

**CITY OF SHERMAN
CITY COUNCIL REGULAR MEETING AGENDA
COUNCIL CHAMBERS OF THE CITY HALL
220 WEST MULBERRY STREET
SHERMAN, TEXAS
MONDAY, APRIL 4, 2011
5:00 P.M.**

- A.1 [CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN](#)
- A.2 [PLEDGE OF ALLEGIANCE](#)
- A.3 [INVOCATION BY DEPUTY MAYOR WILLIE STEELE](#)
- A.4 [APPROVE MINUTES OF THE REGULAR CITY COUNCIL MEETING OF MARCH 21, 2011 AND THE CALLED CITY COUNCIL MEETING OF MARCH 28, 2011](#)

Proclamations

- A.5 [PROCLAMATION](#)
Recognizing Dr. Light T. Cummins, Austin College Guy M. Bryan, Jr. Chair of American History, upon Completion of his Term as Texas State Historian
- A.6 [PROCLAMATION](#)
“National Library Week” – April 10-16, 2011
- A.7 [PROCLAMATION](#)
“Texoma Earth Day Festival Day” – April 16, 2011

Consent Agenda

- B.1 [CONSENT AGENDA](#)
Asterisked (*) items are considered to be routine and will be enacted in one motion without discussion unless a Council Member or a citizen requests a specific item be discussed and voted on separately

Resolutions

- C.1 [* RESOLUTION NO. 5573](#)
Authorizing Execution of a Professional Engineering Services Agreement with Freeman-Millican, Inc. for the Wastewater Treatment Plant Headworks Pump and Variable Frequency Drive Upgrades Project

C.2 [* RESOLUTION NO. 5574](#)

Authorizing Execution of a Development Agreement with Bluestone Partners LLC. for the Construction of Public Facilities in the Crescent Oaks Addition to the City of Sherman

Change Orders

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

U.S. Highway 75 North Sewer Improvements, Contract “B”; Tri-Con Services, Inc; \$6,476.52 Increase

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

Shepherd Drive #1 Woodbine Well Repairs; Weisinger Water Well, Incorporated; \$720.25 Increase

Other Business

D.3 [OTHER BUSINESS](#)

Receive the Airport Advisory Board’s Presentation on a Municipal Airport Business Plan

D.4 [OTHER BUSINESS](#)

Consider Request of St. Mary’s Catholic School to Temporarily Close Certain Streets for the “Tiger Trail 5K Fun Run” on Saturday, May 7, 2011

D.5 [CITIZEN REQUESTS](#)

D.6 [MEDIA QUESTIONS](#)

Consider Board/Commission Appointments

D.7 [APPOINT/REMOVE OR CONSIDER QUALIFICATIONS TO BOARDS AND COMMISSIONS](#)

(a) Library Board (3)

D.8 [COUNCIL COMMENTS](#)

D.9 [ADJOURNMENT](#)

[COUNCIL CALENDAR](#)



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. A.1

CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. A.2

PLEDGE OF ALLEGIANCE

The Honorable Willie Steele, Deputy Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. A.3

INVOCATION BY DEPUTY MAYOR WILLIE STEELE



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. A.4

APPROVE MINUTES
OF THE REGULAR CITY COUNCIL MEETING OF MARCH 21, 2011
AND THE CALLED CITY COUNCIL MEETING OF MARCH 28, 2011

STATE OF TEXAS

§

March 21, 2011

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 March 21, 2011.

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

MEMBERS ABSENT: NONE.

CALL TO ORDER

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

CALL TO ORDER

APPROVE MINUTES

The Council reviewed the Minutes of the Called City Council (Long-Term Planning) Meeting of March 3, 2011 and the Minutes of the Regular City Council Meeting of March 7, 2011. Council Member Smith moved to approve the Minutes as presented; Second by Council Member Softly. All present voted AYE.
MOTION CARRIED.

APPROVE MINUTES

INTRODUCTION AND PUBLIC HEARING OF ORDINANCES

Mayor Magers introduced Ordinance 5689 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO ALLOW THE CONVERSION OF THE SELF-SERVICE PORTION OF AN EXISTING CAR WASH INTO A CLIMATE CONTROLLED STORAGE FACILITY IN A C-2 (GENERAL COMMERCIAL) DISTRICT AT 4312 TEXOMA PARKWAY, BEING LOT 1, SIDNEY HEIGHTS ADDITION (CHRIS MARTIN, OWNER); PROVIDING FOR A REPEALER; PROVIDING THAT THIS SPECIFIC USE PERMIT SHALL BE GRANTED SUBJECT TO CERTAIN CONDITIONS; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00.

ORD 5689
SUP FOR CLIMATE
CONTROLLED
STORAGE FACILITY
(4312 TEXOMA PKWY)

No citizens appeared before the City Council to discuss Ordinance 5689.

Mayor Magers introduced Ordinance 5690 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO ALLOW TRUCK AND AUTOMOTIVE REPAIR AND SALES IN A C-2 (GENERAL COMMERCIAL) DISTRICT

ORD 5690
SUP FOR TRUCK &
AUTOMOTIVE REPAIR
& SALES
(3924 TEXOMA PKWY)

AT 3924 TEXOMA PARKWAY, BEING 0.71 ACRES IN THE S.M. McGLOTHLIN SURVEY, ABSTRACT NO. 811 AND THE H. JENNINGS SURVEY, ABSTRACT NO. 639 (JOHN CHUNG, OWNER; CERMA AUTO BROKERS, TENANT; AND DEANNA D. SHOARS, REPRESENTATIVE); PROVIDING FOR A REPEALER; PROVIDING THAT THIS SPECIFIC USE PERMIT SHALL BE GRANTED SUBJECT TO CERTAIN CONDITIONS; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00.

No citizens appeared before the City Council to discuss Ordinance 5690.

The Public Hearing was closed.

ADOPTION OF ORDINANCES

Ordinance 5689

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO ALLOW THE CONVERSION OF THE SELF-SERVICE PORTION OF AN EXISTING CAR WASH INTO A CLIMATE CONTROLLED STORAGE FACILITY IN A C-2 (GENERAL COMMERCIAL) DISTRICT AT 4312 TEXOMA PARKWAY, BEING LOT 1, SIDNEY HEIGHTS ADDITION (CHRIS MARTIN, OWNER); PROVIDING FOR A REPEALER; PROVIDING THAT THIS SPECIFIC USE PERMIT SHALL BE GRANTED SUBJECT TO CERTAIN CONDITIONS; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00.

**ORD 5689
SUP FOR CLIMATE
CONTROLLED
STORAGE FACILITY
(4312 TEXOMA PKWY)**

Ordinance 5690

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SECTION 8, SUBSECTION (5)(A), ORDINANCE NO. 2280, SO AS TO GRANT A SPECIFIC USE PERMIT TO ALLOW TRUCK AND AUTOMOTIVE REPAIR AND SALES IN A C-2 (GENERAL COMMERCIAL) DISTRICT AT 3924 TEXOMA PARKWAY, BEING 0.71 ACRES IN THE S.M. McGLOTHLIN SURVEY, ABSTRACT NO. 811 AND THE H. JENNINGS SURVEY, ABSTRACT NO. 639 (JOHN CHUNG, OWNER; CERMA AUTO BROKERS, TENANT; AND DEANNA D. SHOARS, REPRESENTATIVE); PROVIDING FOR A REPEALER; PROVIDING THAT THIS SPECIFIC USE PERMIT SHALL BE GRANTED SUBJECT TO CERTAIN CONDITIONS; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00.

**ORD 5690
SUP FOR TRUCK &
AUTOMOTIVE REPAIR
& SALES
(3924 TEXOMA PKWY)**

Council Member Adami said the staff review letter on one of the specific use applications specifically required masonry or brick on three sides of the building and the other application did not state that requirement. He verified that both applications are subject to that requirement.

Scott Shadden, Director of Development Services, said the SUP for the car wash on Texoma Parkway already has masonry construction and the addition will also be masonry.

Council Member Smith asked about the auto repair facility and Mr. Shadden said it was already a masonry building.

Their previous specific use permit expired and they are applying for a new SUP. Deputy Mayor Steele verified that they would not be allowed to have outside storage of vehicles at the auto repair facility.

ACTION TAKEN.

Motion by Council Member Adami to approve Ordinance Nos. 5689 and 5690, as presented. Second by Deputy Mayor Steele.

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

VOTING NAY: None.

MOTION CARRIED.

CONSENT AGENDA

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

CONSENT AGENDA

RESOLUTIONS

RESOLUTION NO. 5572 – AUTHORIZING EXECUTION OF AN ENCROACHMENT EASEMENT TO RICHARD C. AND IRENE M. OGLESBY FOR THE CONSTRUCTION OF A GARAGE IN A 10' UTILITY EASEMENT IN LOT NO. 2 OF BLOCK NO. 8 OF THE TURTLE CREEK SOUTH ADDITION, SECTION THREE TO THE CITY OF SHERMAN (2415 MEADOWS LANE)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN ENCROACHMENT EASEMENT TO RICHARD C. AND IRENE M. OGLESBY FOR THE CONSTRUCTION OF A GARAGE IN A 10' UTILITY EASEMENT IN LOT NO. 2 OF BLOCK NO. 8 OF THE TURTLE CREEK SOUTH ADDITION, SECTION THREE TO THE CITY OF SHERMAN (2415 MEADOWS LANE).

CONSENT AGENDA.

RES 5572
ENCROACHMENT
FOR GARAGE
(2415 MEADOWS LN)

OTHER BUSINESS

CONSIDER APPROVAL OF THE BUDGET CALENDAR FOR FISCAL YEAR 2011-2012

Council Members discussed the proposed Budget Calendar. Robby Hefton, Assistant City Manager/CFO, said the proposed meeting dates are April 21, 2011 for the Budget Planning Meeting and June 17, 2011 for the Budget Workshop.

BUDGET CALENDAR

ACTION TAKEN.

Motion by Deputy Mayor Steele to approve the Budget Calendar, as presented. Second by Council Member Wacker.

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

VOTING NAY: None.

MOTION CARRIED.

CONSIDER REQUEST OF THE 2011 EARTH DAY PLANNING COMMITTEE TO TEMPORARILY CLOSE CERTAIN STREETS, SUSPEND PARKING TIME LIMITS, AND USE CERTAIN CITY FACILITIES AND SERVICES FOR THE "3RD ANNUAL EARTH DAY FESTIVAL" ON SATURDAY, APRIL 16, 2011

The City Council approved the request of the 2011 Earth Day Planning Committee for barricades, street closures, and the use of City facilities and services for the "3rd Annual Earth Day Festival" on April 16, 2011.

The event will be held in the Municipal Building Ballroom and on the Municipal Building grounds. The Committee also requests solid waste services, delivery and pick up of barricades, and street closures around the Municipal Building.

CONSENT AGENDA.

SITE PLAN APPROVAL FOR GLOBITECH INCORPORATED UNDER ORDINANCE NO. 2252, ARTICLE IV, SECTION 410(2)(J) FOR PHASE II, A WAREHOUSE ADDITION TO THE EXISTING BUILDING IN THE BLALOCK INDUSTRIAL PARK DISTRICT AT 200 F.M. 1417 WEST

Council Member Adami asked for a brief explanation of the request. Mayor Magers explained nothing was official, however he anticipated an incentive agreement between the Sherman Economic Development Corporation and GlobiTech. The agreement would be funded by SEDCO with no tax abatements from the City.

The current site plan is the zoning for the warehouse for the wafer polishing operation. The project includes \$18.2 million in capital and should provide a significant increase in water usage for the City. The agreement should be finalized this week.

Council Member Adami said there was positive news at the last City Council Meeting with the Sunny Delight expansion and GlobiTech is another great partner to the City. He said it was great to see that the industries are doing well and have the ability to expand. Mayor Magers added that this project also opens the door for other things that GlobiTech can do.

The City Council approved the Site Plan for GlobiTech Incorporated for Phase II, a warehouse addition to the existing building in the Blalock Industrial Park District at 200 F.M. 1417 West.

Because of continued growth, GlobiTech would like to construct an addition to the facility for warehouse storage. They were approved for an addition to the existing building for gas bottle storage a few months ago, but have since determined that they can accommodate that elsewhere in the facility. The warehouse addition will match the existing structure.

CLOSE STREETS FOR
EARTH DAY
ACTIVITIES

APPROVAL OF SITE
PLAN FOR GLOBITECH
WAREHOUSE
ADDITION

The Planning and Zoning Commission approved the Site Plan and forwarded the request to the City Council for consideration.

CONSENT AGENDA.

CITIZENS REQUESTS

There were no citizens requests.

MEDIA QUESTIONS

There were no media questions.

COUNCIL COMMENTS

SPRING BREAK AT THE PARKS

Council Member Wacker said it was a nice Spring Break last week and there were lots of visitors to the parks.

LEADERSHIP SHERMAN PARTICIPANTS

Council Member Smith recognized several people in the audience that were participants of the Leadership Sherman Program.

TEXAS HEALTH PRESBYTERIAN HOSPITAL - WNJ

Mayor Magers said Wilson N. Jones Hospital has been going through some changes and his son recently had surgery at the facility. He said they received excellent service from Texas Health Presbyterian Hospital – WNJ and it was a very good experience.

ADJOURNMENT

On Motion duly made and carried, the meeting adjourned at 5:10 p.m.

CITIZENS REQUESTS

MEDIA QUESTIONS

SPRING BREAK
AT THE PARKS

LEADERSHIP
SHERMAN
PARTICIPANTS

TEXAS HEALTH
PRESBYTERIAN
HOSPITAL - WNJ

ADJOURNMENT

MAYOR

CITY CLERK

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March 28, 2011

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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 March 28, 2011.

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

COUNCIL MEMBERS ABSENT: None.

CITY STAFF PRESENT: George Olson, City Manager; Robby Hefton, Assistant City Manager/CFO; Brandon Shelby, City Attorney; Mark Gibson, Director of Engineering and Public Works; Scott Shadden, Director of Development Services; Lisa Whitfield, Engineering and Development Coordinator; Pam Cloer, Assistant to the City Manager; Linda Ashby, City Clerk.

PURPOSE: Call to Order, Quorum Determined, Meeting Declared Open

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5691

Extending the Corporate Limits of Said City so as to Annex Approximately 23.065 Acres South of Dripping Springs Road and West of Cedar Park Village in the City of Sherman's Extra Territorial Jurisdiction; Providing for a Municipal Plan

ADOPTION OF ORDINANCE

Consider Adoption of Ordinance No. 5691

ADJOURNMENT

CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN

Mayor Magers called the meeting to order at 12:00 p.m., declared a quorum present, and opened the City Council Meeting.

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 5691

EXTENDING THE CORPORATE LIMITS OF SAID CITY SO AS TO ANNEX APPROXIMATELY 23.065 ACRES SOUTH OF DRIPPING SPRINGS ROAD AND WEST OF CEDAR PARK VILLAGE IN THE CITY OF SHERMAN'S EXTRA TERRITORIAL JURISDICTION; PROVIDING FOR A MUNICIPAL PLAN

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, EXTENDING THE CORPORATE LIMITS OF SAID CITY SO AS TO ANNEX APPROXIMATELY 23.065 ACRES SOUTH OF DRIPPING SPRINGS ROAD AND WEST OF CEDAR PARK VILLAGE IN THE CITY OF SHERMAN'S EXTRA TERRITORIAL JURISDICTION; PROVIDING FOR A MUNICIPAL PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

No citizens appeared before the City Council to discuss Ordinance 5691.

The Public Hearing was closed.

ADOPTION OF ORDINANCE

Ordinance 5691

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, EXTENDING THE CORPORATE LIMITS OF SAID CITY SO AS TO ANNEX APPROXIMATELY 23.065 ACRES SOUTH OF DRIPPING SPRINGS ROAD AND WEST OF CEDAR PARK VILLAGE IN THE CITY OF

**SHERMAN'S EXTRA TERRITORIAL JURISDICTION; PROVIDING FOR A MUNICIPAL PLAN;
PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.**

Mayor Magers verified that this was the third and final Public Hearing on the annexation.

ACTION TAKEN.

Motion by Council Member Smith to approve Ordinance No. 5691, as presented. Second by Council Member Howeth.

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

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 12:01 p.m.

MAYOR

ATTEST

CITY CLERK



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. A.5

PROCLAMATION

**Recognizing Dr. Light T. Cummins, Austin College Guy M. Bryan, Jr.
Chair of American History, upon Completion of his Term as Texas State Historian**

Issue

To present a proclamation recognizing Dr. Light T. Cummins, Austin College Guy M. Bryan, Jr. Chair of American History, on the completion of his two-year term as Texas State Historian.

Background

Dr. Cummins was appointed Texas State Historian by Governor Rick Perry in May 2009. Austin College will be hosting a celebration on April 7, 2011 to honor Dr. Cummins' professional accomplishments.

Origination

The request for the proclamation originated with Council Member Carolyn S. Wacker.

Financial Consideration

There is no financial consideration to the City.

Alternatives

The Council could choose not to present the proclamation.

Attachments

A proclamation recognizing Dr. Light T. Cummins is attached.

Prepared by:
Linda Ashby, City Clerk

Approved by:
George Olson, City Manager

SHERMAN



Proclamation

WHEREAS, the study of history records events of the past and gives us a basis to understand our present and our future, and

WHEREAS, Dr. Light T. Cummins, Austin College Guy M. Bryan, Jr. Chair of American History, has dedicated his life to the study of history, and in May 2009 was appointed by Texas Governor Rick Perry to serve as the Texas State Historian, and

WHEREAS, Dr. Cummins has served his two year appointment as State Historian and has worked hard to advance the cause of history and historical understanding across the State, and

WHEREAS, as a member of the Austin College history faculty since 1978, Dr. Cummins also serves as the Director of the Austin College Center for Southwestern and Mexican Studies and has received numerous honors and been active in many organizations, and

WHEREAS, most recently, Dr. Cummins has received the Ly Carpenter Award for Research in the History of Women at the 2010 meeting of the Texas State Historical Association and received a 2011 Distinguished Alumni Award from Texas State University, and

WHEREAS, Austin College and the Sherman community will honor Dr. Cummins on April 7, 2011, during a special day of celebration on campus with a lecture to recount highlights of his tenure as State Historian, a discussion of his project to write a history of Austin College, a book signing of books he has authored, and a reception and dinner in the Wright Campus Center.

NOW THEREFORE, I, Bill Magers, Mayor of the City of Sherman, Texas, by the authority vested in me, do hereby recognize

DR. LIGHT T. CUMMINS

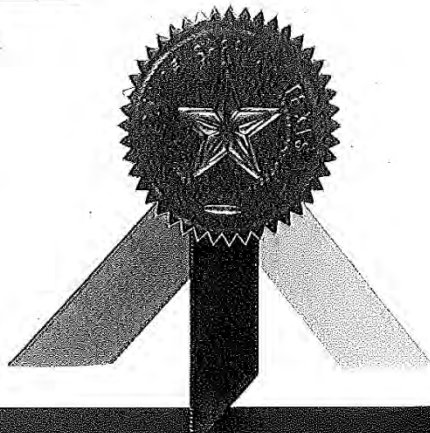
for his service as the Texas State Historian and for his dedication in preserving and teaching the history of this community and of this State. I also encourage all citizens to join with me to honor Dr. Cummins for his service.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Sherman to be affixed, this the 4th day of April, 2011.

Mayor

ATTEST:

Linda Ashby
City Clerk





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. A.6

PROCLAMATION

“National Library Week” – April 10-16, 2011

Issue

To present a proclamation designating April 10 through 16, 2011, as “National Library Week”

Background

Each year, “National Library Week” is celebrated to offer recognition to the important role that libraries play in our lives.

Origination

The request for this proclamation originated with the Sherman Public Library.

Financial Consideration

There is no financial consideration to the City.

Staff Recommendation

It is the recommendation of the staff to present a proclamation proclaiming “National Library Week” during April 10 through 16, 2011.

Alternatives

The Council could choose not to present the proclamation.

Attachments

A proclamation proclaiming “National Library Week” is attached.

Prepared by:
Linda Ashby, City Clerk

Approved by:
George Olson, City Manager

SHERMAN



Proclamation

WHEREAS, libraries provide free access to all people, and more than six out of ten adults, 60 percent, use a public library at least once a year, and

WHEREAS, visits to public libraries totaled 1.4 billion or 4.8 library visits per capita annually, and

WHEREAS, librarians are trained professionals, helping people of all ages and backgrounds find and interpret the information they need to live, learn and work in a challenging economy, and

WHEREAS, in times of economic hardship, Americans turn to, and depend on, their libraries and librarians, and

WHEREAS, libraries, librarians, library workers and supporters across America are celebrating National Library Week, and

WHEREAS, "Read to Win," a reading readiness program is held on Tuesdays, Wednesdays and Thursdays from 10 a.m. to 11 a.m., and the "Brown Bag Video Series" on Tuesday, April 5, and Wednesdays, April 13, April 20, and April 27, 2011, from noon to 1 p.m. at the Sherman Public Library, and

WHEREAS, the library will also sponsor "Stuffed Animal Sleepover PJ Storytime" on Tuesday, April 26, 2011 from 6:30 p.m. to 7:30 p.m., and

WHEREAS, the Friends of the Sherman Public Library will sponsor a noon book review on Wednesday, April 6, 2011, and will hold their Semi-Annual Book Sale on Saturday, April 16, 2011, from 8 a.m. to 4 p.m.

NOW THEREFORE, I, Bill Rogers, Mayor of the City of Sherman, Texas, by the authority vested in me, do hereby proclaim April 10 through 16, 2011

NATIONAL LIBRARY WEEK

in the City of Sherman and urge all residents to visit the library this week to take advantage of the wonderful library resources available. I also encourage residents to thank their librarians and library workers for making information accessible to all who walk through the library's doors.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Sherman to be affixed, this 4th day of April, 2011.

Mayor

ATTEST:

Gina Ashby
City Clerk





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. A.7

PROCLAMATION

“Texoma Earth Day Festival Day” – April 16, 2011

Issue

The 3rd Annual Earth Day Festival will be held on Saturday, April 16, 2011 from 8:30 a.m. until 5:00 p.m. on the Sherman Municipal Grounds. The Texoma Earth Day Festival Planning Committee has requested a proclamation to publicize the event.

Background

Earth Day was originally founded in 1970 and is intended to inspire awareness and appreciation for the Earth’s natural environment. It is celebrated annually in April and corresponds to the beginning of Spring.

Origination

The request for the proclamation originated with the Texoma Earth Day Festival Planning Committee.

Financial Consideration

There is no financial consideration to the request.

Staff Recommendation

It is the staff recommendation that a proclamation be presented designating “Texoma Earth Day Festival Day” in Sherman.

Alternatives

The Council could choose not to present the proclamation.

Attachments

A proclamation designating April 16, 2011 as “Texoma Earth Day Festival Day” in Sherman is attached.

Prepared by:
Linda Ashby, City Clerk

Approved by:
George Olson, City Manager



Proclamation

WHEREAS, all people in the global community have a moral right to a healthy, sustainable environment with economic growth, and

WHEREAS, human activities around the world are causing severe environmental damage that threatens human health and our planet's ability to sustain a diverse community of life, and

WHEREAS, the citizens of the global community must step forward and take action to create a green economy that lives in harmony with the environment, and

WHEREAS, local communities can do much to reverse environmental degradation and contribute to building a healthy society by addressing issues such as energy use, transportation, waste prevention, and litter control, and

WHEREAS, there are sound economic, environmental, and social reasons for local governments to initiate energy efficiency and renewable energy practices, and

WHEREAS, the Texoma Earth Day Festival will be held on April 16, 2011 on the Municipal Building Grounds and will feature programs and activities where ordinary people will learn practical things to improve the health of the planet and to enhance the community's natural environment.

NOW THEREFORE, I, Bill Magers, Mayor of the City of Sherman, Texas, by the authority vested in me, do hereby proclaim April 16, 2011

TEXOMA EARTH DAY FESTIVAL DAY

in the City of Sherman and encourage all citizens, businesses, and institutions to use this day to celebrate the Earth and commit to building a sustainable society.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Sherman to be affixed this the 4th day of April, 2011.

Mayor

ATTEST:

Linda Ashby
City Clerk





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. B.1

CONSENT AGENDA

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

C.1 * RESOLUTION NO. 5573

Authorizing Execution of a Professional Engineering Services Agreement with Freeman-Millican, Inc. for the Wastewater Treatment Plant Headworks Pump and Variable Frequency Drive Upgrades Project

C.2 * RESOLUTION NO. 5574

Authorizing Execution of a Development Agreement with Bluestone Partners LLC. for the Construction of Public Facilities in the Crescent Oaks Addition to the City of Sherman

D.1 * CHANGE ORDER NO. 1

U.S. Highway 75 North Sewer Improvements, Contract "B"; Tri-Con Services, Inc; \$6,476.52 Increase

D.2 * CHANGE ORDER NO. 1

Shepherd Drive #1 Woodbine Well Repairs; Weisinger Water Well, Incorporated; \$720.25 Increase



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. C.1

*** RESOLUTION NO. 5573**

**Authorizing Execution of a Professional Engineering Services Agreement
with Freeman-Millican, Inc. for the Wastewater Treatment Plant Headworks Pump
and Variable Frequency Drive Upgrades Project**

Issue

To consider an agreement with Freeman-Millican, Inc. to provide professional engineering services for the Wastewater Treatment Plant Headworks Pump and Variable Frequency Drive Upgrades Project

Background

The current Capital Improvement Program contains a project to upgrade pumps and variable frequency drives at the Wastewater Treatment Plant Headworks.

Origination

Utility Administration, Department 710

Financial Consideration

The fee for the professional engineering services is a lump sum of \$53,770.00. This project will be funded through the Greater Texoma Utility Authority.

Staff Recommendation

It is recommended that the agreement for professional engineering services with Freeman-Millican, Inc. for the Wastewater Treatment Plant Headworks Pump and Variable Frequency Drive Upgrades Project be approved.

Alternatives

As may be directed by the Council

Attachments

Resolution No. 5573

Agreement for Professional Engineering Services

Location Map

Prepared by:

Mark Gibson, Director of Engineering & Public Works

Approved by:

George Olson, City Manager

RESOLUTION NO. 5573

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH FREEMAN-MILLICAN, INC. FOR THE WASTEWATER TREATMENT PLANT HEADWORKS PUMP AND VARIABLE FREQUENCY DRIVE UPGRADES PROJECT; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form and content by the City Attorney, to execute a Professional Engineering Services Agreement with Freeman-Millican, Inc. for the Wastewater Treatment Plant Headworks Pump and Variable Frequency Drive Upgrades Project, 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 _____, 2011.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
BILL MAGERS, MAYOR

**APPROVED AS TO FORM
AND CONTENT:**

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

ENGINEERING SERVICES AGREEMENT

THIS AGREEMENT is made and entered by and between the CITY OF SHERMAN, a Home-Rule Municipality, organized and existing under the laws of the state of Texas, hereinafter referred to as "City", and, Freeman-Millican, Inc. hereinafter referred to as "Engineer", to be effective upon the date indicated below.

WITNESSETH:

WHEREAS, the City desires to engage the services of the Engineer to prepare construction plans, specifications, details and special provisions and to perform other related engineering services in connection with the **Wastewater Treatment Plant (WWTP) Headworks Variable Frequency Drive Upgrade and Pump Replacement Improvements** in the City of Sherman, Texas, hereinafter referred to as the "Project"; and

WHEREAS, the Engineer desires to render such engineering services for the City subject to the terms and conditions provided herein.

NOW, THEREFORE, in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties hereto agree as follows:

1. **Employment of the Engineer.** The City hereby agrees to retain the Engineer to perform professional engineering services in connection with the Project. Engineer agrees to perform such services in accordance with the terms and conditions of this Agreement.
2. **Scope of Work.** The parties agree that Engineer shall perform such services as are set forth and described in Exhibit "1", which is attached hereto and made a part of this Agreement. The parties understand and agree that deviations or modifications in the form of written contract modifications may be authorized from time to time by the City. Engineer agrees to submit all final documents in a form acceptable to the City.
3. **Time of the Essence.** Time is of the essence. Engineer agrees to commence work immediately upon execution of this Agreement and to proceed diligently to completion except for delays beyond Engineer's reasonable control.
4. **Compensation and Method of Payment.** The parties agree that Engineer shall be compensated for all services provided pursuant to this Agreement in the amount described and set forth in Exhibit "1".
5. **Access To The Site.** City agrees to provide access to the Project area necessary or Engineer to complete his work.
6. **Insurance.** Engineer agrees to procure the following insurance:
 - a. Workers' Compensation as required by law.
 - b. Professional Liability Insurance in an amount not less than \$1,000,000 in the aggregate.

c. Comprehensive General Liability and Property Damage Insurance with minimum limits of \$1,000,000 for injury or death of any one person, \$1,000,000 for each occurrence, and \$1,000,000 for each occurrence of damage to or destruction of property.

d. Comprehensive Automobile and Truck Liability Insurance covering owned, hired, and non-owned vehicles, with minimum limits of \$1,000,000 for injury or death of any one person, \$1,000,000 for each occurrence, and \$1,000,000 for property damage.

e. The Engineer shall include the City as an additional insured under the policies, with the exception of the Professional Liability Insurance and Workers' Compensation. Certificates of Insurance and endorsements shall be furnished to the City before work commences. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, and/or reduced in coverage or in limits ("Change in Coverage") except with prior written consent of the City and only after the City has been provided with written notice of such Change in Coverage, such notice to be sent to the City either by hand delivery to the City Manager or by certified mail, return receipt requested, and received by the City no fewer than thirty (30) days prior to the effective date of such Change in Coverage. Prior to commencing services under this Contract, Engineer shall furnish City with Certificates of Insurance, or formal endorsements as required by this Contract, issued by Engineer's insurer(s), as evidence that policies providing the required coverage, conditions, and limits required by this Contract are in full force and effect.

7. **Indemnity and Duty to Defend.**

a. Engineer shall release, defend, indemnify and hold city and its officers, agents and employees harmless from and against all damages, injuries (including death), claims, property damages (including loss of use), losses, demands, suits, judgments and costs, including reasonable attorney's fees and expenses, in any way arising out of, related to, or resulting from the services provided by engineer and to the extent caused by the negligent act or omission or intentional wrongful act or omission of engineer, its officers, agents, employees, subcontractors, licensees, invitees or any other third parties for whom engineer is legally responsible. This agreement does not waive, nor shall it be deemed to waive, any immunity or defense, including, but not limited to Governmental immunity that would otherwise be available to the city against claims arising from the exercise of governmental powers and functions.

b. Engineer 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 Engineer 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 Engineer's obligation to defend the City or as a waiver of Engineer's obligation to indemnify the City pursuant to this Contract. Engineer 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 Engineer fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Engineer shall be liable for all costs incurred by City in defense of Claims for which Engineer 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.

8. **Independent Contractor.** Engineer is an independent contractor and not an officer, agent, servant or employee of City. Engineer shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between City and Engineer, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Engineer.

9. **Assignment and Subletting.** The Engineer agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of the City. The Engineer further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Engineer from its full obligations to the City as provided by this Agreement.

10. **Contract Termination.** The parties agree that City shall have the right to terminate this Agreement with or without cause upon thirty (30) days written notice to Engineer. In the event of such termination, Engineer shall deliver to City all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items prepared by Engineer in connection with this Agreement. Engineer shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to termination. In the event this Agreement is terminated, the City shall have the option of entering into an Agreement with another party for the completion of the work.

11. **Ownership of Documents.** Original drawings and specifications are the property of the Engineer; however, the Project is the property of the City and Engineer may not use the drawings and specifications therefore for any purpose not relating to the Project without City's consent. City shall be furnished with such reproductions of drawings and specifications as City may reasonably require. Upon completion of the work or any earlier termination of this Agreement under Paragraph 10, Engineer will revise drawings, if necessary, and he will promptly furnish the City with one (1) complete set of reproducible record prints. Prints shall be furnished, as an additional service, at any other time requested by City. All such reproductions shall be the property of the City who may use them without Engineer's permission for any proper purpose including, but not limited to, additions to or completion of the Project. Engineer also acknowledges that such information shall become subject to the Public Information Laws of this State and that Engineer agrees to waive any copyright claims to the information once the information is submitted to the City.

12. **Complete Contract.** This Agreement, including Exhibit "1", constitutes the entire agreement by and between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings. To the extent that any of the provisions in Exhibit "1" conflicts with this Agreement, the provisions in the Agreement control over the provisions in the exhibit(s). This Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument.

13. **Mailing of Notices.** Unless instructed otherwise in writing, Engineer agrees that all notices or communications to City permitted or required under this Agreement shall be addressed to City at the following address:

Director of Utilities & Engineering
City of Sherman
P.O. Box 1106
Sherman, TX. 75090

City agrees that all notices or communications to Engineer permitted or required under this Agreement shall be addressed to Engineer at the following address:

Terry Millican
Freeman-Millican, Inc.
12225 Greenville Ave., Suite 121 Dallas,
Texas 75243

All notices or communications required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date such notice or communication is posted by the sending party.

14. **Miscellaneous.**

a. **Paragraph Headings.** The paragraph headings contained herein are for convenience only and are not intended to define or limit the scope of any provision in this Agreement.

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

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

d. **Successors and Assigns.** City and Engineer, and their partners, successors, subcontractors, executors, legal representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

e. **Severability.** In the event a term, condition, or provision of this Agreement is determined to be void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision, shall be deleted and the remainder of the Agreement shall remain in full force and effect.

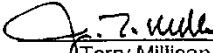
f. **Effective Date.** This Agreement shall be effective from and after execution by both parties hereto.

SIGNED on the date indicated below.

CITY OF SHERMAN

ENGINEER:
Freeman-Millican, Inc.

BY _____
George Olson
City Manager

BY  _____
Terry Millican, P.E.
President

DATE _____

DATE 3-23-2011

APPROVED AS TO FORM:

Brandon S. Shelby, City Attorney

EXHIBIT "1"
ENGINEERING SERVICES AGREEMENT

City of Sherman, Texas
WWTP Headworks Variable Frequency Drive Upgrade and Pump Replacement
Improvements
Scope of Professional Services

OWNER and ENGINEER, in consideration of their mutual covenants herein, agree in respect of the performance of professional engineering services by ENGINEER and the payment for those services by OWNER as set forth below.

ENGINEER shall provide professional engineering services for OWNER in all phases of the Project to which this Agreement applies, serve as OWNER'S professional engineering representative for the Project as set forth below, and shall give professional engineering consultation and advice to OWNER during the performance of services hereunder.

OWNER intends to construct, through Prime Contractor(s) the WWTP Variable Frequency Drive Upgrade and Pump Replacement Improvements, hereinafter called the "Project".

SECTION 1 - BASIC SERVICES OF ENGINEER

1.1 GENERAL

1.1.1 ENGINEER shall perform professional services as hereinafter stated which include customary civil, structural, mechanical, and electrical engineering services and customary architectural services incidental thereto.

1.2 PRELIMINARY DESIGN PHASE

After authorization to proceed with the Preliminary Design Phase, ENGINEER shall:

1.2.1 In consultation with OWNER, determine the extent of the Project.

1.2.2 Advise OWNER as to the necessity of OWNER'S providing, or obtaining from others, data or services of the types described in paragraph 3.3, and act as OWNER'S representative in connection with any such services.

1.2.3 Prepare preliminary design documents consisting of final design criteria, preliminary drawings, and outline specifications.

1.2.4 Based on the information contained in the preliminary design documents, submit a revised opinion of probable Project Costs.

1.2.5 Furnish 3 copies of the above preliminary design documents and present and review them in person with OWNER.

1.3 FINAL DESIGN PHASE

After authorization to proceed with the Final Design Phase, ENGINEER shall:

1.3.1 On the basis of comments from the review of the preliminary design documents and the revised opinion of probable Project Cost, prepare for incorporation in the Contract

Documents final drawings to show the character and extent of the Project (hereinafter called "Drawings") and Specifications.

- 1.3.2 Furnish to OWNER such documents and design data as may be required for, and assist in the preparation of, the required documents so that OWNER may apply for approvals of such governmental authorities as have jurisdiction over design criteria applicable to the Project, and assist in obtaining such approvals by participating in submissions to and negotiations with appropriate authorities.
- 1.3.3 Advise OWNER of any adjustments to the latest opinion of probable Project Cost caused by changes in extent or design requirements of the Project or Construction Costs and furnish a revised opinion of probable Project Cost based on the Drawings and Specifications.
- 1.3.4 Prepare for review and approval by OWNER, his legal counsel, and other advisors, contract agreement forms, general conditions and supplementary conditions, and (where appropriate) bid forms, invitations to bid and instructions to bidders, and assist in the preparation of other related documents.
- 1.3.5 Submit plans, specifications, and contract documents to applicable regulatory agencies for approval.
- 1.3.6 Furnish 3 copies of the above documents and present and review them in person with OWNER. Make any needed final revisions.

1.4 BIDDING PHASE

After authorization to proceed with the Bidding Phase, ENGINEER shall:

- 1.4.1 Assist OWNER in obtaining bids for each separate prime contract for construction, materials, equipment, and services.
- 1.4.2 Consult with and advise OWNER as to the acceptability of subcontractors and other persons and organizations proposed by the prime contractor(s) (hereinafter called "Contractor(s)") for those portions of the work as to which such acceptability is required by the bidding documents.
- 1.4.3 Prepare a tabulation of bids and assist OWNER in evaluating bids and in assembling and awarding contracts.

1.5 CONSTRUCTION PHASE

During the Construction Phase ENGINEER shall:

- 1.5.1 Consult with and advise OWNER and act as his representative as provided in the General Conditions of the Construction Contract. All of OWNER'S instructions to Contractor(s) will be issued through ENGINEER who will have authority to act on behalf of OWNER to the extent provided in said General Conditions except as otherwise provided in writing.
- 1.5.2 Make visits to the site at intervals appropriate to the various stages of construction to observe as an experienced and qualified design professional the progress and quality of the executed work of Contractor(s) and to determine in general if such work is proceeding in accordance with the Contract Documents. ENGINEER shall not be

required to make exhaustive or continuous on-site inspections to check the quality or quantity of such work. ENGINEER shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by Contractor(s) or the safety precautions and programs incident to the work of Contractor(s). ENGINEER'S efforts will be directed toward providing a greater degree of confidence for OWNER that the completed work of Contractor(s) will conform to the Contract Documents, but ENGINEER shall not be responsible for the failure of Contractor(s) to perform the work in accordance with the Contract Documents. During such visits and on the basis of on-site observations ENGINEER shall keep OWNER informed of the progress of the work and shall endeavor to guard OWNER against defects and deficiencies in such work and may disapprove or reject work failing to conform to the Contract Documents.

- 1.5.3 Review Shop Drawings and samples, the results of tests and inspections and other data which each Contractor is required to submit, but only for conformance with the design concept of the Project and general compliance with the information given in the Contract Documents (but such review and approval or other action shall not extend to means, methods, sequences, techniques or procedures of construction or to safety precautions and programs incident thereto); determine the acceptability of substitute materials and equipment proposed by Contractor(s); and receive and review (for general content as required by the Specifications) maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection which are to be assembled by Contractor(s) in accordance with the Contract Documents.
- 1.5.4 Issue all instructions of OWNER to Contractor(s); issue necessary interpretations and clarifications of the Contract Documents and in connection therewith prepare change orders as required; have authority, as OWNER'S representative, to require special inspection or testing of the work; act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder and make decisions on all claims of OWNER and Contractor(s) relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work; but ENGINEER shall not be liable for the results of any such interpretations or decisions rendered by him in good faith.
- 1.5.5 Based on ENGINEER'S on-site observations as an experienced and qualified design professional and on review of applications for payment and the accompanying data and schedules, determine the amounts owing to Contractor(s) and recommend in writing payments to Contractor(s) in such amounts: such recommendations of payment will constitute a representation to OWNER, based on such observations and review, that the work has progressed to the point indicated, that, to the best of ENGINEER'S knowledge, information and belief, the quality of such work is in accordance with the Contract Documents (subject to an evaluation of such work as a functioning Project upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any qualifications stated in his recommendation), and that payment of the amount recommended is due Contractor(s); but by recommending any payment ENGINEER will not thereby be deemed to have represented that continuous or exhaustive examinations have been made by ENGINEER to check the quality or quantity of the work or to review the means, methods, sequences, techniques or procedures of construction or safety precautions or programs incident thereto or that ENGINEER has made an examination to ascertain how or for what purposes any Contractor has used the moneys paid on account of the Contract Price, or that title to any of the work, materials or equipment has passed to OWNER free and clear of any

lien, claims, security interests or encumbrances, or that Contractor(s) have completed their work exactly in accordance with the Contract Documents.

- 1.5.6 Conduct in company with OWNER, an inspection to determine if the Project is substantially complete and a final inspection for compliance with the Contract Documents and if each Contractor has fulfilled all of his obligations thereunder so that ENGINEER may recommend, in writing, final payment to each Contractor and may give written notice to OWNER and the Contractor(s) that the work is acceptable (subject to any conditions therein expressed), but any such recommendation and notice shall be subject to the limitations expressed in paragraph 1.5.5.
- 1.5.7 ENGINEER shall not be responsible for the acts or omissions of any Contractor, or subcontractor, or any of the Contractor(s)' or subcontractors' agents or employees or any other persons (except ENGINEER'S own employees and agents) at the site or otherwise performing any of the Contractor(s)' work; however, nothing contained in paragraphs 1.5.1 through 1.5.7, inclusive, shall be construed to release ENGINEER from liability for failure to properly perform duties undertaken by him in the Contract Documents.
- 1.5.8 Revise contract drawings (unless redrawing is required), with the assistance of the OWNER and Contractor(s), and furnish one (1) set of Mylar reproducible record drawings, one set of AutoCAD drawings and one set in Adobe Acrobat Portable Document Format (pdf).

SECTION 2 - ADDITIONAL SERVICES OF ENGINEER

2.1 GENERAL

If authorized in writing by OWNER, ENGINEER shall furnish or obtain from others Additional Services of the following types which are not considered normal or customary Basic Services

- 2.1.1 Preparation of applications and supporting documents for governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
- 2.1.2 Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.
- 2.1.3 Services resulting from significant changes in extent of the Project or its design including, but not limited to, changes in size, complexity, OWNER'S schedule, or character of construction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are due to causes beyond ENGINEER'S control.
- 2.1.4 Providing renderings or models for OWNER'S use.

- 2.1.5 Furnishing the services of special consultants for other than the normal civil, structural, mechanical and electrical engineering and normal architectural design incidental thereto, such as consultants for interior design, furniture, furnishings, communications, acoustics, kitchens and landscaping; and providing data or services of the types described in paragraph 3.3 when OWNER authorizes ENGINEER to provide such data or services in lieu of furnishing the same in accordance with paragraph 3.3.
- 2.1.6 Services resulting from the arranging for performance by persons other than the principal prime contractors of services for the OWNER and administering OWNER'S contracts for such services.
- 2.1.7 Providing any type field surveys for design purposes and engineering surveys and staking to enable Contractor(s) to proceed with their work; and providing other special field surveys.
- 2.1.8 Services during out-of-town travel required of ENGINEER other than visits to the site and OWNER'S office as required by SECTION 1 and authorized by OWNER.
- 2.1.9 Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or neglected work of Contractor(s), (3) prolongation of the contract time of any prime contract by more than sixty days, (4) acceleration of the progress schedule involving services beyond normal working hours, and (5) default by Contractor(s).
- 2.1.10 Preparation of operating and maintenance manuals; protracted or extensive assistance in the utilization of any equipment or system (such as initial startup, testing, adjusting and balancing); and training personnel for operation and maintenance.
- 2.1.11 Services after completion of the Construction Phase, such as inspections during any guarantee period and reporting observed discrepancies under guarantees called for in any contract for the Project.
- 2.1.12 Preparing to serve or serving as a consultant or witness for OWNER in any litigation, public hearing or other legal or administrative proceeding involving the Project (except as agreed to under Basic Services).
- 2.1.13 Additional services in connection with the Project, including services normally furnished by OWNER and services not otherwise provided for in this Agreement.
- 2.1.14 Preparation of property or easement descriptions.
- 2.1.15 Additional copies of reports (over agreed number) and additional sets of Contract Documents (over agreed number).
- 2.1.16 Services of a resident Project representative, and other field personnel as required, for on-the-site observation of construction.
- 2.1.17 Any other special or miscellaneous assignments specifically authorized by OWNER.

SECTION 3 - OWNER'S RESPONSIBILITIES

OWNER shall:

- 3.1 Provide all criteria and full information as to OWNER'S requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications.
- 3.2 Assist ENGINEER by placing at his disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.
- 3.3 Furnish to ENGINEER, as required for performance of ENGINEER'S Basic Services, data prepared by or services of others, including without limitation core borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment; appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements; property, boundary, easement, right-of-way, topographic and utility surveys; property descriptions; zoning, deed and other land use restrictions; and other special data or consultations not covered in SECTION 2; all of which ENGINEER may rely upon in performing his services.
- 3.4 Provide field control surveys and establish reference points and base lines to enable Contractor(s) to proceed with the layout of the work.
- 3.5 Arrange for access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform his services.
- 3.6 Examine all studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by ENGINEER, obtain advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of ENGINEER.
- 3.7 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.
- 3.8 Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services as OWNER may require or ENGINEER may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as OWNER may require to ascertain how or for what purpose any Contractor has used the moneys paid to him under the construction contract and such inspection services as OWNER may require to ascertain that Contractor(s) are complying with any law, rule or regulation applicable to their performance of the work.
- 3.9 Designate in writing a person to act as OWNER'S representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER'S

policies and decisions with respect to materials, equipment, elements and systems pertinent to ENGINEER'S services.

- 3.10 Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER'S services, or any defect in the work of Contractor(s).
- 3.11 Furnish, or direct ENGINEER to provide, necessary Additional Services as stipulated in Section 2 of this Agreement or other services as required.
- 3.12 Bear all costs incident to compliance with the requirements of this Section 3.

SECTION 4 - PERIOD OF SERVICE

- 4.1 The provisions of this Section 4 and the various rates of compensation for ENGINEER'S services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion of the Construction Phase. ENGINEER'S obligation to render services hereunder will extend for a period which may reasonably be required for the design, award of contracts and construction of the Project including extra work and required extensions thereto.
- 4.2 After acceptance by OWNER of the ENGINEER'S Drawings, Specifications and other Final Design Phase documentation including the most recent opinion of probable Project Cost and upon written authorization to proceed, ENGINEER shall proceed with performance of the services called for in the Bidding. This Phase shall terminate and the services to be rendered thereunder shall be considered complete upon commencement of the Construction Phase or upon cessation of the negotiations with prospective Contractor(s). (except as may be otherwise required to complete the services called for in paragraph 6.1.2.5).
- 4.3 The Construction Phase will commence with the execution of the first prime contract to be executed for the work of the Project or any part thereof, and will terminate upon written approval by ENGINEER of final payment on the last prime contract to be completed. Construction Phase services may be rendered at different times in respect of separate prime contracts if the Project involves more than one prime contract.
- 4.4 If OWNER has requested significant modifications or changes in the extent of the Project, the time of performance of ENGINEER'S services and his various rates of compensation shall be adjusted appropriately.
- 4.5 If OWNER fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, or if the Construction Phase has not commenced within 90 calendar days (plus such additional time as may be required to complete the services called for under paragraph 6.2.2.5) after completion of the Final Design Phase, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement.
- 4.6 If ENGINEER'S services for design or during construction of the Project are delayed or suspended in whole or in part by OWNER for more than three months for reasons beyond ENGINEER'S control, ENGINEER shall on written demand to OWNER (but

without termination of this Agreement) be paid as provided in paragraph 5.3.2. If such delay or suspension extends for more than one year for reasons beyond ENGINEER'S control, or if ENGINEER for any reason is required to render services more than one year after Substantial Completion, the various rates of compensation provided for elsewhere in this Agreement shall be subject to renegotiation.

- 4.7 In the event that the work designed or specified by ENGINEER is to be performed under more than one prime contract, OWNER and ENGINEER shall, prior to commencement of the Final Design Phase, develop a schedule for performance of ENGINEER'S services during the Final Design, Bidding and Construction Phases in order to sequence and coordinate properly such services as applicable to the work under such separate contracts.

SECTION 5 - PAYMENTS TO ENGINEER

5.1 METHODS OF PAYMENT FOR SERVICES AND EXPENSES OF ENGINEER

5.1.1 For Basic Services

OWNER shall pay ENGINEER for Basic Services rendered under SECTION 1 a lump sum in the amount of \$53,770.00.

5.1.2 For Additional Services

OWNER shall pay ENGINEER for Additional Services rendered under SECTION 2 as follows:

5.1.2.1 General

For Additional Services rendered under paragraphs 2.1.1 through 2.1.17, inclusive (except services covered by paragraph 2.1.5 and services as a consultant or witness under paragraph 2.1.12), payment will be at the hourly rates in Exhibit "A".

5.1.2.2 Special Consultants

For services and reimbursable expenses of special consultants employed by ENGINEER pursuant to paragraph 2.1.5 or 2.1.17, the amount billed to ENGINEER therefor times a factor of 1.10

5.1.2.3 Serving as a Witness

For the services rendered by principals and employees as consultants or witnesses in any litigation, hearing or proceeding in accordance with paragraph 2.1.12, at the rate of \$ 2,500 per day or any portion thereof (but compensation for time spent in preparing to appear in any such litigation, hearing or proceeding will be on the basis provided in paragraph 5.1.2.1).

- 5.1.3 As used in this paragraph 5.1 the term "Reimbursable Expenses" will have the meaning assigned to it in paragraph 5.4.

5.2 TIMES OF PAYMENTS

5.2.1 ENGINEER shall submit monthly statements for Basic and Additional Services rendered and for reimbursable Expenses incurred. The statements will be based upon ENGINEER'S estimate of the proportion of the total services actually completed at the time of billing. OWNER shall make prompt monthly payments in response to ENGINEER'S monthly statements.

5.2.2 Upon conclusion of each phase of Basic Services, OWNER shall pay such additional amount, if any, as may be necessary to bring total compensation paid on account of such phase to the following percentages of total compensation payable for all phases of Basic Services:

Phase	Percent of Basic Services
Preliminary Design	15%
Final Design	65%
Bidding or Negotiating	5%
Construction	15%
TOTAL	100%

5.3 OTHER PROVISIONS CONCERNING PAYMENTS

5.3.1 Changes in Project Scope

In the event the OWNER changes the scope of the project after the commencement of the Final Design Phase and such changes render the work unusable that has been performed to the date of the change in project scope, ENGINEER will be paid for services rendered during that phase to the date of notice of the change in project scope at the hourly rates in Exhibit "A" for services rendered by principals and employees assigned to the Project during that phase to date of notice of the change in project scope. In the event of any such change in scope, ENGINEER will be paid for all unpaid Additional Services and unpaid Reimbursable Expenses.

In the event the OWNER changes the scope of the project after the commencement of the Final Design Phase and such changes require the Engineer to modify, redesign or otherwise change engineering work that has been completed or partially completed at the date of the change in scope, ENGINEER will be paid for services required to modify, redesign or otherwise change completed engineering work to meet the requirements of the revised scope of services at the hourly rates in Exhibit "A" for principals and employees assigned to the Project. In the event of any such change in scope, ENGINEER will be paid for all Additional Services and Reimbursable Expenses required to make the above stated changes. Before making changes to the engineering work under this provision, the ENGINEER shall submit an estimate of the cost of making the changes under this paragraph. The ENGINEER shall not begin making changes to the engineering work until authorized by the OWNER.

5.3.2 If OWNER fails to make any payment due ENGINEER for services and expenses within sixty days after receipt of ENGINEER'S bill therefor, the amounts due ENGINEER shall include a charge at the rate of 1% per month from said sixtieth day, and in addition, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement until he has been paid in full all amounts due him for services and expenses.

5.3.3 In the event of termination by OWNER, upon the completion of any phase of the Basic Services, progress payments due ENGINEER for services rendered through such phase shall constitute total payment for such services. In the event of such termination by OWNER during any phase of the Basic Services, ENGINEER will be paid for services rendered during that phase at the hourly rates in Exhibit "A" for services rendered during that phase to date of termination by principals and employees assigned to the Project. In the event of any such termination, ENGINEER will be paid for all unpaid Additional Services and unpaid Reimbursable Expenses, plus all termination expenses. Termination expenses mean Reimbursable Expenses directly attributable to termination, which shall include an amount computed as a percentage of total compensation for Basic Services earned by ENGINEER to the date of termination, as follows:

20% if termination occurs after commencement of the Preliminary Design Phase but prior to commencement of the Final Design Phase; or

10% if termination occurs after commencement of the Final Design Phase.

5.4 DEFINITIONS

5.4.1 Reimbursable Expenses mean the actual expenses incurred directly or indirectly in connection with the Project for: transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); furnishing and maintaining field office facilities; subsistence and transportation of Resident Project Representatives and their assistants; toll telephone calls and telegrams; reproduction of reports, Drawings, Specifications, and similar Project related items in addition to those required under Section 1; and, if authorized in advance by OWNER, overtime work requiring higher than regular rates.

SECTION 6 - OPINIONS OF COST

6.1 OPINIONS OF COST

6.1.1 Since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, his opinions of probable Project Cost and Construction Cost provided for herein are to be made on the basis of his experience and qualifications and represent his best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but ENGINEER cannot and does not guarantee that proposals, bids or actual Project or Construction Cost will not vary from opinions of probable cost prepared by him. If prior to the Bidding Phase OWNER wishes greater assurance as to Project or Construction Cost he shall employ an independent cost estimator as provided in paragraph 3.8.

- 6.1.2 If a Construction Cost limit is established by written agreement between OWNER and ENGINEER, the following will apply:
- 6.1.2.1 The acceptance by OWNER at any time during the Basic Services of a revised opinion of probable Project or Construction Cost in excess of the then established cost limit will constitute a corresponding revision in the Construction Cost limit to the extent indicated in such revised opinion.
 - 6.1.2.2 Any Construction Cost limit so established will include a contingency of ten percent unless another amount is agreed upon in writing.
 - 6.1.2.3 ENGINEER will be permitted to determine what materials, equipment, component systems and types of construction are to be included in the Drawings and Specifications and to make reasonable adjustments in the extent of the Project to bring it within the cost limit.
 - 6.1.2.4 If the Bidding Phase has not commenced within six months after completion of the Final Design Phase, the established Construction Cost limit will not be binding on ENGINEER, and OWNER shall consent to an adjustment in such cost limit commensurate with any applicable change in the general level of prices in the construction industry between the date of completion of the Final Design Phase and the date on which proposals or bids are sought.
 - 6.1.2.5 If the lowest bona fide proposal or bid exceeds the established Construction Cost limit, OWNER shall (1) give written approval to increase such cost limit, (2) authorize negotiating or rebidding the Project within a reasonable time, or (3) cooperate in revising the Project's extent or quality. In the case of (3), ENGINEER shall, without additional charge, modify the Contract Documents as necessary to bring the Construction Cost within the cost limit. The providing of such service will be the limit of ENGINEER'S responsibility in this regard and, having done so, ENGINEER shall be entitled to payment for his services in accordance with this Agreement.

SECTION 7 - GENERAL CONSIDERATIONS

7.1 REUSE OF DOCUMENTS

All documents including Drawings and Specifications prepared by ENGINEER pursuant to this Agreement are instruments of service in respect to the Project. They are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by ENGINEER for the specific purpose intended will be at OWNER'S sole risk and without liability or legal exposure to ENGINEER; and OWNER shall indemnify and hold harmless ENGINEER from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

SECTION 8 - SPECIAL PROVISIONS, EXHIBITS AND SCHEDULES

- 8.1 The following Exhibits are attached to and made a part of this Exhibit 1:
Exhibit "A" - Freeman-Millican, Inc. - Hourly Rate

EXHIBIT "A"
FREEMAN-MILLICAN, INC.
HOURLY RATES

<u>Employee Category</u>	<u>Hourly Rate</u>
Principal Engineer	\$165
Associate Engineer	\$130
Senior Project Engineer	\$115
Architect	\$110
Project Engineer	\$100
EIT	\$ 85
Designer	\$ 75
CAD	\$ 60
Clerical	\$ 50
RPLS	\$150
Survey Crew (Including GPS)	\$125



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. C.2

*** RESOLUTION NO. 5574**

Authorizing Execution of a Development Agreement with Bluestone Partners LLC. for the Construction of Public Facilities in the Crescent Oaks Addition to the City of Sherman

Issue

The construction of public facilities in the Crescent Oaks Addition to the City of Sherman

Background

Bluestone Partners LLC. proposes to construct the Crescent Oaks Addition, which includes the construction of a water main extension.

Origination

Department of Engineering, 119

Financial Consideration

The City will receive a "Review and Testing" fee of \$211.47.

Staff Recommendation

Staff recommends approval of the Development Agreement.

Alternatives

As directed by the City Council

Attachments

Resolution No. 5574

Development Agreement

Location Map

Prepared by:

Mark Gibson, Director of Engineering & Public Works

Approved by:

George Olson, City Manager

RESOLUTION NO. 5574

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT WITH BLUESTONE PARTNERS LLC. FOR THE CONSTRUCTION OF PUBLIC FACILITIES IN THE CRESCENT OAKS ADDITION TO THE CITY OF SHERMAN; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the City Manager be and is hereby authorized and directed, subject to all contract documents being properly completed and approved as to form and content by the City Attorney, to execute a Development Agreement with Bluestone Partners LLC. for the construction of public facilities in the Crescent Oaks Addition to the City of Sherman, Grayson County, Texas, in the same or substantially same form as the contract documents to be attached hereto and incorporated herein for all purposes.

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

PASSED AND APPROVED on this the ____ day of _____, 2011.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
BILL MAGERS, MAYOR

**APPROVED AS TO FORM
AND CONTENT:**

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

STATE OF TEXAS §
 §
COUNTY OF GRAYSON §

**DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF SHERMAN AND BLUESTONE PARTNERS, LLC.**

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2011 (the "Effective Date"), by and among City of Sherman ("City"), a municipal corporations organized under the laws of the State of Texas, and Bluestone Partners, LLC.

WITNESSETH

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

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

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

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

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

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

ARTICLE I.

SPECIFIC CONTRACT PROVISIONS

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

5. **Performance Bond:** No work shall be performed within the Subdivision until the Developer presents to the City Manager a satisfactory Performance Bond and Payment Bond, as provided by Chapter 2253 of the Texas Government Code, from the Contractor in favor of the Developer and the City. Such bond shall be made for 100% of the contract price for all streets and utilities and public works to be installed in the Subdivision, and shall be in a form containing all other provisions set forth in Chapter 2253 of the Texas Government Code, including, but not limited to, Section 2253.021 of that Chapter.
6. **Failure to Complete Development:** If the Developer does not complete the Improvements contained in the Development Documents on or before December 31, 2011, City may, at its election, use the Performance Bond to complete such Improvements. The date in this Paragraph maybe extended by the mutual agreement of the parties. Such extension shall be in writing, as provided in Paragraph 13 of Article II.
7. **Availability of Public Facilities:** No public facilities will be made available to any lot within any segment of this Subdivision until the work on each segment is performed and approved as agreed upon in this Agreement.
8. **Registered Civil Engineer:** All of the plans and specifications for the improvements herein mentioned in the Development Documents, shall be prepared by a Registered Professional Civil Engineer, and all of the improvements shall be built under the supervision of such engineer, and the engineer shall certify to the City that, as each segment is built, such segment as built is true and correct in accordance with the plans and specifications, and that the same was built under his supervision, and the certificate shall be signed and sealed by such engineer. All of the expense of such engineering shall be paid for by the Developer.
9. **City Engineer:** Before work is begun on any improvement, the City Engineer shall designate a person, hereinafter identified as "City Engineer," who shall be notified and arrangements made for inspection by the City Engineer at such stages of construction as required by him, and no improvement constructed underground shall be covered by the Developer until inspected by the City Engineer and approved by him. At any time any construction is contrary to the plans and specifications, the City Engineer shall be, and is, empowered to stop construction and require correct construction and installation at the Developer's risk and without liability to the City.

10. **Coordination of Work:** The work will be coordinated between the City and the Developer so that the utilities will be in place before the permanent improvements are installed.
11. **Utility Arrangements:** The Developer will make its own arrangements with gas, electric, and telephone service providers for extensions of their utilities, and upon complying with this Agreement, the City utilities will be furnished.
12. **Fees:** Other fees normally charged by the City for building permits, water taps, service connections, and similar fees will be paid as required to the City by the Developer.
13. **Guarantee or Maintenance Bond:**
 - a. If, within one year the acceptance, defects should appear in the materials or workmanship, the Developer shall have such defects promptly repaired at its own expense, and shall leave the work as intended by the plans and specifications. This guarantee will apply to all parts of the work which have been accepted by the City.
 - b. Instead of the Guarantee set for in subparagraph (a) of this paragraph, Developer may provide a Maintenance Bond to the City at the time of final acceptance of the improvements by the City Engineer. The bond shall name the City as an obligee under the bond and the bond shall provide a one (1) year guarantee on all the improvements contained in the Development Documents.
14. **WAIVER OF RIGHTS UNDER STATE LAW:**
 - a. **WAIVER OF RIGHTS:**
 - b. **Section 212.904 of the Texas Local Government Code**
 - (i.) Developer understands that, pursuant to Section 212.904 of the Texas Local Government Code, the developer is entitled to an apportionment of the municipal infrastructure cost and that such apportionment must be done by a professional engineer. Developer hereby agrees that any land or property it donates to the City, as reflected on the Final Plat, is roughly proportionate to the need for such land. Developer further acknowledges and agrees that all prerequisites to such a determination of rough

proportionality have been met, and that any costs incurred relative to said donation are related both in nature and extent to the impact of the development of the Property and its needs related thereto. BY MY DEVELOPER'S SIGNATURE ON THIS AGREEMENT, I CONTRACT ON ITS EXECUTION; DEVELOPER HEREBY FREELY, KNOWINGLY AND VOLUNTARILY WAIVES ITS RIGHTS UNDER SECTION 212.904 OF THE TEXAS LOCAL GOVERNMENT CODE, OR ANY OTHER RELATED CLAIMS. I AGREE, DEVELOPER AGREES THAT THE DEVELOPER'S AGREEMENT MAY PROCEED WITHOUT THE REQUIREMENTS IMPOSED ON THE CITY UNDER SECTION 212.904 OF THE TEXAS LOCAL GOVERNMENT CODE, EXCEPT DEVELOPER SPECIFICALLY RESERVES ITS RIGHT TO APPEAL THE APPORTIONMENT IN ACCORDANCE WITH SECTION 212.904 OF THE TEXAS LOCAL GOVERNMENT CODE. I CONSENT TO THIS WAIVER AFTER HAVING THE OPPORTUNITY TO REVIEW THIS AGREEMENT AND WAIVER PROVISION WITH MY ATTORNEY, OR IF I HAVE NOT REVIEWED THIS WITH AN ATTORNEY, THAT I HAVE HAD THE OPPORTUNITY TO DO SO AND HAVE VOLUNTARILY CHOSEN NOT TO SEEK THE ADVICE OF AN ATTORNEY.

- (ii.) BOTH DEVELOPER AND THE CITY FURTHER AGREE TO WAIVE AND RELEASE ALL CLAIMS ONE MAY HAVE AGAINST THE OTHER RELATED TO ANY AND ALL ROUGH PROPORTIONALITY AND INDIVIDUAL DETERMINATION REQUIREMENTS MANDATED BY *DOLAN V. TOWN OF TIGARD*, 512 U.S. 374 (1994), AND ITS PROGENY, AS WELL AS ANY OTHER REQUIREMENTS OF A NEXUS BETWEEN THE DEVELOPMENT CONDITIONS AND THE PROJECTED IMPACT OF THE FOREGOING, INCLUDING ALL DEDICATIONS OF LAND, PARKLAND, AND ANY INFRASTRUCTURE REFERENCED HEREIN. I CONSENT TO THIS WAIVER AFTER HAVING THE OPPORTUNITY TO REVIEW THIS AGREEMENT AND WAIVER PROVISION WITH MY ATTORNEY, OR IF I HAVE NOT REVIEWED THIS WITH AN ATTORNEY, THAT I HAVE HAD THE OPPORTUNITY TO DO SO AND HAVE VOLUNTARILY CHOSEN NOT TO SEEK THE ADVICE OF AN ATTORNEY.

**15. Other Provisions:
Developer to Extend Water**

- a. The Developer will construct the water extension to serve the subdivision in accordance with the plans and specifications prepared by George Kalmon, P.E. and approved by the City of Sherman.
- b. The Developer shall pay to the City an engineering plan review, inspection, and testing fee of \$211.47.
- c. Upon the completion of construction of any public improvements associated with the subdivision or any portion of the subdivision one electronic copy and one reproducible set of "Record" drawings will be supplied to the City.

ARTICLE II.

GENERAL CONTRACT PROVISIONS

1. **Force Majeure.** If the performance of any of the parties hereto is delayed by reason of war, civil commotion, acts of God, inclement weather, unanticipated subsurface conditions, fire or other casualty, court injunction or any circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated or not, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement shall be extended for a period of time equal to the period such party was delayed. The terms above shall not apply to extend the time permitted for any payment obligations set forth in this Agreement.
2. **INDEMNIFICATION AND HOLD HARMLESS.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, DEVELOPER OBLIGATES ITSELF TO THE CITY TO FULLY AND UNCONDITIONALLY PROTECT, INDEMNIFY AND DEFEND THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, AND HOLD IT HARMLESS FROM AND AGAINST ANY AND ALL COSTS, EXPENSES, REASONABLE ATTORNEY FEES, CLAIMS, SUITS, LOSSES OR LIABILITY FOR INJURIES TO PROPERTY, INJURIES TO PERSONS (INCLUDING DEVELOPERS EMPLOYEES), INCLUDING DEATH, AND FROM ANY OTHER

COSTS, EXPENSES, REASONABLE ATTORNEY FEES, CLAIMS, SUITS, LOSSES OR LIABILITIES OF ANY AND EVERY NATURE WHATSOEVER ARISING IN ANY MANNER, DIRECTLY OR INDIRECTLY, OUT OF OR IN CONNECTION HERewith, REGARDLESS OF CAUSE OR OF THE SOLE, JOINT, COMPARATIVE OR CONCURRENT NEGLIGENCE OR GROSS NEGLIGENCE OF DEVELOPER, ITS OFFICERS, AGENTS OR EMPLOYEES. THIS INDEMNIFICATION AND SAVE HARMLESS SHALL APPLY TO ANY IMPUTED OR ACTUAL JOINT ENTERPRISE LIABILITY. This indemnity does not waive any governmental immunity available to the City under Texas law and does not waive any defenses of the parties under Texas law.

3. **Authority to Bind.** Each general partner or member executing this Agreement on behalf the Developer represents that, by executing this Agreement in such capacity, it acts within the scope of its authority and does not exceed the bounds of its authority to act to bind such party regarding the obligations and assurances contained in this Agreement. City represents that the execution of this Agreement as provided below has been duly authorized by the City Council as provided in the Approval Resolution.
4. **Events of Default.** A default shall exist if either party fails to perform or observe any material covenant contained in this Agreement. The non-defaulting party shall immediately notify the defaulting party in writing upon becoming aware of any change in the existence of any condition or event which would constitute a default under this Agreement. Such notice shall specify the nature and the period of existence thereof and what action, if any, the notifying party requires or proposes to require with respect to curing the default.
5. **Remedies Available to City.** If a default by Developer shall occur and continue, after thirty (30) day's notice to cure default, City may, at its option, pursue any and all remedies it may be entitled to, at law or in equity, in accordance with Texas law and including using the Performance Bond to complete the work, without the necessity of further notice to or demand upon Developer. City shall not, however, have the right to exercise such remedies for so long as Developer proceeds in good faith and with due diligence to remedy and correct the default, provided that Developer has commenced to cure such default within thirty (30) days following notice, pursues such cure with reasonable diligence and completes such cure within one hundred eighty (180) days.

6. **No Waiver of Defenses.** Nothing in this Agreement shall be construed or intended to waive any defenses available to the City, including, but not limited to, governmental immunity.
7. **Venue and Governing Law.** This Agreement is performable in Grayson County, Texas and venue of any action arising out of this Agreement shall be exclusively in Grayson County. This Agreement shall be governed and construed in accordance with the laws of the State of Texas.
8. **Notices.** Any notice required by this Agreement shall be deemed to be properly served (i) three (3) days following deposit if deposited in the U.S. mail by certified letter, return receipt requested; (ii) on the next business day if sent by nationally recognized overnight delivery service; or (iii) upon receipt if transmitted by facsimile or electronic transmission, addressed to the recipient at the recipient's address shown below, subject to the right of either party to designate a different address by notice given in the manner just described.

CITY:

DESIGNEE: Mark Gibson
ADDRESS: 220 W. Mulberry St.
Sherman, TX 75090
PHONE: 903-892-7210
FAX: 903-870-7802

DEVELOPER:

DESIGNEE: Mr. Todd Young
ADDRESS: Bluestone Partners, L.L.C.
2913 Overland Trail Suite 100
Sherman, Texas 75090
PHONE: 903- 271-1417
FAX: _____

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

IN WITNESS WHEREOF parties have caused this Agreement to be executed in duplicate this _____ day of _____, 2011, with an original to each party.

DEVELOPER: Bluestone Partners, LLC

BY: _____

NAME: Kyle Booth

ATTEST: _____

BY: _____

NAME: Todd Young

TITLE: PROJECT MANAGER

CITY: CITY OF SHERMAN

BY: _____

NAME: George Olson

TITLE: City Manager

ATTEST: _____

BY: _____

NAME: Linda Ashby

TITLE: City Clerk

APPROVED AS TO FORM:

CITY ATTORNEY: _____

Brandon Shelby, City Attorney



City of Sherman, Texas
Developmental Services Department

1600-1700 Blocks U.S. Highway 75 North

0 250 500 1,000 Feet





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. D.1

*** CHANGE ORDER NO. 1**

**U.S. Highway 75 North Sewer Improvements, Contract "B";
Tri-Con Services, Inc; \$6,476.52 Increase**

Issue

Change Order No. 1 is a change order to adjust project quantities and approve project changes necessary to accommodate property owner requests.

Background

During the construction of this project, it became necessary to realign the sewer, force main, and a manhole at Loy Lake Road, and provide drainage through a berm for property owners along the sewer route. These expenses were not contemplated in the original contract. The Change Order was approved by the GTUA board of directors at its March 21, 2011 meeting.

Origination

Department of Utility Services
Greater Texoma Utility Authority

Financial Consideration

The change order results in an increase of \$6,476.52 to the contract price, yielding a revised contract amount of \$1,157,101.39.

Staff Recommendation

It is recommended that Change Order No. 1 be approved in the amount of \$6,476.52.

Alternatives

As may be directed by the Council

Attachments

GTUA Recommendation for Approval
Change Order Number One

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

Approved by:
George Olson, City Manager



GREATER TEXOMA UTILITY AUTHORITY

5100 AIRPORT DRIVE
DENISON, TEXAS 75020-8448
903/786-4433
FAX: 903/786-8211
www.gtua.org

MEMO

TO: Board of Directors, Greater Texoma Utility Authority

FROM: Jerry W. Chapman, General Manager

DATE: March 15, 2011

RE: Sherman IIwy 75 North Sewer Contract "B"
Tri-Con Services, Inc.
Change Order No.1

In 2010 the Authority awarded this contract to Tri-Con Services, Inc. During construction of the project it became necessary to realign the sewer force main and manhole at Loy Lake Road. This involved expenses not originally contemplated in the project. David Gattis, the engineer is recommending approval of this change order in the amount of \$6,476.52. Funds are available from the 2009 bond issue.

ACTION REQUESTED: The General Manager recommends the Board approve change order no. 1, subject to similar action being taken by the Sherman City Council.

JWC:cc

Attachment

CHANGE ORDER NO. 1

PROJECT : CONTRACT "B": HIGHWAY 75 NORTH SEWER

OWNER : GREATER TEXOMA UTILITY AUTHORITY

CONTRACTOR: Tri-Con Services, Inc

ENGINEER : Freeman - Millican, Inc., Dallas, Texas

DATE : March 14, 2011

TO THE CONTRACTOR:

You are hereby authorized, subject to the Contract provisions, to make the changes as outlined in this change order No. 1 all in accordance with the plans and specifications.

Re-alignment of sewer, force main and manhole at Loy Lake Road	\$ 5,395.65
Core concrete embedment at creek flow line at station 53 + 00	2,250.00
Net decrease actual quantities installed. See exhibit 1.	(1,169.13)

Net Increase \$ 6,476.52

Original Contract Amount: \$1,150,624.87

Revised Contract Amount with this Change Order No. 1 \$1,157,101.39

RECOMMENDED:

David E. Dattis
Freeman - Millican, Inc.

3-14-2011
Date

APPROVED:

Contractor

Date

Owner

Date

HIGHWAY 75 NORTH SEWER - CONTRACT B

Quantities Installed

Date Submitted: 3/14/11
To: GTUA / CITY OF SHERMAN
Date: March 14, 2011

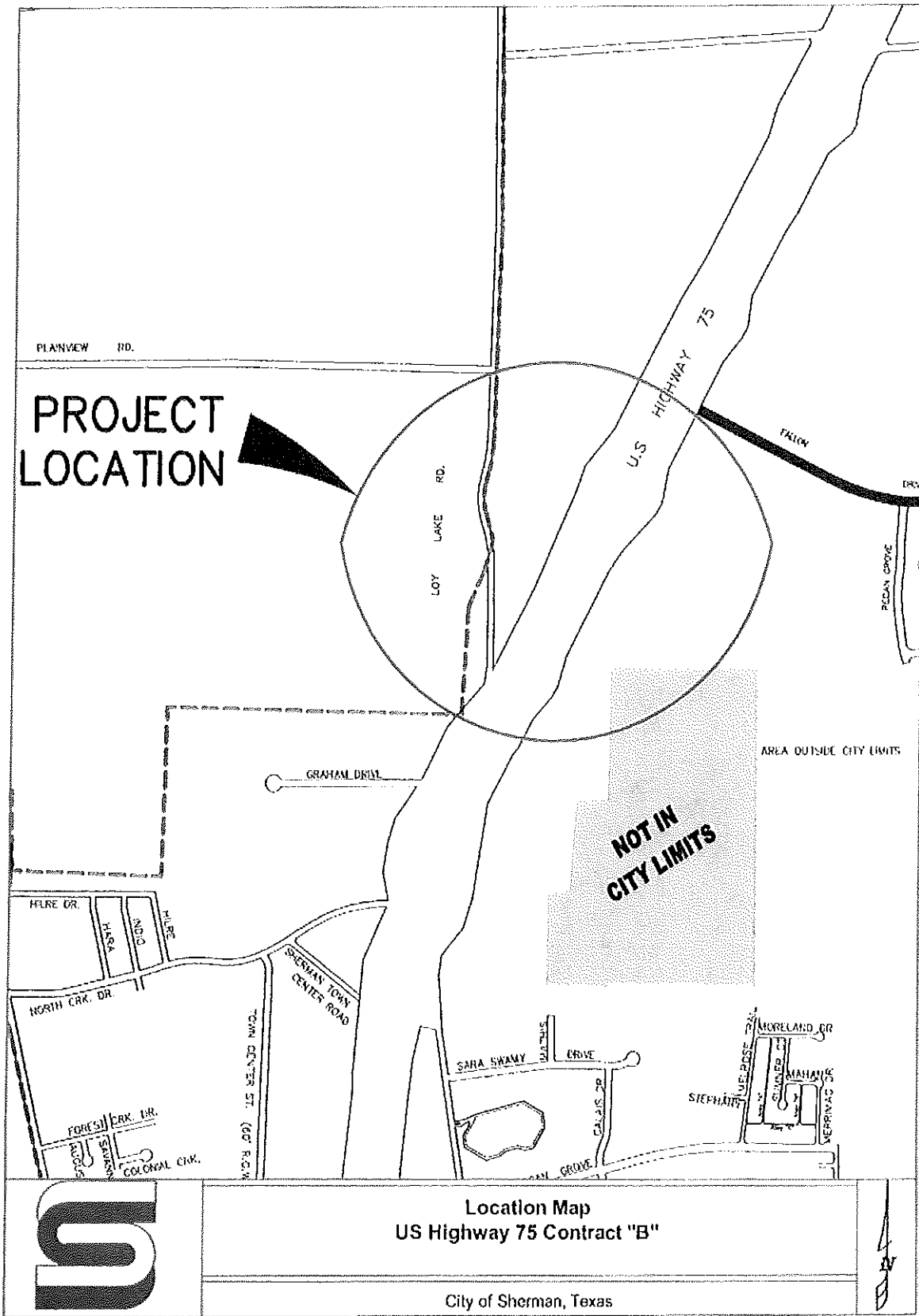
Exhibit 1

Contractor: Tri Con Services, Inc.
3010 West Main
Rowlett, Tx 75088

Item	Description	Quantity	Units	Unit Price	Total Value	Qty Installed	Installed +/- Qty	Installed +/- Cost
Sewer Improvements								
P.1	15" SEWER (0'-11')	156	LF	\$33.50	\$5,226.00	156	0	
P.2	15" SEWER (0'-9")	1541	LF	\$33.00	\$50,853.00	1541	0	
P.3	15" SEWER (0'-16')	458	LF	\$35.00	\$16,030.00	458	0	
P.4	12" SEWER 0'-9'	123	LF	\$32.00	\$3,936.00	123	0	
P.5	10" SEWER 0'-12'	57	LF	\$28.00	\$1,596.00	57	0	
P.6	10" SEWER 0'-9'	252	LF	\$27.75	\$6,993.00	252	0	
P.7	10" SEWER 0'-14'	245	LF	\$34.00	\$8,330.00	245	0	
P.8	8" SEWER 0'-7'	191	LF	\$25.75	\$4,918.25	191	0	
P.9	8" SEWER 7'-11'	233	LF	\$26.00	\$6,058.00	233	0	
P.10	8" SEWER 0'-11'	151	LF	\$27.75	\$4,190.25	151	0	
P.11	8" SEWER 11'-17'	87	LF	\$32.00	\$2,784.00	87	0	
P.12	8" SEWER 0'-11' LINE 2G	253	LF	\$27.75	\$7,020.75	253	0	
P.13	8" SEWER 0'-9' LINE 2H	48	LF	\$26.00	\$1,248.00	48	0	
P.14	14" FORCE MAIN 0'-9' LINE FM2	827	LF	\$41.62	\$34,419.74	827	0	
P.15	14" FORCE MAIN 9'-13' LINE FM2	242	LF	\$44.60	\$10,793.20	242	0	
P.16	15" SEWER & 14" FORCE MAIN IN SINGLE DITCH	571	LF	\$57.40	\$32,775.40	571	0	
P.17	15" SEWER & 14" F.M. 9'-13' SINGLE TRENCH	471	LF	\$58.40	\$27,506.40	471	0	
P.18	12" SEWER & 14" F.M. 0'-9' SINGLE DITCH	1205	LF	\$55.50	\$66,877.50	1205	0	
P.19	12" SEWER & 14" F.M. 9'-13' SINGLE DITCH	516	LF	\$56.50	\$29,154.00	516	0	
P.20	10" SEWER & 14" F.M. 0'-8' SINGLE DITCH	1082	LF	\$50.20	\$54,316.40	1082	0	
P.21	10" SEWER & 14" F.M. 8'-13' SINGLE DITCH	483	LF	\$53.20	\$25,695.60	523	40	\$2,128.00
P.22	10" SEWER & 14" F.M. 13'-15' SINGLE DITCH	65	LF	\$53.20	\$3,458.00	65	0	
P.23	8" SEWER & 14" F.M. 0'-7' SINGLE DITCH	1021	LF	\$49.60	\$50,641.60	1021	0	
P.24	8" SEWER & 14" F.M. 7'-11" SINGLE DITCH	483	LF	\$50.50	\$24,391.50	483	0	
P.25	10" SEWER IN EXISTING 16" CASING	40	LF	\$35.36	\$1,414.40	0	-40	-\$1,414.40
P.26	14" F.M. IN EXISTING 20" CASING	40	LF	\$52.86	\$2,114.40	0	-40	-\$2,114.40
P.27	12" SEWER IN 18" CASING BY OPEN CUT 0'-12'	115	LF	\$59.48	\$6,840.20	115	0	
P.28	14" F.M. BY OPEN CUT IN 22" CASING 0'-12'	115	LF	\$122.00	\$14,030.00	115	0	
P.29	15" SEWER BORE W/ 22" STEEL FALLON DR.	120	LF	\$270.00	\$32,400.00	120	0	
P.30	14" F.M. BORE W/ 22" STEEL CASING FALLON DR.	120	LF	\$270.00	\$32,400.00	120	0	
P.31	12" SEWER DRY BORE 18" CASING HWY. 75	530	LF	\$295.00	\$156,350.00	530	0	
P.32	14" F. M. DRY BORE W/ 22" CASING HWY- 75	530	LF	\$295.00	\$156,350.00	530	0	
P.33	AERIAL CROSSING TWO 26" STEEL CASING	80	lf	\$300.00	\$24,000.00	80	0	

P.34	AERIAL CROSSING W/ 24" & 18" STEEL CASING	46	LF	\$190.00	\$8,740.00	46	0	
P.35	AERIAL CROSSING 24" & 16" CASING	53	LF	\$190.00	\$10,070.00	53	0	
P.36	AERIAL CROSSING W/ SINGLE 14" CASING	50	LF	\$85.00	\$4,250.00	50	0	
P.37	30" DIA. PIER TWO EA.	44	VF	\$375.00	\$16,500.00	52	8	\$3,000.00
P.38	24" PIER 6 EA.	86	VF	\$350.00	\$30,100.00	106	20	\$7,000.00
P.39	4' DIA. MANHOLE 0'-9'	22	EA	\$2,462.00	\$54,164.00	22	0	
P.40	4' DIA. MANHOLE 9'-14'	13	EA	\$2,842.00	\$36,946.00	12	1	
P.41	CLASS - G CONCRETE ENC.	85	LF	\$25.00	\$2,125.00	85	0	
P.42	5" THICK 2000 PSI RIP RAP	200	SY	\$50.00	\$10,000.00	24.44	-175.56	-\$8,778.00
P.43	STABILIZE SLOPE FABRIC & GRASS SEED	3000	SY	\$2.50	\$7,500.00	4025	1025	\$2,562.50
P.44	STABILIZE SLOPE W/SOIL CEMENT BACKFILL	150	SY	\$15.00	\$2,250.00	150	0	
P.45	CRUSHED STONE FOUNDATION	100	CY	\$29.00	\$2,900.00	0	-100	-\$2,900.00
P.46	R&R ASPHALT PAVING	67	SY	\$65.00	\$4,355.00	47	-20	-\$1,300.00
P.47	FENCH GAP W/ GATE	9	EA	\$1,522.17	\$13,699.53	10	1	\$1,522.17
P.48	SIX WIRE GAP	1	EA	\$875.00	\$875.00	0	-1	-\$875.00
P.49	AERIAL CROSSING FENCE BARRIER	6	EA	\$1,050.00	\$6,300.00	0	6	
P.50	TRENCH SAFETY	10991	LF	\$1.25	\$13,738.75	10991	0	
P.51	STORM WATER POLLUTION	1	LS	\$21,000.00	\$21,000.00	1	0	
NET DECREASE FROM QUANTITIES INSTALLED								-1169.13

Exhibit 1





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. D.2

*** CHANGE ORDER NO. 1**

**Shepherd Drive #1 Woodbine Well Repairs;
Weisinger Water Well, Incorporated; \$720.25 Increase**

Issue

Change Order No. 1 is a final reconciliatory change order to adjust the final project quantities for the Shepherd Drive #1 Woodbine Well repair project.

Background

The Shepherd Drive #1 Woodbine Well required repairs and pump replacement. The project has been completed.

Origination

Department of Utilities Administration

Financial Consideration

The change order results in a \$720.25 increase to the contract amount, yielding a final contract price of \$115,121.75. Funds are available in the current budget to cover this cost.

Staff Recommendation

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

Alternatives

As may be directed by the Council

Attachments

Change Order No. 1

Prepared by:
Mark Gibson, Engineering & Public Works Director

Approved by:
George Olson, City Manager

**CITY OF SHERMAN
CONTRACT CHANGE ORDER**

Contract No. _____

Date: March 29, 2011

Change Order No. 1

Project: Shepherd Drive Woodbine Well Repair

Location: Sherman, Texas

To: (Contractor)

You are hereby requested to comply with the following changes from the contract plans and specifications:

Item Number (1)	Description of Changes, Quantities Units, Unit Prices, change in completion schedule, etc. (2)	Decrease in Contract Price (3)	Increase in Contract Price (4)
6	5"x 21' column pipe Add 1 joint @ \$614.00		\$614.00
10	3 conductor submersible cable Add 20 LF @ \$30.00/LF		600.00
12	1/4" stainless steal airline Add 25LF @ \$2.25/LF		56.25
13	Steel lifting lugs Delete 11 @ \$50.00 each	\$550.00 <u>XXXXXXXXXXXXXXXXXXXXXXX</u> \$550.00	<u>XXXXXXXXXXXXXXXXXXXXXXX</u> \$1270.25

The sum of \$ 720.25 is hereby added to the total contact price, \$ 114,401.50 and the total adjusted contract price to date thereby is \$ 115,121.75.

The time provided for completion in the contract is **unchanged**. This document shall become an amendment to the contract, and all provisions of the contract will apply hereto.

Accepted By: _____

Date: 3-29-11

Recommended By: _____

Date: _____

Approved By: _____

Date: _____



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. D.3

OTHER BUSINESS

Receive the Airport Advisory Board's Presentation on a Municipal Airport Business Plan

Issue

The Airport Advisory Board has prepared a business plan for Sherman Municipal Airport.

Background

The Airport Advisory Board over the last several months has met to develop a proposed business plan for the Sherman Municipal Airport. The plan has been completed and is ready for presentation to the City Council.

Origination

Airport Advisory Board

Financial Consideration

The proposed plan will recommend possible expenditures for the upgrade of facilities at the Sherman Municipal Airport.

Council Action Requested

View the Airport Advisory Board's presentation and consider its recommendations.

Alternatives

As directed by the Council

Attachments

None

Prepared by:
Don Keene, Exec. Director of Planning/Public Works

Approved by:
George Olson, City Manager



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. D.4

OTHER BUSINESS

**Consider Request of St. Mary's Catholic School to Temporarily Close Certain Streets
for the "Tiger Trail 5K Fun Run" on Saturday, May 7, 2011**

Issue

St. Mary's Catholic School is planning to hold a "Tiger Trail 5K Fun Run" on Saturday, May 7th as part of their 2011 fundraising campaign and is requesting the City of Sherman's assistance with street closures along the route.

Background

The event will begin at 8:30 a.m. and will follow the route outlined and displayed on the attached map. The event will require traffic control assistance and barricades from the City of Sherman.

Origination

Cindy McCullough, St. Mary's Tiger Trail 5K Fun Run Chairperson

Financial Consideration

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

Staff Recommendation

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

Alternatives

None recommended

Attachments

Written request received February 8, 2011

Map of proposed route with barricade placement locations

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

Approved by:
George Olson, City Manager



January 20, 2011

George Olsen
City of Sherman
220 West Mulberry Street
Sherman, TX 75090-5832

Dear Mr. Olsen,

St. Mary's Catholic School is planning a 5K fundraiser for our school. We believe a Christian Education is a vital part of a child's development and we hold events such as these to help offset tuition.

We are respectfully requesting traffic support as well as cones to be placed along the 5K route. We are estimating 200 runners to participate. It will be named St. Mary's Tiger Trot 5K Fun Run. We will begin the race at 8:30 a.m. on May 7, 2011. If we are unable to hold the race on this day due to unforeseen weather conditions, we will postpone the race until we can find another suitable day. Our route will begin at 713 South Travis at the St. Mary's Catholic School parking lot. Please see the attached proposed route.

I sincerely appreciate your consideration of this event. If you have any questions, please feel free to contact me at (903) 868-1200.

Sincerely,

Cindy McCullough
St. Mary's Tiger Trail 5K Fun Run Chairperson
cindy.mccullough@yahoo.com



City of Sherman, Texas



ST. MARY'S 5K FUN RUN
PROJECT LOCATION MAP





SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. D.5

CITIZEN REQUESTS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. D.6

MEDIA QUESTIONS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. D.7

APPOINT/REMOVE OR CONSIDER QUALIFICATIONS TO BOARDS AND COMMISSIONS

(a) Library Board (3)

Issue

Terms for two members on the Library Board expire on April 8, 2011. Ron Roberts and Darlene Schweizer have served one term, are eligible, and do wish to be reappointed. There is also a vacancy on this Board; however there are currently no applications on file.

Background

The Library Board serves in an advisory capacity to the City Librarian, the City Manager, and the City Council.

Origination

The request originated with the City Clerk's Office.

Financial Consideration

There is no financial consideration to the City.

Staff Recommendation

It is recommended that the City Council consider reappointments to the Library Board.

Alternatives

The City Council could delay reappointments to the Board.

Attachments

A membership roster, fact sheet, applicant list, and reappointment letters are attached for examination.

Prepared by:
Linda Ashby, City Clerk

Approved by:
George Olson, City Manager

MEMBERSHIP ROSTER

LIBRARY BOARD

LENGTH OF TERMS: THREE YEARS
Term Limit: Three Consecutive Terms

MEMBER	DISTRICT	TERM BEGINS	TERM EXPIRES	TERMS	MEMBERSHIP REQUIREMENTS
Nan Jones	4	A 3/20/2007 R 3/20/2010	3/20/2010 3/20/2013	1 2	Members are required to be residents of Sherman; have knowledge of Library Affairs and operations; and appreciate books.
Dr. Charles Whitfield	4	A 4/3/2007 R 4/3/2010	4/3/2010 4/3/2013	1 2	
Ron Roberts	4	A 4/8/2008	4/8/2011	1	
Kate Whitfield	4	U 2/23/2005	9/30/2006	1	
		R 9/30/2006	9/30/2009	2	
		R 9/30/2009	9/30/2012	3	
Mib Garrard	4	U 9/4/2002	9/30/2003	0	
		R 9/30/2003	9/30/2006	1	
		R 9/30/2006	9/30/2009	2	
		R 9/30/2009	9/30/2012	3	
Darlene Schweiher	4	A 4/8/2008	4/8/2011	1	
Vacant					

NOTE:

CITY STAFF: Jacqueline Banfield, Director of Library Services
Revised 3/16/2010

FACT SHEET

LIBRARY BOARD

Established by ORDINANCE 1736 – APRIL 14, 1948; REVISED ORDINANCE 4223 – OCTOBER 21, 1991; REVISED ORDINANCE 4367 – OCTOBER 3, 1994

1. Number of Members: SEVEN
2. Term of Appointment: THREE YEARS
3. Consecutive Term Rule: THREE TERMS – ORDINANCE 4223 (10/21/91)
4. Qualifications for Membership: RESIDENTS OF SHERMAN; KNOWLEDGE OF LIBRARY AFFAIRS AND OPERATION; APPRECIATION OF BOOKS
5. Appointed by: MAYOR AND CITY COUNCIL
6. Board Organization
CHAIRPERSON E VICE CHAIRPERSON SECRETARY E
ELECTED E APPOINTED
7. Departmental Responsibility: DIRECTOR OF LIBRARY SERVICES
8. Meeting Date: NO RULE – AS SET BY BOARD BY-LAWS
9. Attendance Requirements: NO RULE – AS SET BY BOARD BY-LAWS

=====

PURPOSE:

Shall serve in an advisory capacity with the City Librarian, the City Manager and the City Council.

RESPONSIBILITIES:

Said Board shall have no authority to bind the City of Sherman to any contract or interfere in any manner with City operations of Library Services.

APPLICANT LIST

Library Board

Positions Vacant 3

Applicant	Address	District	Qualifications
Ron Roberts	1925 Timberline Ln	4	Current Member; Wishes to be Reappointed
Darlene Schweizer	1408 Crescent	\$	Current Member; Wishes to be Reappointed

COMMENTS:

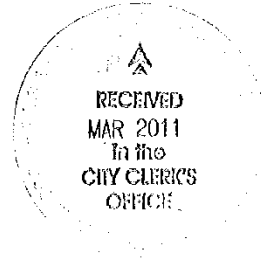
SHERMAN



PUBLIC RECORDS DEPARTMENT

Phone No. (903) 892-7204

Fax No. (903) 892-7394



March 9, 2011

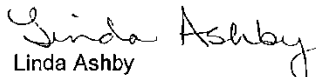
Ron Roberts
1925 Timberline
Sherman, Texas 75092

RE: Library Board

Dear Mr. Roberts:

Your term on the Library Board expires on April 8, 2011. 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
City Clerk

cc: Jacqueline Banfield, Library Services Administrator

☒

I do wish to be considered for reappointment to this board

☐

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


Signature

3-11-11
Date

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

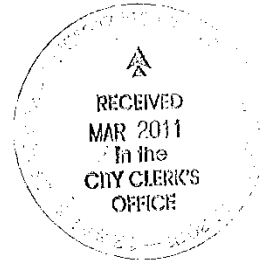
SHERMAN



PUBLIC RECORDS DEPARTMENT

Phone No. (903) 892-7204

Fax No. (903) 892-7394



March 9, 2011

Darlene Schweizer
1408 Crescent
Sherman, Texas 75092

RE: Library Board

Dear Mrs. Schweizer:

Your term on the Library Board expires on April 8, 2011. 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: Jacqueline Banfield, Library Services 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

Darlene Schweizer

Signature

3-11-11

Date

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



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. D.8

COUNCIL COMMENTS

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. D.9

ADJOURNMENT

The Honorable Bill Magers, Mayor



SHERMAN CITY COUNCIL

Agenda Communication Form

From: The Office of the City Manager

Date: 4-4-2011

Subject: Agenda Item No. N/A

COUNCIL CALENDAR

2011 CITY COUNCIL MEETINGS

JANUARY

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

FEBRUARY

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

MARCH

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

APRIL

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

MAY

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

JUNE

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

JULY

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

AUGUST

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

SEPTEMBER

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

OCTOBER

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

NOVEMBER

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

DECEMBER

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

01/03/11 - January 3rd Council meeting cancelled
01/17/11 - M.L.K., Jr. Birthday / Regular Council Meeting
02/21/11 - Washington's Birthday / Regular Council Meeting
03/03/11 - 12 Noon Long-Term Planning Meeting
03/28/11 - 12 Noon Called Meeting for PH & Adoption of Ord. #
(Annexation of 23.065 acres south of Dripping Springs Road and
west of Cedar Park Village)
04/21/11 - 12 Noon Budget Planning Meeting in Council Chambers
06/17/11 - 8:00 AM Budget Workshop in Council Chambers
07/04/11 - Independence Day - Called Council Meeting on 07/05/11

09/05/11 - Labor Day / Called Council Meeting on 09/06/11