many families have held birthday parties, family reunions and cookouts in the parks. The City could organize a function at a different park each month for the youth in those neighborhoods - "Fun in the Park Day" - maybe 2-4 hours on the weekend to help promote that particular park by having games for the youth to play. The program could also host free clinics for area youth to attend - for example choose a park with a basketball court, tennis court or baseball fields and have the junior high or high school coaches come to help host the clinic. I feel that the City needs to better promote the parks in the City as there are many citizens who cannot tell you how many parks are available within the City.
3. Step Up To Health - Our parks are not just a place of leisure for families and youth to have fun but they also provide them with a place to be physically active. I would like to see a program initiated that promotes active and healthy lifestyles for all city residents. The program could target local gyms and encourage them to hold classes at the nearest park by utilizing the walking trails or even a field to hold a boot camp. The City could also hold special events for individuals and families to participate in such as 5K run/walk as well as walkathons. I would love to see more fitness options around our parks such as dog parks as well more walking and biking trails. This program could even tie into the 'Adopt A Park' program.

TRACEY L. BROWN

3608 W. Houston St. • Sherman, Texas 75092
browntraceyl6@gmail.com • 903-271-0661

CAREER OBJECTIVE

A performance-driven, insightful person with the ability to achieve and excel all business transactions in high-pressure environments seeking a long-term and challenging position that would enable me to use my strong interpersonal communication and computer skills in the field of marketing.

EDUCATION AND CREDENTIALS

Bachelor of Arts & Sciences, Advertising & Public Relations (May 2006)
SOUTHEASTERN OKLAHOMA STATE UNIVERSITY – DURANT, OKLAHOMA

Associate of Science, Business Administration (2003)
GRAYSON COUNTY COLLEGE – DENISON, TEXAS

Associate of Applied Science, Legal Assisting (2002)
GRAYSON COUNTY COLLEGE – DENISON, TEXAS

PROFESSIONAL EXPERIENCE

UNITED HEALTHCARE – Richardson, TX

June 2012 to present

Provider Installation Specialist

- Responsible for the installation and administration of assigned contracts, including structure and billing set up, eligibility collection, database loading, and preparation of plan materials such as administrative documents and provider education materials.
- Responsible for overall provider contract and amendment loading and processing using various databases..

HOSPICE PLUS – Sherman, TX

March 2012 to June 2012

Hospice Care Consultant

- Responsible for identifying key target accounts and practicing professional sales discipline while initiating both cold and maintenance calls to engage potential patients and referrals in discussion regarding Hospice Plus services.
- Provide educational information regarding hospice services to families, as well as hospitals, nursing homes, home health agencies, physician practices, assisted and independent living communities and any other professional groups that may provide referrals.

TRADITIONS SENIOR LIVING & MEMORY CARE – Sherman, TX

September 2010 to January 2012

Marketing and Referral Manager

- Responsible for being the point person between the construction and management companies during the final stages of the building to assist with decorating the facility, coordinating the Open House as well as the Ribbon Cutting with the Chamber of Commerce.
- Responsible for identifying target accounts and practicing professional sales discipline while initiating both cold and maintenance calls to engage potential residents, referrals or clients in discussion regarding Traditions services within a target market.
- Develop relationships with hospitals, rehab centers, physician practices, assisted and independent living communities and any other professional groups that may provide referrals.
- Conduct tours with potential residents, family members and referral sources and follow through on their needs accordingly either written or verbal.
- Assisted in review of the budget monthly to ensure that each department is maintained to the fullest degree while staying within their allotted budget.
- Responsible for maintaining marketing database including resident prospect information, mailing list applications, professional lead referral sources and all contact tracking.

Continued...

- Prepare marketing materials such as flyers, signs, newspaper advertisements and press releases to help promote the facility while following and monitoring the budget allowed for such duties.
- Coordinate and schedule both speaking engagements as well as informational workshops.
- Make public appearances on local television and radio stations to promote the facility, as well as programs that we sponsor.
- Responsible for the development of a marketing plan specific to the local market.
- Assisted in the coordination of opening two hospice suites within the facility.

NORTHWEST EVALUATION ASSOCIATION – Pottsboro, TX

August 2008 to August 2010

Implementation Support Specialist

- Develop relationships with school districts across the United States as they utilize the performance-based assessment system.
- Market the Client Support Group and services to ensure clients have maximum success.
- Assisted in creating client facing email templates used in daily job related duties.

HOLLIDAY, FENOGLIO, FOWLER, LP – Dallas, TX

January 2008 to August 2008

Production Coordinator

- Assisted in the preparation of loan request packages for marketing properties to lenders.
- Responsible for administrative and production support including making travel arrangements.

COUNTRYWIDE COMMERCIAL – Plano, TX

April 2007 to January 2008

Paralegal / Loan Closing Coordinator

- Responsible for reviewing title, preparing loan documents and post-closing bank loans.
- Developed a tracking program to track documentation that enters and exits the office.

MPI FOUNDATION – Dallas, TX

July 2006 to April 2007

Foundation Coordinator

- Developed relationships with vendors and members to secure donations for the Foundation and fundraising events.
- Coordinate logistics and marketing for fundraising events such as silent auction, golf and Texas Hold 'Em tournaments as well as a Rendezvous party where 5,000 members would be in attendance.
- Responsible for preparing correspondence, reports and materials for Board of Directors meetings.
- Responsible for website updates, donor recognition, coordination of chapter grants and additional administrative duties as needed.

LAW OFFICE OF M. TODD ESTES, P.C. – Sherman, TX

June 2003 to July 2006

Receptionist / Legal Secretary

- Managed marketing collateral (i.e. newspaper ads, business cards and letterhead).
- Developed a website to help market the practice.
- Performed all clerical duties including answering phones, opening and closing of all client files, maintain all office filing as well as order and maintain all office supplies.
- Responsible for monthly billing statements and balancing of all checkbook accounts on a monthly basis.

COLLIN COUNTY JP4 / DISTRICT ATTORNEY'S OFFICE – McKinney, TX

Sept. 2002 – June 2003

Legal Clerk

- Input traffic tickets, process payments and set trials.
- Prepare misdemeanor court files for the Assistant District Attorneys.

Continued...

TRACEY L. BROWN

Page 3

FUJITSU NETWORK COMMUNICATIONS, INC. – Richardson, TX

April 2000 – August 2002

Business Administration Analyst

- Process purchase order and non-purchase order Facility related expenses for the remote location offices, create Purchase Requisitions for the various vendors, and keep track of the remote locations RFA related projects while maintaining budgetary numbers.
- Coordinate with Accounting, the various vendors, and various office managers to insure all payments are made promptly.
- Helped train management and other personnel in SAP and Microsoft Office applications.

VOLUNTEER EXPERIENCE

FAITH CHURCH OF SHERMAN – Sherman, TX

January 2007 to present

Youth Pastor (January 2007 to present)

- Develop, promote and coordinate outreach programs to involve the youth.
- Plan and coordinate monthly activities for 25-30 youth members
- Assist in preparation of youth services.

Marketing & Advertising Coordinator (August 2007 to present)

- Develop promotional materials for marketing of special events on a monthly and quarterly basis.
- Develop relationships with vendors for the coordination of printing marketing materials.

THE REHABILITATION CENTER – Sherman, TX

January 2008 to December 2011

Marketing & Advertising Coordinator (January 2010 to December 2011)

Board of Director and Advertising/PR Committee Member (January 2008 to December 2009)

- Develop promotional materials for marketing of special events on a monthly and quarterly basis.
- Develop relationships with vendors for the coordination of printing marketing materials.
- Create marketing materials for special programs for the Rehab Center.

AMERICAN CANCER SOCIETY RELAY FOR LIFE – Sherman, TX

January 2009 to June 2010

Public Relations, Entertainment and Activities Committee Chair

- Create marketing materials in order to publicize the Relay event.
- Coordinate the recruitment of entertainment groups to perform at the Relay event.
- Assist in planning event activities and games for participants.

KIDSTALK, L.L.C. – SHERMAN, TX

September 2004 to August 2005

Advertising / Promotional Manager (Internship)

- Developed relationships with are businesses to increase ad revenues.
- Developed a website to market the magazine.
- Marketed the magazine to the public and businesses around the Grayson County area.
- Responsible for contacting local media networks regarding magazine launches.
- Responsible for scheduling photographs for front covers, advertisements and Last Words for each issue.

COMPUTER SKILLS

Keyboard/Word Processing: Word Perfect 10, Micosoft Office (Word, Excel, PowerPoint and Publisher)

Management Systems: ProDoc, Trem, RamQuest, SAP, AS400, CapTrack, Salesforce

Design/Media Management Programs: Adobe Photoshop, Adobe Bridge, Adobe Lightroom

REFERENCES UPON REQUEST



City Council Regular Meeting

Agenda Item No. H. 2.

Meeting Date: 05/20/2013

Prepared By: Linda Ashby, City Clerk

Approved By: George Olson, City Manager

Caption:

APPOINT/REMOVE OR CONSIDER QUALIFICATIONS TO BOARDS AND COMMISSIONS

(a) Texoma Area Paratransit System (TAPS) Board of Directors (1)

Issue:

Mayor Cary Wacker has previously served as Board Chairman on the TAPS Board of Directors. She would like to appoint another City Council Member to serve on the Board.

Background:

TAPS Public Transit is a private, non-profit corporation, serving Collin, Fannin, Grayson, Cooke, Wise, Clay and Montague Counties. TAPS is open to the public and serves individuals of all ages and income groups, and is equipped to fully service the elderly and disabled. Guidance to TAPS is provided by the TAPS Board of Directors, volunteers who are appointed by the participating entities.

Origination:

The appointment originated with Mayor Wacker.

Financial Consideration:

There is no financial consideration.

Staff Recommendation:

It is recommended that the City Council consider an appointment to the TAPS Board of Directors.

Alternatives:

The alternative is to delay the appointment.

Attachments

Roster

Fact Sheet

By-Laws

MEMBERSHIP ROSTER

TEXOMA AREA PARATRANSIT (TAPS) BOARD OF DIRECTORS

LENGTH OF TERMS: TWO YEARS

MEMBER	DISTRICT	TERM BEGINS	TERM EXPIRES	TERMS	MEMBERSHIP REQUIREMENTS
Council Member Wayne Moore		June 2009			City of Bonham
Civic Leader Joan Schaffner		October 2001			Clay County
Commissioner Danny White		September 2010			Wise County
Commissioner Gary Hallowell Board Vice Chairman		May 2007			Cooke County
Council Member Jay Davidson		November 2009			City of Decatur
Judge Kenneth Ligget		October 2008			Clay County
Judge Tommie Sappington		October 2010			Montague County
Judge Spanky Carter		September 2011			Fannin County
Council Member Cary Wacker Board Chairman		October 2008			City of Sherman
Council Member Ken Brawley Board Secretary		January 2012			City of Denison

CITY STAFF: George Olson, City Manager

TAPS: Bill Giordanengo, General Manager

Revised 11/13/2012

TAPS

6104 Texoma Parkway
Sherman, Texas 75090

(903) 893-4601

(903) 893-4766 (Fax)

FACT SHEET

TEXOMA AREA PARATRANSIT (TAPS) BOARD OF DIRECTORS

Established by Texoma Council of Governments in June 1986; Must comply with Texas Transportation Code, Section 458 as a rural transit district; Board membership established by TAPS By-Laws adopted June 15, 1986 and amended October 22, 1997

1. Number of Members: 15
2. Term of Appointment: 2 years
3. Consecutive Term Rule: n/a
4. Qualifications for Membership: an interest in the transit system within their City or County
5. Appointed by: their own governing body
6. Board Organization

CHAIRPERSON X VICE CHAIRPERSON X SECRETARY X

ELECTED APPOINTED

7. Departmental Responsibility: City Manager
8. Meeting Date:
9. Attendance Requirements:

=====

PURPOSE: Created as an independent not-for-profit agency for provision of public transportation.

RESPONSIBILITIES: To determine rules and regulations for the Texoma Area Paratransit Service in Grayson, Cooke, Fannin, Montague, Clay and Wise Counties.

BY – LAWS
OF
TEXOMA AREA PARATRANSIT SYSTEM, INCORPORATED

ARTICLE I

Name and Geographical Area

The name of this organization shall be Texoma Area Paratransit System, Incorporated, located in Grayson County, Texas. The Corporation shall do business as TAPS. The geographical area it is designed to serve are Cooke, Fannin, Grayson, Clay, Montague and Wise counties, with the principle place of business located in the City of Sherman, Texas.

ARTICLE II

Texoma Area Paratransit System, Incorporated is a governing body organized exclusively for charitable purposes to include the provision of coordinated transportation services to the elderly, disabled, economically disadvantaged, and other eligible recipients.

Services will include, transportation and other related services necessary to the health and social well being of all eligible recipients in Cooke, Fannin, Grayson, Clay, Montague and Wise Counties of Texas.

ARTICLE III

Section 1. The policy of Texoma Area Paratransit System, Incorporated shall be to promote and supervise the activities as outlined in the purpose statement in accordance with Federal, State, and/or local laws and guidelines relative to each program areas and funding source.

Section 2. It shall not endorse a commercial enterprise nor intervene in any political campaign on behalf of, or in opposition to, a candidate seeking public office.

ARTICLE IV

Section 1. Board of Directors

Voting membership on the Board of Directors shall consist of the following:

- A. The Board may have 15 members representing each of the fifteen existing transportation programs, with members to be added in the event new sites are opened according to Texas Transportation Code Chapter 458.

- B. Sec 458.006 Governing Body of Rural Transit District. (a) Not later than the 60th day after the date the boundaries of a rural transit district are established, the commissioners court of each county and one elected representative from the governing body of each municipality in the territory of the district shall provide for the selection of the governing body of the district. (b) The governing body of the district consists of elected officers who are selected by and serve at the pleasure of the governing bodies of the component municipalities in the district and the commissioner's court of each county in the district. (c) The number of members of the governing body of a single-county rural transit district may not exceed nine. The number of members of the governing body of a multicounty district may not exceed 15, except that each member county is entitled to at least one representative on the governing body.
- C. An appropriate number of staff employed by Texoma Area Paratransit System, Incorporated, as determined by the board of directors. These staff persons to serve in a non-voting capacity.
- D. Membership on the Board of Directors shall be for a period of two years, and members shall be allowed self-succession as determined by the Board.

Section 2 Each Director shall have one vote.

ARTICLE V

Executive Committee

Section 1 There shall be an Executive Committee consisting of a Chairperson, Vice-Chairperson, and Secretary-Treasurer chosen from the Board of Directors.

Section 2 The Executive Committee shall be empowered to make recommendations to the Board of Directors and may conduct administrative business of the Corporation as authorized by the Board of Directors.

ARTICLE VI

Officers

Section 1. The officers of this organization shall be elected annually from the Board of Directors of Texoma Area Paratransit System, Incorporated at the annual meeting (first month after the fiscal year) and assume their duties immediately. The elected officers shall also serve on the Executive Committee.

Section 2. The officers shall consist of a Chairman, Vice-Chairman, and a Secretary-Treasurer.

Section 3. Officers shall be elected at the first meeting of the Board and shall assume their duties immediately. Officers will be re-elected annually.

Section 4. A vacancy occurring in any office shall be filled for the unexpired term by a vote of the Board.

ARTICLE VII

Duties of the Officers

Section 1. The chairperson shall preside at all meetings of the Board. He/she shall perform such other duties as may be assigned to him by the Board and shall coordinate the work of the officers and committees.

Section 2. The Vice Chairperson shall act as an aide to the Chairperson and shall perform the duties of the Chairperson in the absence, inability, or refusal of that officer to serve.

Section 3. The Secretary-Treasurer shall keep or delegate to a staff member the keeping of minutes of all meetings of the Board of Directors.

ARTICLE VIII

Meetings

Section 1. All meetings of the Board shall be held at a time and place conducive to maximum attendance. Board meetings shall be public according to Rural Transit District State Law.

Section 2. Meetings of the Board shall be held not less than quarterly and as may be determined by the Board.

Section 3. A majority of members of the Board shall constitute a quorum for the transaction of business in any meeting of the Board.

Section 4. Special meetings may be called as the Chairperson deems necessary or upon written request of not less than 25% of the Texoma Area Paratransit System Board of Directors. Written request for special or called meetings shall be acted upon within seven (7) days by the Chairperson.

Section 5. Board Members are expected to attend all regular meetings. Absence from more than two (2) consecutive meetings, without cause, shall be reason for removal or replacement on the Board. After three (3) consecutive absences that member must be reappointed by that City or County municipality.

Section 6. The Executive Director/General Manager of Texoma Area Paratransit System, Inc. and/or a designated staff person shall serve as a non-voting member of all committees.

ARTICLE IX

Financial Affairs

Section 1. By a majority vote of its membership the Board of Directors may authorize any officer or officers of the association to enter into any contract or financial obligation in the name of and on behalf of the corporation.

Section 2. By a majority vote of its membership the Board of Directors may authorize any officer or officers to apply for and accept grant monies in the name of and on behalf of the corporation.

Section 3. All checks, drafts, or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the corporation shall be signed by any one of the following: The Chairperson, Vice-Chairperson, Secretary-Treasure, and/or Executive Director/General Manager of the corporation, and in such manner as shall from time to time be determined by the Executive Committee. All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such banks, trust companies, or other depositories as the Executive Committee may select.

ARTICLE X

Amendment to By-Laws

The By-Laws of Texoma Area Paratransit System, Incorporated, may be altered, amended, or repealed and new By-Laws may be adopted by affirmative action of two-thirds of the Board of Directors at any regular meeting. Additional By-Laws may be added by this organization only when they do not violate the letter or spirit of the previously listed Articles.

ARTICLE XI

Dissolution of the Organization

The dissolution of this organization and the disposition of all its property and assets shall be in accordance with applicable State and Federal laws.

Original By-Laws adopted the 15th day of June 1986, by Acting Executive Committee of Texoma Area Paratransit System, Inc. on file at TAPS Office.

Amended By-Laws contained herein were adopted and approved by the full Board of Directors of Texoma Area Paratransit System, Inc., at their annual meeting on October 25, 1995.

Amended By-Laws contained herein were adopted and approved by the Board of Directors of Texoma Area Paratransit System, Inc., on January 28, 2009.

Board Chairman

Attest General Manager.



City Council Regular Meeting

Agenda Item No. M.

Meeting Date: 05/20/2013

Approved By: George Olson, City Manager

Caption:

COUNCIL CALENDAR

Attachments

2013 Council Calendar

2013

JANUARY						
S	M	T	W	T	F	S
		1	2	3	4	5
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27	28	29	30	31		

FEBRUARY						
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MARCH						
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31						

APRIL						
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MAY						
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JUNE						
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JULY						
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AUGUST						
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SEPTEMBER						
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OCTOBER						
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NOVEMBER						
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DECEMBER						
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22	23	24	25	26	27	28
29	30	31				

03/13/2013	12 noon Called Council Meeting for General Services, Financial, and Comprehensive Master Plan Updates
04/26/2013	Called Budget Planning Meeting in Council Chambers
06/19-20/2013	Called Budget Workshop in Council Chambers
09/02/2013	Labor Day/Called Council Meeting on 09/03/2013
