

**CITY OF SHERMAN
CITY COUNCIL REGULAR MEETING AGENDA
COUNCIL CHAMBERS OF THE CITY HALL
220 WEST MULBERRY STREET
SHERMAN, TEXAS
MONDAY, MARCH 6, 2017
5:00 P.M.**

- A. 1. CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN**
- A. 2. PLEDGE OF ALLEGIANCE LED BY COUNCIL MEMBER PAMELA L. HOWETH**
- A. 3. INVOCATION BY COUNCIL MEMBER PAMELA L. HOWETH**
- A. 4. APPROVE MINUTES OF THE REGULAR CITY COUNCIL MEETING OF FEBRUARY 20, 2017**

Proclamations

- B. 1. PROCLAMATION**
"National Social Work Month" – March 2017

Public Hearing

- C. 1. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6013**
Authorizing the Issuance of "CITY OF SHERMAN, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2017"; Specifying the Terms and Features of Said Certificates; Providing for the Payment of Said Certificates of Obligation by the Levy of an Ad Valorem Tax Upon All Taxable Property within the City and a Limited Pledge of the Net Revenues from the Operation of the City's Waterworks and Sewer System; Resolving Other Matters Incident and Relating to the Issuance, Payment, Security, Sale and Delivery of Said Certificates, Including the Approval and Execution of a Paying Agent/Registrar Agreement and the Approval and Distribution of an Official Statement; and Providing an Effective Date
- C. 2. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6004**
Appointing an Alternate Municipal Court Judge for the City of Sherman, Grayson County, Texas

Close Public Hearing and Consider Adoption of Ordinances

- C. 3. ADOPTION OF ORDINANCES**
Consider Adoption of Ordinance Numbers: 6013 and 6004
- C. 4. 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

- D. 1. ** RESOLUTION NO. 6193***
Finding and Determining a Public Purpose and Public Necessity Exists for Construction of Street Improvements for the East Park Avenue to East Lake Avenue Connector; Appointing an Appraiser and Negotiator as Necessary; Authorizing the City Manager to Establish Just Compensation for the Property Rights to be Acquired; Authorizing the City Manager to Take all Steps Necessary to Acquire the Needed Property Rights in Compliance with All Applicable Laws and Regulations
- D. 2. ** RESOLUTION NO. 6194***
Awarding a Bid to and Authorizing Execution of a Contract with C&M Mowing and Landscaping for the 2017 City Parks and Grounds Finish Mowing Program
- D. 3. ** RESOLUTION NO. 6195***
Awarding a Bid to and Authorizing Execution of a Contract with Weldon's Lawn and Tree, LLC. for the 2017 City Right-of-Way Finish Mowing Program
- D. 4. ** RESOLUTION NO. 6196***
Awarding a Bid to and Authorizing Execution of a Contract with Frazer, Ltd. to Purchase an Ambulance under the FEMA Alternative Project Program
- D. 5. ** RESOLUTION NO. 6197***
Awarding a Bid to and Authorizing Execution of a Contract with Caldwell Country Chevrolet to Purchase a Chevrolet Police Tahoe under the FEMA Alternative Project Program

Other Business

- E. 1. OTHER BUSINESS**
Receive Quarterly Progress Report from Sherman Economic Development Corporation Board Chairman Greg Kirkpatrick and SEDCO President John Plotnik
- E. 2. OTHER BUSINESS**
Accept Annual Audit Report for Year Ended September 30, 2016 from Adami, Lindsey and Company, L.L.P.
- E. 3. OTHER BUSINESS**
Consider Sholdon Daniels' Request to Prioritize Bicycle Infrastructure Improvements to Enhance Public Safety in the City of Sherman
- E. 4. OTHER BUSINESS**
Consider Rejection of Bids for the Annual City Right-of-Way Rough Mowing Contract
- E. 5. OTHER BUSINESS**
Consider Scheduling a Joint Meeting of the City Council and the Sherman Independent School District Board of Trustees for March 21, 2017, for a Strategic Planning Session
- F. CITIZEN REQUESTS**
- G. MEDIA QUESTIONS**

H. COUNCIL COMMENTS

Executive Session

I. 1. EXECUTIVE SESSION

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

Section 551.071 Consultation with City Attorney concerning Pending or Contemplated Litigation

Section 551.087 Deliberation Regarding Economic Development Negotiations:
(a) Deliberate Regarding Commercial or Financial Information that the City has Received from a Business Prospect and Deliberate any Offers or Incentives to the Business Prospect

The Council reconvenes into General Session

J. 1. OPEN MEETING

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

K. ADJOURNMENT

COUNCIL CALENDAR

CERTIFICATION

I, the undersigned authority, do hereby certify that the above Notice of Regular Meeting of the City Council of the City of Sherman is a true and correct copy of said Notice and that I posted a true and correct copy of said Notice on the bulletin board at City Hall of said City of Sherman, Texas, a place convenient to the public, and said notice was posted on March 2, 2017 at 4:00 p.m., and said time of posting was 72 hours before said meeting was convened or called to order.

Dated this 2nd day of March, 2017
City of Sherman, Texas

City Clerk

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

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

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

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

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

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

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

Mayor

David Plyler

Deputy Mayor

Jason Sofey

Council Members

Kevin Couch, Council-At-Large, PL #1

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

Shawn C. Teamann, Council – District #1

Terrence R. Steele, Council – District #2

Pamela L. Howeth, Council – District #3

Charles H. Brown, Sr., Council – District #4



SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Regular Meeting

A.4.

Meeting Date: 03/06/2017

Prepared By: Linda Ashby, City Clerk

Approved By: Robby Hefton, City Manager

Caption:

APPROVE MINUTES OF THE REGULAR CITY COUNCIL MEETING OF FEBRUARY 20, 2017

Attachments

February 20, 2017

STATE OF TEXAS §
 February 20, 2017
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 February 20, 2017.

MEMBERS PRESENT: MAYOR DAVID PLYLER.
 COUNCIL MEMBERS BROWN, COUCH, HOWETH, STEELE,
 TEAMANN.

MEMBERS ABSENT: DEPUTY MAYOR JASON SOFEY.

CALL TO ORDER

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

CALL TO ORDER

APPROVE MINUTES

The Council reviewed the Minutes of the Regular City Council Meeting of February 6, 2017. Council Member Couch moved to approve the Minutes as presented; Second by Council Member Steele. All present voted AYE.
MOTION CARRIED.

APPROVE MINUTES

INTRODUCTION AND PUBLIC HEARING OF ORDINANCES

Mayor Plyler introduced Ordinance No. 6010 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ESTABLISHING A TAX INCREMENT REINVESTMENT ZONE #5 (SHERMAN CROSSROADS); PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR A BOARD OF DIRECTORS; PROVIDING FOR SEVERABILITY.

ORD 6010
TAX INCREMENT
REINVESTMENT
ZONE #5
(SHERMAN
CROSSROADS)

Mary Lawrence, Director of Finance, discussed the creation of Tax Increment Reinvestment Zones #5 and #6. She explained that a public hearing is required by law prior to adoption of the TIRZ.

After adoption, the City Council will have the opportunity to appoint the TIRZ Boards. A project and financing plan will be developed after working with the developer on details. The project and financing plan will be presented to the City Council for approval.

Ms. Lawrence said there will also be an Interlocal Agreement with Grayson County for their participation in the zone.

No citizens appeared before the City Council to discuss Ordinance No. 6010.

Mayor Plyler introduced Ordinance No. 6011 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ESTABLISHING A TAX INCREMENT

ORD 6011
TAX INCREMENT
REINVESTMENT
ZONE #6

REINVESTMENT ZONE #6 (SOUTH OF INTERSECTION OF U.S. HIGHWAY 75 AND F.M. 691); PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR A BOARD OF DIRECTORS; PROVIDING FOR SEVERABILITY.

(SOUTH OF INTERSECTION OF US HWY 75 & FM 691)

Ms. Lawrence said this is the other TIRZ but at a different location. It will also need a board, a project, and financing plan after the details are finalized with the developer. There will also be an Interlocal Agreement with Grayson County.

No citizens appeared before the City Council to discuss Ordinance No. 6011.

Mayor Plyler introduced Ordinance No. 6012 and called for a public hearing:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 1 OF THE CODE OF ORDINANCES, ENTITLED "GENERAL PROVISIONS", ARTICLE 1.08, ENTITLED "CEMETERIES", DIVISION 1, ENTITLED "RULES AND REGULATIONS", AT SECTIONS 1.08.032(A) AND 1.08.034(D), AND DIVISION 3, ENTITLED "PERPETUAL CARE FUND; RATES AND CHARGES", AT SECTION 1.08.074(A); PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

ORD 6012
CEMETERY
RULES & FEES

Robby Hefton, City Manager, said this item relates to the opening of Annex D at West Hill Cemetery. The staff has been working on this section for a couple of years, and the roads are now in place.

This item establishes the rates for the sale of spaces in Annex D, which will consist of about 3,400 spots. About 240 spots will be designated as "premium spots" that will be for sale at a higher fee. The premium spots will cost \$1,500 and the regular will cost \$1,000.

The ordinance also establishes the marker height for grave markers in that area. Annex D is in a low lying area that stays wet and damp. This restriction is also in force in several other areas of the Cemetery.

No citizens appeared before the City Council to discuss Ordinance No. 6012.

The Public Hearing was closed.

ADOPTION OF ORDINANCES

Ordinance 6010

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ESTABLISHING A TAX INCREMENT REINVESTMENT ZONE #5 (SHERMAN CROSSROADS); PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR A BOARD OF DIRECTORS; PROVIDING FOR SEVERABILITY.

ORD 6010
TAX INCREMENT
REINVESTMENT
ZONE #5
(SHERMAN
CROSSROADS)

Ordinance 6011

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, ESTABLISHING A TAX INCREMENT REINVESTMENT ZONE #6 (SOUTH OF INTERSECTION OF U.S. HIGHWAY 75 AND F.M. 691); PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR A BOARD OF DIRECTORS; PROVIDING FOR SEVERABILITY.

ORD 6011
TAX INCREMENT
REINVESTMENT
ZONE #6
(SOUTH OF
INTERSECTION OF
US HWY 75 & FM 691)

Ordinance 6012

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 1 OF THE CODE OF ORDINANCES, ENTITLED "GENERAL PROVISIONS", ARTICLE 1.08, ENTITLED "CEMETERIES", DIVISION 1, ENTITLED "RULES AND REGULATIONS", AT SECTIONS 1.08.032(A) AND 1.08.034(D), AND DIVISION 3, ENTITLED "PERPETUAL CARE FUND; RATES AND CHARGES", AT SECTION 1.08.074(A); PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER.

ORD 6012
CEMETERY
RULES & FEES

ACTION TAKEN.

Motion by Council Member Steele to adopt Ordinance Nos. 6010, 6011, and 6012, as presented. Second by Council Member Couch.

VOTING AYE: Brown, Couch, Howeth, Steele, Teamann.

VOTING NAY: None.

MOTION CARRIED.

CONSENT AGENDA

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

CONSENT AGENDA

RESOLUTIONS

RESOLUTION NO. 6188 – AUTHORIZING THE EXECUTION OF A DRAINAGE AGREEMENT WITH J.P. HART LUMBER COMPANY, LLC

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING THE EXECUTION OF A DRAINAGE AGREEMENT WITH J.P. HART LUMBER COMPANY, LLC.

RES 6188
DRAINAGE
AGREEMENT
WITH JP HART
LUMBER COMPANY

Mayor Plyler announced that, for transparency, he would abstain from voting on Resolution 6188.

Clint Philpott, Director of Engineering, said J.P. Hart Lumber Company has agreed to pay a \$75,000 fee in lieu of providing onsite detention. Their site is adjacent to the floodplain.

He said the City has begun looking at this fee in areas where regional detention would make more sense. The money will be used in this area for future drainage improvements.

COUNCIL MINUTES – FEBRUARY 20, 2017

The fee was calculated using estimated construction costs of actually building an onsite detention facility.

ACTION TAKEN.

Motion by Council Member Howeth to adopt Resolution No. 6188, as presented. Second by Council Member Steele.

VOTING AYE: Brown, Couch, Howeth, Steele, Teamann.

ABSTAIN: Plyler.

VOTING NAY: None.

MOTION CARRIED.

RESOLUTION NO. 6189 – AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT WITH CARRUS HEALTH HOLDINGS, LLC FOR THE CONSTRUCTION OF PUBLIC FACILITIES IN THE REPLAT OF CARRUS MEDICAL PLAZA, A 3.663-ACRE DEVELOPMENT SOUTH OF U.S. HIGHWAY 82 IN THE CITY OF SHERMAN

**RES 6189
DEVELOPMENT
AGREEMENT
CARRUS HEALTH**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT WITH CARRUS HEALTH HOLDINGS, LLC FOR THE CONSTRUCTION OF PUBLIC FACILITIES IN THE REPLAT OF CARRUS MEDICAL PLAZA, A 3.663-ACRE DEVELOPMENT SOUTH OF U.S. HIGHWAY 82 IN THE CITY OF SHERMAN.

Mr. Philpott said Carrus Specialty Hospital is expanding their building just east of their existing facility. This fee covers the inspection of a sewer line they are extending along Cypress Grove Road.

ACTION TAKEN.

Motion by Council Member Couch to adopt Resolution No. 6189, as presented. Second by Council Member Howeth.

VOTING AYE: Brown, Couch, Howeth, Steele, Teamann.

VOTING NAY: None.

MOTION CARRIED.

RESOLUTION NO. 6190 – AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH LYNN VESSELS CONSTRUCTION, LLC BASED ON AN INVITATION TO BID FOR CONSTRUCTION OF THE CANYON CREEK DRIVE EXTENSION

**RES 6190
CANYON CREEK
DR. EXTENSION**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH LYNN VESSELS CONSTRUCTION, LLC BASED ON AN INVITATION TO BID FOR CONSTRUCTION OF THE CANYON CREEK DRIVE EXTENSION.

Mr. Philpott said this project will extend Canyon Creek Drive from Shady Oaks Lane, west to Lamberth Road. The project also includes improving Shady Oaks Lane about 700 feet

south of Canyon Creek. There will also be a 700 linear foot cul-de-sac, called Hill View Lane.

The City received three bids and Lynn Vessels Construction was the low bid, at about \$2.1 million.

Council Member Teamann confirmed that the project is scheduled to start next month and the contractor has 240 days to complete the project.

Mr. Hefton added that this project relates to the roads and infrastructure, however Hill View Lane on the west side, Canyon Creek on the north side, and Shady Oaks on the east side will be the boundaries of a new park area for ball fields.

The staff is working with a consulting architect to devise a plan for what this park area will look like. Eventually it will be presented to the City Council for their consideration.

Council Member Teamann confirmed that the plan is to widen Shady Oaks Circle. Mr. Philpott said it would be widened to the size of a standard street, with curb and gutter. It will have a sidewalk on one side because there are some very large pecan trees on the other side that will be left intact.

ACTION TAKEN.

Motion by Council Member Howeth to adopt Resolution No. 6190, as presented. Second by Council Member Teamann.

VOTING AYE: Brown, Couch, Howeth, Steele, Teamann.

VOTING NAY: None.

MOTION CARRIED.

RESOLUTION NO. 6191 – FINDING AND DETERMINING A PUBLIC PURPOSE AND PUBLIC NECESSITY EXISTS FOR CONSTRUCTION OF CITY PROJECT WEST TRAVIS PHASE II & NORTHGATE DRIVE EXTENSION IMPROVEMENTS; APPOINTING AN APPRAISER AND NEGOTIATOR AS NECESSARY; AUTHORIZING THE CITY MANAGER TO ESTABLISH JUST COMPENSATION FOR THE PROPERTY RIGHTS TO BE ACQUIRED; AUTHORIZING THE CITY MANAGER TO TAKE ALL STEPS NECESSARY TO ACQUIRE THE NEEDED PROPERTY RIGHTS IN COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, FINDING AND DETERMINING A PUBLIC PURPOSE AND PUBLIC NECESSITY EXISTS FOR CONSTRUCTION OF CITY PROJECT WEST TRAVIS PHASE II & NORTHGATE DRIVE EXTENSION IMPROVEMENTS; APPOINTING AN APPRAISER AND NEGOTIATOR AS NECESSARY; AUTHORIZING THE CITY MANAGER TO ESTABLISH JUST COMPENSATION FOR THE PROPERTY RIGHTS TO BE ACQUIRED; AUTHORIZING THE CITY

**RES 6191
W. TRAVIS, PHASE II
& NORTHGATE DR.
EXTENSION**

MANAGER TO TAKE ALL STEPS NECESSARY TO ACQUIRE THE NEEDED PROPERTY RIGHTS IN COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS.
CONSENT AGENDA.

RESOLUTION NO. 6192 – AUTHORIZING EXECUTION OF AN AGREEMENT WITH NANCY SPILLER SIMS D/B/A TEXOMA NEON CO. UNDER THE CITY OF SHERMAN'S CENTRAL BUSINESS DISTRICT HISTORIC BUILDING RESTORATION AND IMPROVEMENT GRANT PROGRAM FOR IMPROVEMENTS TO 214 EAST HOUSTON STREET

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AUTHORIZING EXECUTION OF AN AGREEMENT WITH NANCY SPILLER SIMS D/B/A TEXOMA NEON CO. UNDER THE CITY OF SHERMAN'S CENTRAL BUSINESS DISTRICT HISTORIC BUILDING RESTORATION AND IMPROVEMENT GRANT PROGRAM FOR IMPROVEMENTS TO 214 EAST HOUSTON STREET.

RES 6192
CBD HISTORIC
BLDG RESTORATION
GRANT
(TEXOMA NEON)

Nate Strauch, Community and Support Services Manager, said the City received an application for the Façade Grant from Nancy Spiller Sims and Texoma Neon Company, for an \$18,000 matching grant for improvements to her building located at 214 East Houston Street.

Ms. Sims would like to make improvements to the building, both structurally and aesthetically. Unfortunately there is only about \$8,000 left in the program's budget this year.

Mr. Strauch said the staff proposed that Ms. Sims bring the request to the City Council today so she can start on some of the improvements that are needed immediately. Once the next budget year is in effect, she could apply for the rest of the grant to complete the project.

Council Member Couch asked if there was any way the Council could "earmark" grant money for the entire project so Ms. Sims doesn't have to go through the reapplication process.

Mr. Hefton said that could be done, however he said he would prefer to consider the request as the budget is built, to see where the Hotel/Motel Tax Fund will be for FY 2018. Council Member Couch verified that she would also qualify for the fee waiver program.

Council Member Howeth said hopefully Ms. Sims would receive the additional grant money next year to restore her historical building. She said it is a real asset to the downtown area.

ACTION TAKEN.

Motion by Council Member Couch to adopt Resolution No. 6192, as presented. Second by Council Member Howeth.

VOTING AYE: Brown, Couch, Howeth, Steele, Teamann.
VOTING NAY: None.
MOTION CARRIED.

CHANGE ORDER NO. 1
DOWNTOWN SIDEWALK PANEL REPLACEMENT PROJECT;
BEEZLEY DEVELOPMENT, INC.; \$9,973.60 INCREASE

The City Council approved Change Order No. 1 to Beezley Development, Inc., for an increase of \$9,973.60 for the Downtown Sidewalk Panel Replacement Project.

The change order is a final reconciliatory change order to adjust the final project quantities and issue final payment. The increase yields a final contract price of \$58,973.60.
CONSENT AGENDA.

FINAL PAYMENT APPROVAL
LYNN VESSELS CONSTRUCTION, LLC; MEADOWS CIRCLE
PAVING; \$12,083.95

The City Council approved final payment to Lynn Vessels Construction, LLC, in the amount of \$12,083.95, for the Meadows Circle Paving Project.

The project involved the rehabilitation of the City's street that had previously been noted as deteriorated or otherwise in need of rehabilitation. The final payment will finalize the project costs at \$63,691.70.
CONSENT AGENDA.

OTHER BUSINESS
CONSIDER THE APPLICATION OF STEPHEN TERRELL TO
ENROLL HIS BUSINESS, PRINT WORKS! SHERMAN, INTO
THE SHERMAN DOWNTOWN OCCUPANCY INCENTIVE
GRANT PROGRAM

Mr. Strauch presented the fourth and fifth applications for the Downtown Occupancy Incentive Grant Program. Council Member Couch said he would recuse himself from voting because he is the building owner.

Mayor Plyler said the City Council would consider this item after their discussion in Executive Session. Council Member Steele said he would like to hear from the building owners.

Stephen Terrell, owner of Print Works! Sherman, said their business is located at 108 East Houston Street, and was originally started in 2011 at his home. They expanded to Paris and then Mount Pleasant, and now have an opportunity to expand into Sherman.

Since they began operation, they have had a lot of business from Sherman and feel the best way to give back to the community is to come to the community. By locating in a community, they "give back" both through sales tax and employment.

CHANGE ORDER
DOWNTOWN
SIDEWALK PANEL
REPLACEMENT

PAYMENT APPROVAL
MEADOWS CIRCLE
PAVING

DOWNTOWN
OCCUPANCY
INCENTIVE GRANT
PROGRAM
(PRINT WORKS!
SHERMAN

Mr. Terrell said when they open in a town it's hard to get going and the downtown incentive helps. They plan to continue to grow Print Works! Sherman and eventually add employees. They have been in Sherman since November 2016.

He said they offer decorated apparel, such as embroidery and screen printing. They also offer retail clothing with their Hummingbird line of clothing.

Mr. Hefton asked if sales tax was generated on all the business they do, or just on retail sales. Mr. Terrell said it generally is not sales tax exempt. Business with the schools is usually exempt, but all business to business is sales taxable.

Mr. Hefton asked if they were "doing a job" for a client in Greenville, but they were doing it out of the Sherman Office, would it be taxable in Greenville or in Sherman.

Mr. Terrell said they currently have three sales tax accounts set-up, one in Lamar County, one in Sherman, and one in Mount Pleasant. Any business that goes through that office, sales tax is paid through that location.

CONSIDER THE APPLICATION OF DANNY HENDERSON TO ENROLL HIS BUSINESS, DOWNTOWN ESCAPE ROOMS, INTO THE SHERMAN DOWNTOWN OCCUPANCY INCENTIVE GRANT PROGRAM

Mayor Plyler said the City Council would consider this item after their discussion in Executive Session.

**DOWNTOWN
OCCUPANCY
INCENTIVE GRANT
PROGRAM
(DOWNTOWN
ESCAPE ROOMS)**

Shary Henderson, owner of Downtown Escape Rooms, said their business is located at 114 South Crockett Street. Currently they have one room set up, called "The Cabin," which can take up to eight people.

The Escape Room features locked boxes and puzzles for participants to solve in 60 minutes to successfully exit the room. Ms. Henderson said participants are not physically locked in and there is no lock on the door.

Escape Rooms are all about teambuilding and collaboration and Ms. Henderson said their children are highly involved in the business so it is a family event for them.

Council Member Howeth asked if the theme would change so people would want to participate again. Ms. Henderson said they may leave the first room set up for a year, but they have the option of adding two more rooms. They currently have a second room in the process, called "The Hangout."

Council Member Teamann asked if Escape Rooms were taxable or were a "service" that was not taxable. Ms.

Henderson said she was not sure, but did think it was taxable. She said they will sell t-shirts and that would be taxable.

Mr. Hefton asked if this site, at 114 South Crockett Street, would have room for all three of these rooms or would they have to take on more space. Ms. Henderson said there is space for all the rooms, however the back room would need a lot of work. Ms. Henderson said the Grand Opening is Friday for the first room. The second room should be open by Spring Break.

Council Member Couch asked if they planned to expand to the top floor. Ms. Henderson said they would love too, but right now they are “afraid to go up there.”

CONSIDER REQUEST OF GRAYSON HONORS COLLEGE AND THE GRAYSON COUNTY LAW ENFORCEMENT ASSOCIATION TO TEMPORARILY CLOSE CERTAIN STREETS FOR THE “BEAT THE HEAT 5K RUN/WALK” ON SATURDAY, APRIL 29, 2017

**CLOSE STREETS
“BEAT THE HEAT
5K RUN/WALK”
(APRIL 29, 2017)**

Dr. Brandy Fair, Arts & Humanities Department Chairman and Honors College Coordinator, Grayson College, requested that the City Council temporarily close certain streets for the 4th Annual “Beat the Heat 5K Run/Walk” on April 29, 2017.

The Grayson Honors College and the Grayson County Law Enforcement Association will host the event, which will benefit the Grayson County Law Enforcement Association bereavement fund and the scholarship fund, and the Grayson College Deputy Chad Key Memorial Scholarship. In the past the money was donated to the National organization, however this year it will be kept local.

The event will require labor and equipment to provide traffic control assistance to close the designated route, as well as Rusk Street, in front of Piner Middle School. Dr. Fair said they will work with the Police Department or hire officers for security for the event.

ACTION TAKEN.

Motion by Council Member Steele to approve the request of Dr. Brandy Fair, representing the Grayson Honors College and the Grayson County Law Enforcement Association, to close certain streets for the “Beat the Heat 5K Run/Walk” on Saturday, April 29, 2017, as presented. Second by Council Member Couch.

VOTING AYE: Brown, Couch, Howeth, Steele, Teamann.

VOTING NAY: None.

MOTION CARRIED.

CONSIDER REQUEST OF THE SHERMAN MAIN STREET ADVISORY COMMITTEE TO TEMPORARILY CLOSE CERTAIN STREETS FOR “CHRISTMAS IN JULY” ON SATURDAY, JULY 8, 2017

**CLOSE STREETS
“CHRISTMAS IN
JULY”
(JULY 8, 2017)**

Sarah McRae, Tourism/Main Street Manager, addressed the

City Council concerning the Sherman Main Street Advisory Committee's request to temporarily close certain streets for "Christmas in July" on July 8, 2017. The event will be held around the Court House Square.

She said this is the fifth year for the event, but the first year that the Main Street Advisory Committee has sponsored the event. Formally it was sponsored by Downtown Sherman Preservation and Revitalization.

Mr. Strauch said this is a routine item that would normally be on the Consent Agenda, but he wanted to advise the Council that the Main Street Advisory Committee will be taking on additional events that were previously sponsored by Downtown Sherman NOW, formally DSP&R.

Council Member Couch said the City Council did designate an ex-officio position on the Main Street Advisory Committee for the Downtown Sherman NOW Executive Director. The two entities have a very collaborative relationship.

ACTION TAKEN.

Motion by Council Member Couch to approve the request of the Sherman Main Street Advisory Committee to close certain streets for "Christmas in July" on Saturday, July 8, 2017, as presented. Second by Council Member Teamann.

VOTING AYE: Brown, Couch, Howeth, Steele, Teamann.

VOTING NAY: None.

MOTION CARRIED.

DISCUSS AND CONSIDER APPROVAL OF THE BUDGET CALENDAR FOR FISCAL YEAR (FY) 2017-2018

BUDGET CALENDAR

Mr. Hefton presented a proposed calendar with dates for the budget process. Most of the dates are at regularly scheduled City Council Meetings, however there are two dates that would be Special Called Meetings.

The Budget Planning Meeting has been proposed for April 21, 2017 and the Budget Workshop for June 15 and June 16, 2017. He asked the City Council to check their calendars to see if those dates would be okay. The meetings would be held in the City Council Chambers.

ACTION TAKEN.

Motion by Council Member Howeth to approve the budget calendar and confirm the City Council Chambers as the site for the Budget Planning Meeting and Budget Workshop, as presented. Second by Council Member Steele.

VOTING AYE: Brown, Couch, Howeth, Steele, Teamann.

VOTING NAY: None.

MOTION CARRIED.

CITIZENS REQUESTS

MAIN STREET ADVISORY COMMITTEE APPOINTMENT

Sarah Pierce, 1102 S. Elm, said the Council is appointing a member to the Main Street Advisory Committee tonight and she said out of several applicants, she is the only one that has faithfully attended meetings of the Board. She added that if someone is invested in getting on the Board, they should attend the meeting.

MAIN STREET
ADVISORY
COMMITTEE

MEDIA QUESTIONS

There were no media questions.

MEDIA QUESTIONS

APPOINT/REMOVE OR CONSIDER QUALIFICATIONS TO
BOARDS AND COMMISSIONS

MAIN STREET ADVISORY COMMITTEE (3)

ACTION TAKEN.

Motion by Council Member Couch to reappoint Sherry Little and Felicia Herron to the Main Street Advisory Committee for a term from March 31, 2017 to March 31, 2019, and to appoint David Gunn to fill the unexpired term from February 21, 2017 to March 31, 2017.

MOTION DIED FOR LACK OF A SECOND.

MAIN STREET
ADVISORY
COMMITTEE

Council Member Steele said some of the current members do not live in Sherman and he asked if this was the only Board that didn't require members to be Sherman residents. Mayor Plyler said this is not a Board that "fits under that requirement."

ACTION TAKEN.

Motion by Council Member Howeth to appoint Sarah Pierce and David Gunn to the Main Street Advisory Committee and to reappoint either Sherry Little or Felicia Herron.

MOTION DIED FOR LACK OF A SECOND.

Council Members asked about taking the discussion to Executive Session, however Brandon Shelby, City Attorney, said this is not the type of Board that can be discussed in Executive Session. This Board does not have legislative authority and is purely advisory. He said the City Council could seek legal advice about the Board in Executive Session. He suggested considering the three positions one at a time.

ACTION TAKEN.

Motion by Council Member Couch to appoint David Gunn to the Main Street Advisory Committee. Second by Council Member Teamann.

VOTING AYE: Brown, Couch, Howeth, Steele, Teamann.

VOTING NAY: None.

MOTION CARRIED.

COUNCIL MINUTES – FEBRUARY 20, 2017

ACTION TAKEN.

Motion by Council Member Couch to appoint Sherry Little to the Main Street Advisory Committee. Second by Council Member Steele.

VOTING AYE: Brown, Couch, Howeth, Steele, Teamann.

VOTING NAY: None.

MOTION CARRIED.

ACTION TAKEN.

Motion by Council Member Howeth to appoint Sarah Pierce to the Main Street Advisory Committee. Second by Council Member Steele.

VOTING AYE: Brown, Couch, Howeth, Steele, Teamann.

VOTING NAY: None.

MOTION CARRIED.

COUNCIL COMMENTS

NEW GROWTH IN SHERMAN

Council Member Teamann said he was excited about the new businesses coming to town. The downtown area seems to be “blossoming” and there is a lot of new growth there. He recognized Downtown Escape Rooms and Print Works! Sherman.

**NEW GROWTH
IN SHERMAN**

FIRE DEPARTMENT AWARDS CEREMONY

Council Member Teamann said he recently attended the Fire Department Awards Ceremony and it was a very powerful and moving event.

**FIRE DEPT.
AWARDS CEREMONY**

He and his wife decided on the way home after the Awards Banquet that he would like to donate half of his City Council pay to the Fire Association and the other half to the Police Association, if it can be done without a conflict of interest.

TAX INCREMENT REINVESTMENT ZONES

Council Member Couch said he was excited to have the new Tax Increment Reinvestment Zones in place. He said it was a great indicator of Sherman’s growth.

**TAX INCREMENT
REINVESTMENT
ZONES**

SPEEDING THROUGH NEIGHBORHOOD

Council Member Couch said he received a call from some concerned citizens that live in The Preserve. They expressed concern about the speed of vehicles coming from Seasons West, going into Cormorant Drive. He said there are no stop signs and many kids living in the vicinity. He asked the staff to look into the situation.

**SPEEDING THROUGH
NEIGHBORHOOD**

CITY’S ADVISORY BOARDS

Council Member Steele said there are many applications for the Main Street Advisory Committee and he asked to encourage the applicants to consider the other Advisory Boards that the City has too. He said sometimes it’s hard to get applicants for the other Boards.

**CITY’S ADVISORY
BOARDS**

FIRE DEPARTMENT AWARDS CEREMONY

Council Member Steele commended Danny Jones, Fire Chief, on the Fire Department Awards Banquet that was recently held. He said the participants “looked good in their uniforms.” He thanked them for the work they do for the citizens of Sherman.

**FIRE DEPT.
AWARDS CEREMONY**

FIRE DEPARTMENT AWARDS CEREMONY

Council Member Howeth thanked the Fire Department for inviting the City Council to their Awards Banquet. She said there are a lot of young officers that will be there are a long time.

**FIRE DEPT.
AWARDS CEREMONY**

CASA FUNDRAISER

Council Member Howeth recently attended the CASA night and had a wonderful time. The organization brings attention to children who are displaced from their parents, the wonderful volunteers that work with the organization, and the Board of Directors. She said it was a lovely event and a good fundraiser.

CASA FUNDRAISER

THANKS TO THE FIRE AND POLICE DEPARTMENTS

Council Member Brown said he was excited to serve on the City Council but was unable to attend the Fire Department Banquet.

**THANKS TO THE
FIRE & POLICE
DEPTS.**

He did thank the Fire Department and the Police Department for doing such a wonderful job. He saw all the new fire equipment that was on display outside and asked about the cost. Danny Jones, Fire Chief, explained that some of the money was recouped through insurance, but some was never recouped. Council Member Brown wanted to be sure that the money was recouped if insurance did not pay.

BEST WISHES TO LARRY ATHERTON

Council Member Brown sent best wishes to Justice of the Peace Larry Atherton, who will undergo multiple bypass surgery on Wednesday.

**BEST WISHES
TO LARRY ATHERTON**

ACTIVITIES FOR SHERMAN YOUTH

Council Member Brown said when he ran for City Council, one thing he was adamant about was some type of family entertainment in Sherman. He recognized the new Escape Room that was discussed earlier. He is still working to find family entertainment for Sherman residents.

**ACTIVITIES FOR
SHERMAN YOUTH**

ANNOUNCEMENTS

Mayor Plyler announced the following:

- Sherman Main Street, in conjunction with Downtown Sherman NOW, is hosting the Mardi Gras Bead Crawl on February 25, 2017. The event will include “family friendly activities.”

ANNOUNCEMENTS

COUNCIL MINUTES – FEBRUARY 20, 2017

- The First Annual Celtic Festival will be held on March 25, 2017, in Kidd-Key Park.
- The Texoma Community Center will hold its Annual Recycling Fundraiser on March 25, 2017.

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

SECTION 551.071 **CONSULTATION WITH CITY ATTORNEY CONCERNING PENDING OR CONTEMPLATED LITIGATION**

SECTION 551.087 **DELIBERATE REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS: DELIBERATE REGARDING COMMERCIAL OR FINANCIAL INFORMATION THAT THE CITY HAS RECEIVED FROM A BUSINESS PROSPECT AND DELIBERATE ANY OFFERS OR INCENTIVES TO THE BUSINESS PROSPECT**

On Motion duly made and carried, the Open Meeting recessed and reconvened in Executive Session at 5:51 p.m.

On Motion duly made and carried, the Executive Session recessed at 6:48 p.m. and reconvened in Open Meeting.

OPEN MEETING

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

COUNCIL MEMBERS PRESENT

Deputy Mayor Sofey arrived at 5:51 p.m., in time to attend the Executive Session and the remaining part of the City Council Meeting.

CLARIFICATION FOR MAIN STREET ADVISORY COMMITTEE APPOINTMENT

Mr. Shelby said it was brought to his attention by Linda Ashby, City Clerk, that for the three positions that were nominated for the Main Street Advisory Committee, one of the appointments was to fill an unexpired term.

The staff needs verification as to who was appointed to fill the unexpired term. One of the appointments was a

EXECUTIVE SESSION

OPEN MEETING

COUNCIL MEMBERS PRESENT

MAIN STREET ADVISORY COMMITTEE CLARIFICATION

reappointment, so it probably was not that person. But there were two other appointments, David Gunn and Sarah Pierce.

Council Member Howeth originally made the motion for appointment, so she clarified that she intended to nominate Sarah Pierce to fill the unexpired term of Ginger Nye. Mr. Shelby clarified that the other two appointments, Sherry Little and David Gunn were then appointed to full terms.

CONSIDER THE APPLICATION OF STEPHEN TERRELL TO ENROLL HIS BUSINESS, PRINT WORKS! SHERMAN, INTO THE SHERMAN DOWNTOWN OCCUPANCY INCENTIVE GRANT PROGRAM

ACTION TAKEN.

Motion by Council Member Teamann to approve the enrollment of Print Works! Sherman, into the Downtown Occupancy Incentive Grant Program, as presented.

Second by Council Member Steele.

VOTING AYE: Brown, Howeth, Steele, Teamann.

VOTING NAY: Sofey.

ABSTAIN: Couch.

MOTION CARRIED.

DOWNTOWN
OCCUPANCY
INCENTIVE GRANT
PROGRAM
(PRINT WORKS!
SHERMAN)

CONSIDER THE APPLICATION OF DANNY HENDERSON TO ENROLL HIS BUSINESS, DOWNTOWN ESCAPE ROOMS, INTO THE SHERMAN DOWNTOWN OCCUPANCY INCENTIVE GRANT PROGRAM

ACTION TAKEN.

Motion by Council Member Couch to approve the enrollment of Downtown Escape Rooms, into the Downtown Occupancy Incentive Grant Program, as presented. Second by Council Member Brown.

VOTING AYE: Brown, Couch, Howeth, Steele, Teamann.

VOTING NAY: Sofey.

MOTION CARRIED.

DOWNTOWN
OCCUPANCY
INCENTIVE GRANT
PROGRAM
(DOWNTOWN
ESCAPE ROOMS)

ADJOURNMENT

On Motion duly made and carried, the meeting adjourned at 6:53 p.m.

ADJOURNMENT

MAYOR

CITY CLERK



SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Regular Meeting

B.1.

Meeting Date: 03/06/2017

Prepared By: Linda Ashby, City Clerk

Approved By: Robby Hefton, City Manager

Caption:

PROCLAMATION

"National Social Work Month" – March 2017

Issue:

To present a proclamation designating March 2017 as "National Social Work Month" in Sherman.

Background:

Social workers stand up for millions of people every day, including people who are experiencing devastating illnesses and mental health crises, veterans, children, families and communities. Each year, a proclamation designating "Social Work Month" helps the general public understand the invaluable contributions that social workers bring to society.

Origination:

The request originated with Home Hospice of Grayson, Cooke, and Fannin Counties.

Financial Consideration:

There is no financial consideration to the City.

Staff Recommendation:

The staff recommends consideration of a proclamation designating March 2017 as "Social Work Month" in Sherman.

Alternatives:

The Council could choose not to present the proclamation.

Attachments

"National Social Work Month" Proclamation

Proclamation

WHEREAS, the primary mission of the Social Work profession is to enhance well-being and help meet the basic needs of all people, especially the most vulnerable in society, and

WHEREAS, Social Workers embody this year's Social Work Month theme, "Social Workers Stand Up!" by serving, advocating for, and empowering millions of Americans each day, and

WHEREAS, Social Workers work in all areas of our society to improve happiness, health, and prosperity, including in government, schools, universities, social service agencies, communities, the military, and mental health and health care facilities, and

WHEREAS, Social Workers are the largest group of mental health care providers in the United States, and work daily to help people overcome substance use disorders, mental illnesses such as depression and anxiety, and provide support at the end-of-life, and

WHEREAS, Home Hospice of Grayson County, as the oldest hospice and the only non-profit, was started by a nurse and social worker 35 years ago, who served the community by volunteering their time for end-of-life care, and

WHEREAS, Home Hospice of Grayson County, values the team of social workers and support specialists who have and continue to serve our community, for their excellent work in helping patients and their families have the best possible Quality of Life.

NOW THEREFORE, I, David Plyler, Mayor of the City of Sherman, Texas, by the authority vested in me, do hereby proclaim March 2017

NATIONAL SOCIAL WORK MONTH

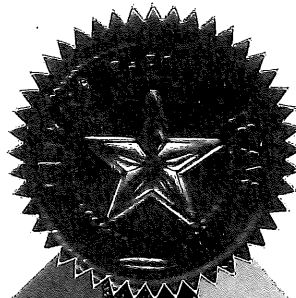
in the City of Sherman and encourage all citizens to join with the National Association of Social Workers and Home Hospice of Grayson County in celebration and support of the Social Work profession.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Sherman to be affixed this the 6th day of March, 2017.

Mayor

ATTEST:

Linda Ashby
City Clerk





SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Regular Meeting

C.1.

Meeting Date: 03/06/2017

Prepared By: Mary Lawrence, Director of Finance

Approved By: Robby Hefton, City Manager

Caption:

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6013

Authorizing the Issuance of "CITY OF SHERMAN, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2017"; Specifying the Terms and Features of Said Certificates; Providing for the Payment of Said Certificates of Obligation by the Levy of an Ad Valorem Tax Upon All Taxable Property within the City and a Limited Pledge of the Net Revenues from the Operation of the City's Waterworks and Sewer System; Resolving Other Matters Incident and Relating to the Issuance, Payment, Security, Sale and Delivery of Said Certificates, Including the Approval and Execution of a Paying Agent/Registrar Agreement and the Approval and Distribution of an Official Statement; and Providing an Effective Date

Issue:

To consider all matters incident and related to the issuance and sale of \$18,950,000 "City of Sherman, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2017" including the adoption of an ordinance authorizing the issuance of such certificates of obligation

Background:

The Council approved the Notice of Intention to Issue Certificates of Obligation at the January 16, 2017 Council Meeting. This Ordinance authorizes the City to actually issue the Certificates, which will be repaid over twenty years. The proceeds from the issuance are expected to be received at the end of March. The source of repayment for these bonds will be property taxes, although the Certificates call for a pledge of both taxes and water and sewer revenues as security.

The proceeds will be used to finance various street and facility improvement projects authorized by the Council for fiscal year 2016-2017.

Origination:

City Manager's Office

Financial Consideration:

The cost of issuance will be about \$150,000, which will be netted against the proceeds.

Staff Recommendation:

The staff recommends that the Council approve this Ordinance as presented.

Alternatives:

No alternatives can be recommended by staff at this time.

Attachments

Ordinance No. 6013

ORDINANCE NO. 6013

AN ORDINANCE authorizing the issuance of "CITY OF SHERMAN, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2017"; specifying the terms and features of said certificates; providing for the payment of said certificates of obligation by the levy of an ad valorem tax upon all taxable property within the City and a limited pledge of the net revenues from the operation of the City's Waterworks and Sewer System; resolving other matters incident and relating to the issuance, payment, security, sale and delivery of said Certificates, including the approval and execution of a Paying Agent/Registrar Agreement and the approval and distribution of an Official Statement; and providing an effective date.

WHEREAS, notice of the City Council's intention to issue certificates of obligation in the maximum principal amount not to exceed \$18,950,000 for the purpose of paying contractual obligations to be incurred for (i) the construction of public works, to wit: (1) street improvements, including drainage, utility line relocations, bridges, sidewalks, entryways, landscaping, lighting, curbs and gutters related thereto and the acquisition of land and rights-of-way therefor, and (2) constructing, renovating, acquiring and equipping facilities for the public safety and library departments, including the acquisition of land and rights-of-way therefor, and (ii) professional services rendered in relation to such projects and the financing thereof, has been duly published in the *Herald Democrat*, a newspaper hereby found and determined to be of general circulation in the City of Sherman, Texas, on January 29, 2017 and February 5, 2017; the date of the first publication of such notice being not less than thirty-one (31) days prior to the tentative date state therein for the passage of the ordinance authorizing the issuance of such certificates; and

WHEREAS, no petition protesting the issuance of the certificates of obligation and bearing valid petition signatures of at least 5% of the qualified electors of the City, has been presented to or filed with the Mayor, City Clerk or any other official of the City on or prior to the date of the passage of this Ordinance; and

WHEREAS, the Council hereby finds and determines the certificates of obligation described in the aforesaid notice should be issued and sold at this time in the amount and manner as hereinafter provided; now, therefore,

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

SECTION 1: Authorization - Designation - Principal Amount - Purpose. Certificates of obligation of the City shall be and are hereby authorized to be issued in the aggregate principal amount of \$_____, to be designated and bear the title "CITY OF SHERMAN, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2017" (hereinafter referred to as the "Certificates"), for the purpose of paying contractual obligations to be incurred for (i) the construction of public works, to wit: (1) street improvements, including drainage, utility line relocations, bridges, sidewalks, entryways, landscaping, lighting, curbs and gutters related thereto and the acquisition of land and rights-of-way therefor, and (2) constructing, renovating, acquiring and equipping facilities for the public safety and library departments, including the acquisition of land and rights-of-way therefor, and (ii) professional services rendered in relation to such projects and the financing thereof, pursuant to authority conferred by and in conformity with the Constitution and laws of the State of Texas, including Texas Local Government Code, Subchapter C of Chapter 271, as amended.

SECTION 2: Fully Registered Obligations - Authorized Denominations - Stated Maturities - Date. The Certificates are issuable in fully registered form only; shall be dated March 30, 2017 (the "Certificate Date") and shall be in denominations of \$5,000 or any integral multiple thereof (within a Stated Maturity) and the Certificates shall become due and payable on August 15 in each of the years and in principal amounts (the "Stated Maturities") and bear interest at the per annum rate(s) in accordance with the following schedule:

<u>Year of Stated Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2019	\$700,000	
2020	730,000	
2021	755,000	
2022	785,000	
2023	815,000	
2024	845,000	
2025	875,000	
2026	910,000	
2027	940,000	
2028	975,000	
2029	1,015,000	
2030	1,050,000	
2031	1,090,000	
2032	1,135,000	
2033	1,175,000	
2034	1,220,000	
2035	1,265,000	
2036	1,310,000	
2037	1,360,000	

The Certificates shall bear interest on the unpaid principal amounts from the date of their delivery to the initial purchasers, anticipated to be March 30, 2017 (the "Delivery Date") at the rates per annum shown above in this Section (calculated on the basis of a 360-day year of twelve 30-day months); and such interest shall be payable on February 15 and August 15 of each year, commencing February 15, 2018 until maturity or prior redemption.

SECTION 3: Terms of Payment - Paying Agent/Registrar. The principal of, premium, if any, and the interest on the Certificates, due and payable by reason of maturity, redemption or otherwise, shall be payable only to the registered owners or holders of the Certificates (hereinafter called the "Holders") appearing on the registration and transfer books maintained by the Paying Agent/Registrar and the payment thereof shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of The Bank of New York Mellon Trust Company, N.A., Dallas, Texas to serve as Paying Agent/Registrar for the Certificates is hereby approved and confirmed. Books and records relating to the registration, payment, transfer and exchange of the Certificates (the "Security Register") shall at all times be kept and maintained on behalf of the City by the Paying Agent/Registrar, as provided herein and in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement," substantially in the form attached hereto as **Exhibit A**, and such reasonable rules and regulations as the Paying Agent/Registrar

and the City may prescribe. The Mayor or Mayor Pro Tem and City Clerk are authorized to execute and deliver such Agreement in connection with the delivery of the Certificates. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Certificates are paid and discharged, and any successor Paying Agent/Registrar shall be a commercial bank or trust company organized under the laws of the State of Texas, financial institution or other entity duly qualified and legally authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Certificates, the City agrees to promptly cause a written notice thereof to be sent to each Holder by United States Mail, first class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

Principal of and premium, if any, on the Certificates shall be payable at the Stated Maturities or upon prior redemption thereof only upon presentation and surrender of the Certificates to the Paying Agent/Registrar at its designated offices initially in East Syracuse, New York, or with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the "Designated Payment/Transfer Office"). Interest on the Certificates shall be paid to the Holders whose names appear in the Security Register at the close of business on the Record Date (the last business day of the month next preceding each interest payment date) and shall be paid by the Paying Agent/Registrar (i) by check sent United States Mail, first class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

SECTION 4: Redemption.

(a) Optional Redemption. The Certificates having Stated Maturities on and after August 15, 2027 shall be subject to redemption prior to maturity, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on August 15, 2026, or on any date thereafter at the redemption price of par plus accrued interest to the date of redemption.

At least forty-five (45) days prior to a redemption date for the Certificates (unless a shorter notification period shall be satisfactory to the Paying Agent/Registrar), the City shall notify the Paying Agent/Registrar of the decision to redeem Certificates, the principal amount of each Stated Maturity to be redeemed, and the date of redemption therefor. The decision of the

City to exercise the right to redeem Certificates shall be entered in the minutes of the governing body of the City.

(b) Selection of Certificates for Redemption. If less than all Outstanding Certificates of the same Stated Maturity are to be redeemed on a redemption date, the Paying Agent/Registrar shall treat such Certificates as representing the number of Certificates Outstanding which is obtained by dividing the principal amount of such Certificates by \$5,000 and shall select the Certificates to be redeemed within such Stated Maturity by lot or by any other customary method that results in a random selection.

(c) Mandatory Redemption. The Certificates maturing on August 15, 20__, August 15, 20__, and August 15, 20__ (the "Term Certificates") shall be subject to mandatory redemption in part prior to maturity at the redemption price of par and accrued interest to the date of redemption on the respective dates and in the principal amounts as follows:

Term Certificates due August 15, 20		Term Certificates due August 15, 20	
<u>Redemption Date</u>	<u>Principal Amount</u>	<u>Redemption Date</u>	<u>Principal Amount</u>
August 15, 20	\$,000	August 15, 20	\$,000
August 15, 20	\$,000	August 15, 20	\$,000
August 15, 20	\$,000	August 15, 20	\$,000
August 15, 20	\$,000 (maturity)	August 15, 20	\$,000 (maturity)

Term Certificates due August 15, 20	
<u>Redemption Date</u>	<u>Principal Amount</u>
August 15, 20	\$,000
August 15, 20	\$,000
August 15, 20	\$,000 (maturity)

Approximately forty-five (45) days prior to each mandatory redemption date for the Term Certificates, the Paying Agent/Registrar shall select by lot, or by any other customary method that results in a random selection, the numbers of the Term Certificates within the applicable Stated Maturity to be redeemed on the next following August 15 from moneys set aside for that purpose in the Certificate Fund (as hereinafter defined). Any Term Certificates not selected for prior redemption shall be paid on the date of their Stated Maturity.

The principal amount of the Term Certificates for a given Stated Maturity required to be redeemed on a mandatory redemption date may be reduced, at the option of the City, by the principal amount of Term Certificates of like Stated Maturity which, at least fifty (50) days prior to the mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Certificates plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (2) shall have been redeemed pursuant to the optional redemption provisions set forth in subparagraph (a) of this Section and not theretofore credited against a mandatory redemption requirement.

(d) Notice of Redemption. Not less than thirty (30) days prior to a redemption date for the Certificates, a notice of redemption shall be sent by United States Mail, first class postage prepaid, in the name of the City and at the City's expense, to each Holder of a Certificate to be redeemed in whole or in part at the address of the Holder appearing on the Security Register at the close of business on the business day next preceding the date of mailing such notice, and any notice of redemption so mailed shall be conclusively presumed to have been duly given irrespective of whether received by the Holder.

All notices of redemption shall (i) specify the date of redemption for the Certificates, (ii) identify the Certificates to be redeemed and, in the case of a portion of the principal amount to be redeemed, the principal amount thereof to be redeemed, (iii) state the redemption price, (iv) state that the Certificates, or the portion of the principal amount thereof to be redeemed, shall become due and payable on the redemption date specified and the interest thereon, or on the portion of the principal amount thereof to be redeemed, shall cease to accrue from and after the redemption date, provided moneys sufficient for the payment of such Certificate (or the principal amount thereof to be redeemed) at the then applicable redemption price are held for the purpose of such payment by the Paying Agent/Registrar, and (v) specify that payment of the redemption price for the Certificates, or the principal amount thereof to be redeemed, shall be made at the Designated Payment/Transfer Office of the Paying Agent/Registrar only upon presentation and surrender of the Certificates. If a Certificate is subject by its terms to prior redemption and has been called for redemption and notice of redemption has been duly given as hereinabove provided, such Certificate (or the principal amount thereof to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date therefor, provided moneys sufficient for the payment of such Certificate (or of the principal amount thereof to be redeemed) at the then applicable redemption price are held for the purpose of such payment by the Paying Agent/Registrar.

(e) Conditional Notice of Redemption. With respect to any optional redemption of the Certificates, unless certain prerequisites to such redemption required by this Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption. If a conditional notice of redemption is given and such prerequisites to the redemption are not satisfied or sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.

SECTION 5: Registration - Transfer - Exchange of Certificates - Predecessor Certificates. The Paying Agent/Registrar shall obtain, record and maintain in the Security Register the name and address of each and every owner of the Certificates issued under and pursuant to the provisions of this Ordinance, or if appropriate, the nominee thereof. Any Certificate may be transferred or exchanged for Certificates of other authorized denominations by the Holder, in person or by his duly authorized agent, upon surrender of such Certificate to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender of any Certificate (other than the Initial Certificate(s) authorized in Section 8 hereof) for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Certificates of authorized denominations and having the same Stated Maturity and of a like aggregate principal amount as the Certificate or Certificates surrendered for transfer.

At the option of the Holder, Certificates (other than the Initial Certificate(s) authorized in Section 8) may be exchanged for other Certificates of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount

as the Certificates surrendered for exchange, upon surrender of the Certificates to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Certificates are surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Certificates to the Holder requesting the exchange.

All Certificates issued in any transfer or exchange of Certificates shall be delivered to the Holders at the Designated Payment/Transfer Office of the Paying Agent/Registrar or sent by United States Mail, first class, postage prepaid to the Holders, and, upon the registration and delivery thereof, the same shall be the valid obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Certificates surrendered in such transfer or exchange.

All transfers or exchanges of Certificates pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Certificates cancelled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Certificates," evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the new Certificate or Certificates registered and delivered in the exchange or transfer. Additionally, the term "Predecessor Certificates" shall include any mutilated, lost, destroyed, or stolen Certificate for which a replacement Certificate has been issued, registered and delivered in lieu thereof pursuant to the provisions of Section 20 hereof and such new replacement Certificate shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Certificate.

Neither the City nor the Paying Agent/ Registrar shall be required to issue or transfer to an assignee of a Holder any Certificate called for redemption, in whole or in part, within 45 days of the date fixed for the redemption of such Certificate; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of a Certificate called for redemption in part.

SECTION 6: Book-Entry-Only Transfers and Transactions. Notwithstanding the provisions contained in Sections 3, 4, and 5 of this Ordinance relating to the payment, transfer, and exchange of the Certificates, the City hereby approves and authorizes the use of "Book-Entry-Only" securities clearance, settlement and transfer system provided by The Depository Trust Company ("DTC"), a limited purpose trust company organized under the laws of the State of New York, in accordance with the operational arrangements referenced in the Blanket Issuer Letter of Representations by and between the City and DTC (the "Depository Agreement").

Pursuant to the Depository Agreement and the rules of DTC, the Certificates shall be deposited with DTC who shall hold said Certificates for its participants (the "DTC Participants"). While the Certificates are held by DTC under the Depository Agreement, the Holder of the Certificates on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Certificate (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Certificates or otherwise ceases to provide book-entry clearance and settlement of securities

transactions in general or the City determines that DTC is incapable of properly discharging its duties as securities depository for the Certificates, the City covenants and agrees with the Holders of the Certificates to cause Certificates to be printed in definitive form and issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Certificates in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Certificates shall be made in accordance with the provisions of Sections 3, 4 and 5 of this Ordinance.

SECTION 7: Execution - Registration. The Certificates shall be executed on behalf of the City by the Mayor or Mayor Pro Tem under its seal reproduced or impressed thereon and countersigned by the City Clerk. The signature of said officers on the Certificates may be manual or facsimile. Certificates bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City on the date of the adoption of this Ordinance shall be deemed to be duly executed on behalf of the City, notwithstanding that one or more of the individuals executing the same shall cease to be such officer at the time of delivery of the Certificates to the initial purchaser(s) and with respect to Certificates delivered in subsequent exchanges and transfers, all as authorized and provided in Texas Government Code, Chapter 1201, as amended.

No Certificate shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Certificate either a certificate of registration substantially in the form provided in Section 9(c), manually executed by the Comptroller of Public Accounts of the State of Texas, or his or her duly authorized agent, or a certificate of registration substantially in the form provided in Section 9(d), manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such certificate duly signed upon any Certificate shall be conclusive evidence, and the only evidence, that such Certificate has been duly certified, registered and delivered.

SECTION 8: Initial Certificate(s). The Certificates herein authorized shall be initially issued either (i) as a single fully-registered certificate in the total principal amount stated in Section 1 above with principal installments to become due and payable as provided in Section 2 and numbered T-1, or (ii) as multiple fully registered certificates, being one certificate for each year of maturity in the applicable principal amount and denomination and to be numbered consecutively from T-1 and upward (the "Initial Certificate(s)") and, in either case, the Initial Certificate(s) shall be registered in the name of the initial purchasers or the designee thereof. The Initial Certificate(s) shall be submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the initial purchasers, or the designee thereof. Any time after the delivery of the Initial Certificate(s) and pursuant to written instructions from the initial purchasers, or the designee thereof, the Paying Agent/Registrar shall cancel the Initial Certificate(s) and exchange it for the definitive Certificates of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified for such purpose; all pursuant to and in accordance with such written instructions from the initial purchasers, or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

SECTION 9: Forms.

(a) Forms Generally. The Certificates, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Certificates, shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions and other variations as are permitted or required by this Ordinance and may have such letters, numbers or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including insurance legends in the event the Certificates, or any maturities thereof, are purchased with insurance and any reproduction of an opinion of counsel) thereon as may, consistently herewith, be established by the City or determined by the officers executing such Certificates as evidenced by their execution. Any portion of the text of any Certificates may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the certificate.

The definitive Certificates and the Initial Certificate(s) shall be printed, lithographed, engraved, typewritten, photocopied or otherwise reproduced in any other similar manner, all as determined by the officers executing such Certificates as evidenced by their execution.

(b) Form of Definitive Certificates.

REGISTERED
NO. _____

REGISTERED
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF SHERMAN, TEXAS,
COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION
SERIES 2017

Certificate Date:	Interest Rate:	Stated Maturity:	CUSIP No.:	Delivery Date:
March 30, 2017	_____ %	August 15, 20____	_____	March 30, 2017

Registered Owner:

Principal Amount:

The City of Sherman (hereinafter referred to as the "City"), a body corporate and municipal corporation in the County of Grayson, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, on the Stated Maturity date specified above the Principal Amount hereinabove stated (or so much thereof as shall not have been paid upon prior redemption), and to pay interest on the unpaid principal amount hereof from the interest payment date next preceding the "Registration Date" of this Certificate appearing below (unless this Certificate bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Certificate is prior to the initial interest payment date in which case it shall bear interest from the Delivery Date) at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 15 and August 15 in each year,

commencing February 15, 2018, until maturity or prior redemption. Principal of this Certificate is payable at its Stated Maturity or upon its prior redemption to the registered owner hereof, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor; provided, however, while this Certificate is registered to Cede & Co., the payment of principal upon a partial redemption of the principal amount hereof may be accomplished without presentation and surrender of this Certificate. Interest is payable to the registered owner of this Certificate (or one or more Predecessor Certificates, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the last business day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for a payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of and interest on this Certificate shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Certificate is one of the series specified in its title issued in the aggregate principal amount of \$_____ (herein referred to as the "Certificates") for the purpose of paying contractual obligations to be incurred for (i) the construction of public works, to wit: (1) street improvements, including drainage, utility line relocations, bridges, sidewalks, entryways, landscaping, lighting, curbs and gutters related thereto and the acquisition of land and rights-of-way therefor, and (2) constructing, renovating, acquiring and equipping facilities for the public safety and library departments, including the acquisition of land and rights-of-way therefor, and (ii) professional services rendered in relation to such projects and the financing thereof, under and in strict conformity with the Constitution and laws of the State of Texas, particularly Texas Local Government Code, Subchapter C of Chapter 271, as amended, and pursuant to an Ordinance adopted by the City Council of the City (herein referred to as the "Ordinance").

The Certificates maturing on the dates hereinafter identified (the "Term Certificates") are subject to mandatory redemption prior to maturity with funds on deposit in the Certificate Fund established and maintained for the payment thereof in the Ordinance, and shall be redeemed in part prior to maturity at the price of par and accrued interest thereon to the mandatory redemption date on the respective dates and in principal amounts as follows:

Term Certificates due August 15, 20	
<u>Redemption Date</u>	<u>Principal Amount</u>
August 15, 20	\$,000
August 15, 20	\$,000
August 15, 20	\$,000
August 15, 20	\$,000 (maturity)

Term Certificates due August 15, 20	
<u>Redemption Date</u>	<u>Principal Amount</u>
August 15, 20	\$,000
August 15, 20	\$,000
August 15, 20	\$,000
August 15, 20	\$,000 (maturity)

Term Certificates due August 15, 20	
<u>Redemption Date</u>	<u>Principal Amount</u>
August 15, 20	\$,000
August 15, 20	\$,000
August 15, 20	\$,000 (maturity)

The particular Term Certificates of a given Stated Maturity required to be redeemed each redemption date shall be chosen by lot, or by any other customary method that results in a random selection, by the Paying Agent/Registrar; provided, however, that the principal amount of Term Certificates for a Stated Maturity required to be redeemed on a mandatory redemption date may be reduced, at the option of the City, by the principal amount of Term Certificates of like Stated Maturity which, at least fifty (50) days prior to the mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Certificates plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (2) shall have been redeemed pursuant to the optional redemption provisions appearing below and not theretofore credited against a mandatory redemption requirement.

The Certificates maturing on and after August 15, 2026, may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on August 15, 2025, or on any date thereafter, at the redemption price of par, together with accrued interest to the date of redemption.

At least thirty (30) days prior to a redemption date, the City shall cause a written notice of such redemption to be sent by United States Mail, first class postage prepaid, to the registered owners of each Certificate to be redeemed at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinance. If a Certificate (or any portion of its principal sum) shall have been duly called for redemption and notice of such redemption duly given, then upon the redemption date such Certificate (or the portion of its principal sum to be redeemed) shall become due and payable, and, if moneys for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable from and after the redemption date on the principal amount redeemed.

In the event a portion of the principal amount of a Certificate is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Certificate to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Certificate or Certificates of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum thereof will be issued to the registered owner, without charge. If a Certificate is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer such Certificate to an assignee of the registered owner within forty-five (45) days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Certificate redeemed in part.

With respect to any optional redemption of the Certificates, unless certain prerequisites to such redemption required by the Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption. If a conditional notice of redemption is given and such prerequisites to the redemption are not satisfied or sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.

The Certificates are payable from the proceeds of an ad valorem tax levied, within the limitations prescribed by law, upon all taxable property in the City and from a limited pledge of the Net Revenues (as defined in the Ordinance) of the City's combined Waterworks and Sewer System (the "System"), such pledge of the Net Revenues for the payment of the Certificates being limited to an amount of \$1,000 and, together with a parity pledge securing the payment of the Previously Issued Certificates (identified and defined in the Ordinance), being junior and subordinate to the lien on and pledge of the Net Revenues securing the payment of "Prior Lien Obligations" (as defined in the Ordinance) now outstanding and hereafter issued by the City. In the Ordinance, the City reserves and retains the right to issue Prior Lien Obligations while the Certificates are outstanding without limitation as to principal amount but subject to any terms, conditions or restrictions as may be applicable thereto under law or otherwise, as well as the right to issue Additional Obligations (identified and defined in the Ordinance) payable from the same sources as the Certificates and, together with the Certificates, equally and ratably secured by a parity lien on and pledge of the Net Revenues of the System.

Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all the provisions of which the owner or holder of this Certificate by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Certificates; the nature and extent of the pledge of the Net Revenues securing the payment of the Certificates; the terms and conditions relating to the transfer or exchange of this Certificate; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which the tax levy and the pledge of the Net Revenues and covenants made in the Ordinance may be discharged at or prior to the maturity of this Certificate, and this Certificate deemed to be no longer Outstanding thereunder; and for the other terms and provisions contained therein. Capitalized terms used herein have the meanings assigned in the Ordinance.

This Certificate, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Certificates of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the registered owner whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Certificate as the owner entitled to payment of principal hereof at its Stated Maturity or upon its prior redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of nonpayment of interest on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented and declared that the City is a body corporate and political subdivision duly organized and legally existing under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Certificates is duly authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Certificates to render the same lawful and valid obligations of the City have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Certificates do not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Certificates as aforestated. In case any provision in this Certificate shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The terms and provisions of this Certificate and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Certificate to be duly executed under the official seal of the City.

CITY OF SHERMAN, TEXAS

Mayor

COUNTERSIGNED:

City Clerk

(SEAL)

(c) Form of Registration Certificate of Comptroller of Public Accounts to appear on Initial Certificate(s) only.

REGISTRATION CERTIFICATE OF COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER)
)
OF PUBLIC ACCOUNTS) REGISTER NO. _____
)
THE STATE OF TEXAS)

I HEREBY CERTIFY that this Certificate has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this _____.

Comptroller of Public Accounts
of the State of Texas

(SEAL)

(d) Form of Certificate of Paying Agent/Registrar to appear on Definitive Certificates only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Certificate has been duly issued and registered under the provisions of the within-mentioned Ordinance; the certificate or certificates of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The designated offices of the Paying Agent/Registrar located in East Syracuse, New York, is the "Designated Payment/Transfer Office" for this Certificate.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A., Dallas, Texas

Registration Date:

By _____
Authorized Signature

(e) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto (Print or typewrite name, address and zip code of transferee): _____

(Social Security or other identifying number _____) the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

DATED: _____

Signature guaranteed:

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Certificate in every particular.

(f) The Initial Certificate(s) shall be in the form set forth in paragraph (b) of this Section, except that the heading and first paragraph of the form of a single fully registered Initial Certificate shall be modified as follows:

REGISTERED
NO. T-1

REGISTERED
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF SHERMAN, TEXAS,
COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION
SERIES 2017

Certificate Date:
March 30, 2017

Delivery Date:
March 30, 2017

Registered Owner:

Principal Amount:

The City of Sherman (hereinafter referred to as the "City"), a body corporate and municipal corporation in the County of Grayson, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, the Principal Amount hereinabove stated on August 15 in the years and in principal installments in accordance with the following schedule:

<u>Year of</u> <u>Stated Maturity</u>	<u>Principal</u> <u>Installments</u>	<u>Interest</u> <u>Rate(s)</u>
--	---	-----------------------------------

(Information to be inserted from schedule in Section 2 hereof)

(or so much thereof as shall not have been redeemed prior to maturity) and to pay interest on the unpaid principal amounts hereof from the Delivery Date at the per annum rate(s) of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 15 and August 15 of each year, commencing February 15, 2018, until maturity or prior redemption. Principal installments of this Certificate are payable at its Stated Maturity or on a redemption date to the registered owner hereof by The Bank of New York Mellon Trust Company, N.A., Dallas, Texas (the "Paying Agent/Registrar"), upon presentation and surrender, at its designated offices in East Syracuse, New York (the "Designated Payment/Transfer Office"). Interest is payable to the registered owner of this Certificate whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the last business day of the month next preceding each interest payment date hereof and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/ Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Certificate shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

SECTION 10: Definitions. For purposes of this Ordinance and for clarity with respect to the issuance of the Certificates herein authorized, and the levy of taxes and appropriation of Net Revenues therefor, the following words or terms, whenever the same appears herein without qualifying language, are defined to mean as follows:

(a) The term "Additional Obligations" shall mean combination tax and revenue obligations hereafter issued which by their terms are payable from ad valorem taxes and additionally payable from and secured by a parity lien on and pledge of the Net Revenues of the System of equal rank and dignity with the lien and pledge securing the payment of the Previously Issued Certificates and the Certificates.

(b) The term "Certificate Fund" shall mean the special Fund created and established under the provisions of Section 11 of this Ordinance.

(c) The term "Certificates" shall mean the "City of Sherman, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2017" authorized by this Ordinance.

(d) The term "Collection Date" shall mean, when reference is being made to the levy and collection of annual ad valorem taxes, the date the annual ad valorem taxes levied each year by the City become delinquent.

(e) The term "Fiscal Year" shall mean the twelve month financial accounting period used by the City in connection with the operation of the System which may be any twelve consecutive month period established by the City.

(f) The term "Government Securities" shall mean (i) direct noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations unconditionally guaranteed or insured by the agency or instrumentality and, on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, and (iv) any other then authorized securities or obligations under applicable State law that may be used to defease obligations such as the Certificates.

(g) The term "Gross Revenues" shall mean all income, receipts and revenues of every nature derived or received from the operation and ownership (excluding refundable meter deposits, restricted gifts and grants in aid of construction) of the System, including earnings and income derived from the investment or deposit of moneys in any special funds or accounts created and established for the payment and security of the Prior Lien Obligations and other obligations payable solely from and secured only by a lien on and pledge of the Net Revenues.

(h) The term "Net Revenues" shall mean Gross Revenues of the System, with respect to any period, after deducting the System's Operating and Maintenance Expenses during such period..

(i) The term "Operating and Maintenance Expenses" shall mean all current expenses of operating and maintaining the System, including all salaries, labor, materials, repairs and extensions necessary to render efficient service; provided, however, that only such repairs and extensions, as in the judgment of the City Council, reasonably and fairly exercised, are necessary to maintain the operations and render adequate service to the City and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair obligations payable from Net Revenues shall be deducted in determining "Net Revenues". Depreciation charges shall not be considered Operating and Maintenance Expenses. Operating and Maintenance Expenses shall include payments under contracts for the purchase of water supply, treatment of sewage or other materials, goods, services, or facilities for the System to the extent authorized by law and the provisions of such contract.

(j) The term "Outstanding" when used in this Ordinance with respect to Certificates means, as of the date of determination, all Certificates theretofore issued and delivered under this Ordinance, except:

(1) those Certificates cancelled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(2) those Certificates for which payment has been duly provided by the City in accordance with the provisions of Section 21 hereof; and

(3) those Certificates that have been mutilated, destroyed, lost, or stolen and replacement Certificates have been registered and delivered in lieu thereof as provided in Section 20 hereof.

(k) The term "Previously Issued Certificates" shall mean the outstanding "City of Sherman, Texas, Tax and Waterworks and Sewer System (Limited Pledge) Revenue Certificates of Obligation, Series 2008", dated March 1, 2008, originally issued in the principal amount of \$5,000,000, the outstanding "City of Sherman, Texas, Tax and Waterworks and Sewer System (Limited Pledge) Revenue Certificates of Obligation, Series 2009", dated April 1, 2009, originally issued in the principal amount of \$5,000,000, the outstanding "City of Sherman, Texas, Tax and Waterworks and Sewer System (Limited Pledge) Revenue Certificates of Obligation, Series 2009A", dated September 1, 2009, originally issued in the principal amount of \$3,500,000, and the outstanding "City of Sherman, Texas, Tax and Waterworks and Sewer System (Limited Pledge) Revenue Certificates of Obligation, Series 2016", dated July 15, 2016, originally issued in the principal amount of \$6,970,000.

(l) The term "Prior Lien Obligations" shall mean all revenue bonds or other obligations hereafter issued, payable from and secured, in whole or in part, by a lien on and pledge of all or a portion of the Net Revenues of the System prior to the right and claim on the Net Revenues of the System securing the payment of the Previously Issued Certificates and the Certificates.

(m) The term "System" shall mean all properties, facilities and plants currently owned, operated and maintained by the City for the supply, treatment, transmission and distribution of treated potable water and the collection, treatment and disposal of water carried wastes, together with all future improvements, extensions, enlargements and additions thereto and replacements thereof.

SECTION 11: Certificate Fund. For the purpose of paying the interest on and to provide a sinking fund for the payment, redemption and retirement of the Certificates, there shall be and is hereby created a special account or fund on the books and records of the City known as the "SPECIAL SERIES 2017 TAX AND REVENUE CERTIFICATE OF OBLIGATION FUND", and all moneys deposited to the credit of such Fund shall be kept and maintained in a special banking account a depository bank of the City. The Mayor, Mayor Pro Tem, City Manager, Assistant City Manager, Director of Finance and City Clerk of the City, individually or collectively, are hereby authorized and directed to make withdrawals from said Fund sufficient to pay the principal of and interest on the Certificates as the same become due and payable, and, shall cause to be transferred to the Paying Agent/Registrar from moneys on deposit in the Certificate Fund an amount sufficient to pay the amount of principal and/or interest falling due on the Certificates, such transfer of funds to the Paying Agent/Registrar to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar on or before the last business day next preceding each interest and principal payment date for the Certificates.

Pending the transfer of funds to the Paying Agent/Registrar, money in the Certificate Fund may, at the option of the City, be invested in obligations identified in, and in accordance with the provisions of the "Public Funds Investment Act" (Texas Government Code, Chapter 2256, as amended) relating to the investment of "bond proceeds"; provided that all such investments shall be made in such a manner that the money required to be expended from said Fund will be available at the proper time or times. All interest and income derived from deposits and investments in said Certificate Fund shall be credited to, and any losses debited to, the said

Certificate Fund. All such investments shall be sold promptly when necessary to prevent any default in connection with the Certificates.

SECTION 12: Tax Levy. To provide for the payment of the "Debt Service Requirements" on the Certificates being (i) the interest on said Certificates and (ii) a sinking fund for their redemption at maturity or a sinking fund of 2% (whichever amount shall be the greater), there shall be and there is hereby levied a sufficient tax, within the limitations prescribed by law, on each one hundred dollars' valuation of taxable property in said City, adequate to pay such Debt Service Requirements while the Certificates remain Outstanding, full allowance being made for delinquencies and costs of collection; and said tax shall be assessed and collected each year and applied to the payment of the Debt Service Requirements, and the same shall not be diverted to any other purpose. The taxes so levied and collected shall be paid into the Certificate Fund. The City Council hereby declares its purpose and intent to provide and levy a tax legally and fully sufficient to pay the said Debt Service Requirements, it having been determined that the existing and available taxing authority of the City for such purpose is adequate to permit a legally sufficient tax in consideration of all other outstanding indebtedness.

The amount of taxes to be provided annually for the payment of the principal of and interest on the Certificates shall be determined and accomplished in the following manner:

(a) Prior to the date the City Council establishes the annual tax rate and passes an ordinance levying ad valorem taxes each year, the Council shall determine:

(1) The amount on deposit in the Certificate Fund after (a) deducting therefrom the total amount of Debt Service Requirements to become due on Certificates prior to the Collection Date for the ad valorem taxes to be levied and (b) adding thereto the amount of the Net Revenues of the System, together with any other lawfully available revenues of the City, appropriated and allocated to pay such Debt Service Requirements prior to the Collection Date for the ad valorem taxes to be levied.

(2) The amount of Net Revenues of the System, together with any other lawfully available revenues of the City, appropriated and to be set aside for the payment of the Debt Service Requirements on the Certificates between the Collection Date for the taxes then to be levied and the Collection Date for the taxes to be levied during the next succeeding calendar year.

(3) The amount of Debt Service Requirements to become due and payable on the Certificates between the Collection Date for the taxes then to be levied and the Collection Date for the taxes to be levied during the next succeeding calendar year.

(b) The amount of taxes to be levied annually each year to pay the Debt Service Requirements on the Certificates shall be the amount established in paragraph (3) above less the sum total of the amounts established in paragraphs (1) and (2), after taking into consideration delinquencies and costs of collecting such annual taxes.

SECTION 13: Limited Pledge of Net Revenues. The City hereby covenants and agrees that, subject to the prior lien on and pledge of the Net Revenues of the System to the payment and security of Prior Lien Obligations, the Net Revenues of the System in the amount of \$1,000

are hereby irrevocably pledged, equally and ratably, to the payment of the principal of and interest on the Certificates, and the limited pledge of \$1,000 of the Net Revenues of the System herein made for the payment of the Certificates shall constitute a lien on the Net Revenues of the System until such time as the City shall pay all of such \$1,000, after which time the pledge shall cease, and shall be on a parity in all respects with the lien on the Net Revenues securing the payment of the Previously Issued Certificates, all in accordance with the terms and provisions hereof. Furthermore, such lien on and pledge of the Net Revenues securing the payment of the Certificates shall be valid and binding and fully perfected from and after the date of adoption of this Ordinance without physical delivery or transfer or transfer of control of the Net Revenues, the filing of this Ordinance or any other act; all as provided in Chapter 1208 of the Texas Government Code ("Chapter 1208").

Chapter 1208 applies to the issuance of the Certificates and the pledge of the Net Revenues of the System granted by the City under this Section 13, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Certificates are Outstanding such that the pledge of the Net Revenues of the System granted by the City under this Section 13 is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, as amended, then in order to preserve to the registered owners of the Certificates the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code, as amended, and enable a filing to perfect the security interest in said pledge to occur.

SECTION 14: System Fund. The City covenants and agrees that all Gross Revenues (excluding earnings from the investment of money held in any special funds or accounts created for the payment and security of the Prior Lien Obligations) shall be deposited as collected into a fund maintained at an official depository of the City and known on the books of the City as the "Water and Sewer System Fund" (hereinafter called the "System Fund"). All moneys deposited to the credit of the System Fund shall be allocated, dedicated and disbursed to the extent required for the following purposes and in the order of priority shown, to wit:

- First:** To the payment of reasonable and proper Operating and Maintenance Expenses of the System as defined herein or required by statute to be a first charge on and claim against the Gross Revenues of the System.
- Second:** To the payment of all amounts required to be deposited in the special Funds created and established for the payment, security and benefit of Prior Lien Obligations in accordance with the terms and provisions of the ordinances authorizing the issuance of Prior Lien Obligations.
- Third:** To the payment of the limited amount pledged to the payment of the Previously Issued Certificates and the Certificates.

Any Net Revenues remaining in the System Fund after satisfying the foregoing payments, or making adequate and sufficient provision for the payment thereof, may be appropriated and used for any other City purpose now or hereafter permitted by law.

SECTION 15: Deposits to Certificate Fund. Subject to the provisions of Section 13 hereof, the City hereby covenants and agrees that the amount of pledged Net Revenues of the

System (\$1,000), together with other lawfully available revenues appropriated by the City for payment of the Debt Service Requirements on the Certificates and ad valorem taxes levied, collected and deposited in the Certificate Fund for and on behalf of the Certificates, will be an amount equal to one hundred percent (100%) of the amount required to fully pay the interest and principal due and payable on the Certificates. In addition, any surplus proceeds from the sale of the Certificates not expended for authorized purposes shall be deposited in the Certificate Fund, or another fund created for the payment of the principal of and interest on any Certificates, and such amounts so deposited shall reduce the sums otherwise required to be deposited in said Fund from ad valorem taxes and the Net Revenues of the System.

SECTION 16: Security of Funds. All moneys on deposit in the Funds for which this Ordinance makes provision (except any portion thereof as may be at any time properly invested) shall be secured in the manner and to the fullest extent required by the laws of the State of Texas for the security of public funds, and moneys on deposit in such Funds shall be used only for the purposes permitted by this Ordinance.

SECTION 17: Remedies in Event of Default. In addition to all the rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City (a) defaults in the payments to be made to the Certificate Fund, or (b) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in this Ordinance, the Holder of any of the Certificates shall be entitled to a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the governing body of the City and other officers of the City to observe and perform any covenant, condition or obligation prescribed in this Ordinance.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient. The specific remedies herein provided shall be cumulative of all other existing remedies and the specification of such remedies shall not be deemed to be exclusive.

SECTION 18: Special Covenants. The City hereby further covenants as follows:

(a) It has the lawful power to pledge the Net Revenues of the System to the payment of the Certificates in the manner herein contemplated and has lawfully exercised such power under the Constitution and laws of the State of Texas, including said power existing under Texas Government Code, Chapter 1502, as amended, and Texas Local Government Code, Subchapter C of Chapter 271, as amended.

(b) Other than for the payment of the Previously Issued Certificates and the Certificates, the Net Revenues of the System have not in any manner been pledged to the payment of any debt or obligation of the City or of the System.

SECTION 19: Issuance of Prior Lien Obligations. The City hereby expressly reserves the right to hereafter issue Prior Lien Obligations, without limitation as to principal amount but subject to any terms, conditions or restrictions applicable thereto under law or otherwise, payable, in whole or in part, from the Net Revenues (without impairment of the obligation of contract with the Holders of the Certificates) upon such terms and conditions as the City Council may determine.

Additionally, the City reserves the right to issue Additional Obligations, without limitation or any restriction or condition being applicable to their issuance under the terms of this Ordinance, payable from and secured by a lien on and pledge of the Net Revenues of the System of equal rank and dignity, and on a parity in all respects, with the lien thereon and pledge thereof securing the payment of the Previously Issued Certificates and the Certificates.

SECTION 20: Application of Prior Lien Obligations Covenants and Agreements. It is the intention of this governing body and accordingly hereby recognized and stipulated that the provisions, agreements and covenants contained herein bearing upon the management and operations of the System, and the administering and application of revenues derived from the operation thereof, shall to the extent possible be harmonized with like provisions, agreements and covenants contained in the ordinances authorizing the issuance of the Prior Lien Obligations, and to the extent of any irreconcilable conflict between the provisions contained herein and in the ordinances authorizing the issuance of the Prior Lien Obligations, the provisions, agreements and covenants contained therein shall prevail to the extent of such conflict and be applicable to this Ordinance but in all respects subject to the priority of rights and benefits, if any, conferred thereby to the holders of the Prior Lien Obligations.

SECTION 21: Mutilated, Destroyed, Lost and Stolen Certificates. In case any Certificate shall be mutilated, or destroyed, lost or stolen, the Paying Agent/Registrar may execute and deliver a replacement Certificate of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Certificate, or in lieu of and in substitution for such destroyed, lost or stolen Certificate, only upon the approval of the City and after (i) the filing by the Holder thereof with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss or theft of such Certificate, and of the authenticity of the ownership thereof and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the City and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Certificate shall be borne by the Holder of the Certificate mutilated, or destroyed, lost or stolen.

Every replacement Certificate issued pursuant to this Section shall be a valid and binding obligation, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Certificates; notwithstanding the enforceability of payment by anyone of the destroyed, lost, or stolen Certificates. The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost or stolen Certificates.

SECTION 22: Satisfaction of Obligation of City. If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Certificates, at the times and in the manner stipulated in this Ordinance, then the pledge of taxes levied under this Ordinance and the Net Revenues of the System and all covenants, agreements, and other obligations of the City to the Holders shall thereupon cease, terminate and be discharged and satisfied.

Certificates or any principal amount(s) thereof shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Certificates or the principal amount(s) thereof at maturity or on a redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, or (ii) Government Securities shall have been irrevocably deposited in trust with the Paying

Agent/Registrar, or an authorized escrow agent, which Government Securities have been certified by an independent accounting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Certificates, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof or (if notice of redemption has been duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/Registrar have been made) the redemption date thereof. The City covenants that no deposit of moneys or Government Securities will be made under this Section and no use made of any such deposit which would cause the Certificates to be treated as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or regulations adopted pursuant thereto.

Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Securities held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Certificates, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Certificates and remaining unclaimed for a period of three (3) years after the Stated Maturity, or applicable redemption date, of the Certificates such moneys were deposited and are held in trust to pay shall upon the request of the City be remitted to the City against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the City shall be subject to any applicable unclaimed property laws of the State of Texas.

SECTION 23: Ordinance a Contract - Amendments. This Ordinance shall constitute a contract with the Holders from time to time, be binding on the City, and shall not be amended or repealed by the City so long as any Certificate remains Outstanding except as permitted in this Section and in Section 39 hereof. The City may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency or formal defect or omission herein. In addition, the City may, with the consent of Holders holding a majority in aggregate principal amount of the Certificates then Outstanding, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Holders of Outstanding Certificates, no such amendment, addition or rescission shall (1) extend the time or times of payment of the principal of, premium, if any, and interest on the Certificates, reduce the principal amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, premium, if any, or interest on the Certificates, (2) give any preference to any Certificate over any other Certificate, or (3) reduce the aggregate principal amount of Certificates required to be held by Holders for consent to any such amendment, addition or rescission.

SECTION 24: Covenants to Maintain Tax-Exempt Status.

(a) Definitions. When used in this Section, the following terms have the following meanings:

"Closing Date" means the date on which the Certificates are first authenticated and delivered to the initial purchasers against payment therefor.

"Code" means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

"Computation Date" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Gross Proceeds" means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Certificates.

"Investment" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Nonpurpose Investment" means any investment property, as defined in section 148(b) of the Code, in which Gross Proceeds of the Certificates are invested and which is not acquired to carry out the governmental purposes of the Certificates.

"Rebate Amount" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Regulations" means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Certificates. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

"Yield" of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations and (2) the Certificates has the meaning set forth in Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Certificate to become includable in the gross income, as defined in section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Certificate, the City shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Certificates:

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Certificates, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(2) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Certificates or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Certificates to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Certificates directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Certificates.

(f) Not Federally Guaranteed. Except to the extent permitted by section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Certificates to be federally guaranteed within the meaning of section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Information Report. The City shall timely file the information required by section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in section 148(f) of the Code and the Regulations and rulings thereunder:

(1) the City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last outstanding Certificate is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Certificates with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Certificates until six years after the final Computation Date.

(3) As additional consideration for the purchase of the Certificates by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States from the construction fund, other appropriate fund, or if permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the Certificate Fund, the amount that when added to the future value of previous rebate payments made for the Certificates equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(4) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

(i) Not to Divert Arbitrage Profits. Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Certificates, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Certificates not been relevant to either party.

(j) Elections. The City hereby directs and authorizes the Mayor, Mayor Pro Tem, City Manager, Assistant City Manager, Director of Finance or City Clerk, individually or jointly, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Certificates, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

SECTION 25: Sale of Certificates. Pursuant to a public sale for the Certificates, the bid submitted by _____ (herein referred to as the "Purchaser") is declared to be the best bid received producing the lowest true interest cost rate to the City; such bid is hereby accepted and incorporated herein by reference as a part of this Ordinance for all purposes and the sale of the Certificates to said Purchaser at the price of par

and accrued interest to the date of delivery, plus a premium of \$_____ is hereby approved and confirmed. Delivery of the Certificates to the Purchaser shall occur as soon as possible upon payment being made therefor in accordance with the terms of sale. The terms of sale are hereby declared to be in the best interest of the City.

SECTION 26: Official Statement. The use of the Preliminary Official Statement in the offering and sale of the Certificates is hereby ratified, confirmed and approved in all respects, and the City Council hereby finds that the information and data contained in said Preliminary Official Statement pertaining to the City and its financial affairs is true and correct in all material respects and no material facts have been omitted therefrom which are necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The final Official Statement, which reflects the terms of sale (together with such changes approved by the Mayor, Mayor Pro Tem, City Manager, Assistant City Manager, Director of Finance or City Clerk, one or more of said officials), shall be and is hereby in all respects approved and the Purchasers are hereby authorized to use and distribute said final Official Statement, dated March 6, 2017, in the offering, sale and delivery of the Certificates to the public.

SECTION 27: Proceeds of Sale. The proceeds of sale of the Certificates, excluding premium in the amount of \$_____ and amounts to pay costs of issuance, shall be deposited in a construction fund maintained at an official depository of the City. Pending expenditure for authorized projects and purposes, such proceeds of sale may be invested in authorized investments in accordance with the provisions of Texas Government Code, Chapter 2256, as amended, including guaranteed investment contracts permitted by Texas Government Code, Section 2256.015 et seq., and the City's investment policies and guidelines, and any investment earnings realized may be expended for such authorized projects and purposes or deposited in the Certificate Fund as shall be determined by the City Council. Premium in the above amount as well as all surplus proceeds of sale of the Certificates, including investment earnings, remaining after completion of all authorized projects or purposes shall be deposited to the credit of the Certificate Fund.

SECTION 28: Control and Custody of Certificates. The Mayor of the City shall be and is hereby authorized to take and have charge of all necessary orders and records pending the sale of the Certificates, the investigation by the Attorney General of the State of Texas, including the printing and supply of definitive Certificates, and shall take and have charge and control of the Initial Certificate(s) pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts and the delivery thereof to the Purchasers.

SECTION 29: Notices to Holders - Waiver. Wherever this Ordinance provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States Mail, first class postage prepaid, to the address of each Holder appearing in the Security Register at the close of business on the business day next preceding the mailing of such notice.

In any case where notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Certificates. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with

the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 30: Cancellation. All Certificates surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly cancelled by it and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already cancelled, shall be promptly cancelled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Certificates previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Certificates so delivered shall be promptly cancelled by the Paying Agent/Registrar. All cancelled Certificates held by the Paying Agent/Registrar shall be returned to the City.

SECTION 31: Bond Counsel's Opinion. The Purchasers' obligation to accept delivery of the Certificates is subject to being furnished a final opinion of Norton Rose Fulbright US LLP, approving the Certificates as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for the Certificates. An executed counterpart of said opinion shall accompany the global certificates deposited with DTC or a reproduction thereof shall be printed on the definitive Certificates in the event the book-entry-only system shall be discontinued.

SECTION 32: CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Certificates. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Certificates shall be of no significance or effect as regards the legality thereof and neither the City nor attorneys approving the Certificates as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Certificates.

SECTION 33: Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the City, the Paying Agent/Registrar and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, and this Ordinance and all its provisions is intended to be and shall be for the sole and exclusive benefit of the City, the Paying Agent/Registrar and the Holders.

SECTION 34: Inconsistent Provisions. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

SECTION 35: Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 36: Effect of Headings. The Section headings herein are for convenience of reference only and shall not affect the construction hereof.

SECTION 37: Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

SECTION 38: Severability. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the

application thereof to other circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 39: Continuing Disclosure Undertaking.

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

"MSRB" means the Municipal Securities Rulemaking Board.

"Rule" means SEC Rule 15c2-12, as amended from time to time.

"SEC" means the United States Securities and Exchange Commission.

(b) Annual Reports. The City shall provide annually to the MSRB (1) within six months after the end of each fiscal year of the City beginning in the year 2016, financial information and operating data with respect to the City of the general type included in the final Official Statement in Tables 1 through 4 and 6 through 9 and (2) within twelve months after the end of each fiscal year of the City beginning in the year 2017, the audited financial statements of the City. If the audit of such financial statements is not complete within twelve (12) months after any such fiscal year end, then the City shall file unaudited financial statements by the required time and audited financial statements for the applicable fiscal year, when and if the audit report becomes available. Any financial statements to be provided shall be (i) prepared in accordance with the accounting principles described in Appendix C to the Official Statement, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and in substantially the form included in the Official Statement, and (ii) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided.

If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB's Internet Web site or filed with the SEC.

(c) Notice of Certain Events. The City shall provide notice of any of the following events with respect to the Certificates to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Certificates, or other material events affecting the tax status of the Certificates;
7. Modifications to rights of holders of the Certificates, if material;

8. Certificate calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Certificates, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
13. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material.

For these purposes, any event described in the immediately preceding item 12 is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such Section.

(d) Filings with the MSRB. All financial information, operating data, financial statements, notices and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

(e) Limitations, Disclaimers and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section while, but only while, the City remains an "obligated person" with respect to the Certificates within the meaning of the Rule, except that the City in any event will give the notice required by subsection (c) hereof of any Certificate calls and defeasance that cause the City to be no longer such an "obligated person."

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Certificates, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly

provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

Notwithstanding anything herein to the contrary, the provisions of this Section may be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Certificates consent to such amendment or (b) a Person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Certificates. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent underwriters of the initial public offering of the Certificates from lawfully purchasing or selling Certificates in such offering. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided pursuant to subsection (b) hereof an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

SECTION 40: Further Procedures. Any one or more of the Mayor, Mayor Pro Tem, City Manager, Assistant City Manager, Director of Finance, and City Clerk are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the City all agreements, instruments, certificates or other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and the issuance, sale and delivery of the Certificates. In addition, prior to the delivery of the Certificates, the Mayor, Mayor Pro Tem, City Manager, Assistant City Manager, Director of Finance, City Clerk or Bond Counsel to the City are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance: (i) in order to cure any ambiguity, formal defect, or

omission in the Ordinance or such other document, or (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Certificates by the Attorney General. In the event that any officer of the City whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 41: Incorporation of Findings and Determinations. The findings and determinations of the City Council contained in the preamble of this Ordinance are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were related in full in this Section.

SECTION 42: Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Texas Government Code, Chapter 551, as amended.

SECTION 43: Effective Date. In accordance with the provisions of Texas Government Code, Section 1201.028, as amended, this Ordinance shall be in force and effect from and after its passage on the date shown below and it is so ordained.

[remainder of page left blank intentionally]

PASSED AND ADOPTED, this March 6, 2017.

CITY OF SHERMAN, TEXAS

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM AND CONTENT:

City Attorney

(City Seal)

EXHIBIT A

PAYING AGENT/REGISTRAR AGREEMENT



SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Regular Meeting

C.2.

Meeting Date: 03/06/2017

Prepared By: Mary Lawrence, Director of Finance

Approved By: Robby Hefton, City Manager

Caption:

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6004

Appointing an Alternate Municipal Court Judge for the City of Sherman, Grayson County, Texas

Issue:

The appointment of Mark Teague as an Alternate Municipal Court Judge

Background:

The Texas Government Code Section 29.007(g) grants the City Council authority, and method by which, to appoint an alternate municipal court judge, as follows:

Sec. 29.007. MUNICIPAL COURT PANELS OR DIVISIONS; TEMPORARY JUDGES.

(g) The municipality may provide by charter or by ordinance for the appointment of one or more temporary judges to serve if the regular judge, the presiding judge, or an associate judge is temporarily unable to act. A temporary judge must have the same qualifications as the judge he replaces and has the same powers and duties as that judge.

Origination:

City Manager

Financial Consideration:

There is no financial impact to making this appointment.

Staff Recommendation:

The staff recommends the City Council appoint Mark Teague as Alternate Municipal Court Judge for the City of Sherman, Grayson County, Texas.

Alternatives:

No alternatives are recommended.

Attachments

Ordinance No. 6004

ORDINANCE NO. 6004

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, APPOINTING AN ALTERNATE MUNICIPAL COURT JUDGE FOR THE CITY OF SHERMAN, GRAYSON COUNTY, TEXAS; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, it has come to the attention of the City Council of the City of Sherman, Texas, that there is a need to appoint an Alternate Municipal Court Judge to serve in the capacity of Municipal Court Judge when the regular appointed Municipal Court Judge is unable to serve; and

WHEREAS, Section 29.007 of the Texas Government Code authorizes the City Council to make such appointment; and

WHEREAS, the City Council of the City of Sherman, Texas, hereby finds and determines that Mark Teague, Attorney, possesses the qualifications and experience necessary for such position;

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

SECTION 1. That all of the above recitals and preambles are found to be true and correct and made a part hereof for all purposes.

SECTION 2. That Attorney Mark Teague be and is hereby appointed to serve in the capacity of Alternate Municipal Court Judge and to have all the powers and duties of said office as conferred by Section 29.007 of the Texas Government Code.

SECTION 3. That it is hereby officially found and determined that the meeting at which this ordinance was introduced and passed were open to the public and that public notice of the time, place, and purpose of said meetings were given as required by law.

INTRODUCED on this the _____ day of _____, 2017.

ADOPTED on this the _____ day of _____, 2017.

EFFECTIVE DATE on this the _____ day of _____, 2017.

CITY OF SHERMAN, TEXAS

BY: _____
DAVID PLYLER, MAYOR

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

**APPROVED AS TO FORM
AND CONTENT:**

BY: _____
BRANDON S. SHELBY,
CITY ATTORNEY



SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Regular Meeting

C.3.

Meeting Date: 03/06/2017

Prepared By: Pamela Cloer, Assistant to the City Manager

Approved By: Robby Hefton, City Manager

Caption:

ADOPTION OF ORDINANCES

Consider Adoption of Ordinance Numbers: 6013 and 6004

Issue:

- C. 1. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6013**
Authorizing the Issuance of "CITY OF SHERMAN, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2017"; Specifying the Terms and Features of Said Certificates; Providing for the Payment of Said Certificates of Obligation by the Levy of an Ad Valorem Tax Upon All Taxable Property within the City and a Limited Pledge of the Net Revenues from the Operation of the City's Waterworks and Sewer System; Resolving Other Matters Incident and Relating to the Issuance, Payment, Security, Sale and Delivery of Said Certificates, Including the Approval and Execution of a Paying Agent/Registrar Agreement and the Approval and Distribution of an Official Statement; and Providing an Effective Date
- C. 2. INTRODUCTION AND PUBLIC HEARING OF ORDINANCE NO. 6004**
Appointing an Alternate Municipal Court Judge for the City of Sherman, Grayson County, Texas
-



SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Regular Meeting

C.4.

Meeting Date: 03/06/2017

Prepared By: Pamela Cloer, Assistant to the City Manager

Approved By: Robby Hefton, City Manager

Caption:

CONSENT AGENDA

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

Issue:

D. 1. * RESOLUTION NO. 6193

Finding and Determining a Public Purpose and Public Necessity Exists for Construction of Street Improvements for the East Park Avenue to East Lake Avenue Connector; Appointing an Appraiser and Negotiator as Necessary; Authorizing the City Manager to Establish Just Compensation for the Property Rights to be Acquired; Authorizing the City Manager to Take all Steps Necessary to Acquire the Needed Property Rights in Compliance with All Applicable Laws and Regulations

D. 2. * RESOLUTION NO. 6194

Awarding a Bid to and Authorizing Execution of a Contract with C&M Mowing and Landscaping for the 2017 City Parks and Grounds Finish Mowing Program

D. 3. * RESOLUTION NO. 6195

Awarding a Bid to and Authorizing Execution of a Contract with Weldon's Lawn and Tree, LLC. for the 2017 City Right-of-Way Finish Mowing Program

D. 4. * RESOLUTION NO. 6196

Awarding a Bid to and Authorizing Execution of a Contract with Frazer, Ltd. to Purchase an Ambulance under the FEMA Alternative Project Program

D. 5. * RESOLUTION NO. 6197

Awarding a Bid to and Authorizing Execution of a Contract with Caldwell Country Chevrolet to Purchase a Chevrolet Police Tahoe under the FEMA Alternative Project Program



SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Regular Meeting

D.1.

Meeting Date: 03/06/2017

Prepared By: Clint Philpott, Director of Engineering

Approved By: Robby Hefton, City Manager

Caption:

*** RESOLUTION NO. 6193**

Finding and Determining a Public Purpose and Public Necessity Exists for Construction of Street Improvements for the East Park Avenue to East Lake Avenue Connector; Appointing an Appraiser and Negotiator as Necessary; Authorizing the City Manager to Establish Just Compensation for the Property Rights to be Acquired; Authorizing the City Manager to Take all Steps Necessary to Acquire the Needed Property Rights in Compliance with All Applicable Laws and Regulations

Issue:

To consider granting authority to negotiate for property rights on the City's Right-of-Way Project, East Park Avenue to East Lake Avenue Connector Project and, if necessary, to begin condemnation proceedings

Background:

In Summer of 2015, extreme weather caused the saturation and collapse of a portion of East Lake Avenue. In October 2016, the City Council approved the Engineering Design contract with Brockette/Davis/Drake, Inc. (BDD), which included the engineering design of the extension of East Park Avenue to East Lake Avenue including crossing the floodplain and two railroad lines. This project was previously approved and budgeted. Preliminary contacts with certain property owners have not been successful. It is anticipated that these property owners will not execute right-of-way for this project. To prevent any undue delay in the project, the City Council's authorization to negotiate, make final offers, employ an appraiser and, if necessary, begin condemnation proceedings as required by law is requested.

Origination:

Engineering Department

Financial Consideration:

Property acquisition costs, along with costs for appraisals, surveys, maps and photos

Staff Recommendation:

Staff recommends approval.

Alternatives:

As may be directed by the Council

Attachments

Resolution No. 6193

Location Map

RESOLUTION NO. 6193

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, FINDING AND DETERMINING A PUBLIC PURPOSE AND PUBLIC NECESSITY EXISTS FOR CONSTRUCTION OF STREET IMPROVEMENTS FOR THE EAST PARK AVENUE TO EAST LAKE AVENUE CONNECTOR; APPOINTING AN APPRAISER AND NEGOTIATOR AS NECESSARY; AUTHORIZING THE CITY MANAGER TO ESTABLISH JUST COMPENSATION FOR THE PROPERTY RIGHTS TO BE ACQUIRED; AUTHORIZING THE CITY MANAGER TO TAKE ALL STEPS NECESSARY TO ACQUIRE THE NEEDED PROPERTY RIGHTS IN COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council of the City of Sherman, Texas authorized the employment of Merit Advisors, L.P. for the property appraisal for construction of street improvements for the East Park Avenue to East Lake Avenue Connector; and

WHEREAS, this project was recommended by the City staff in order to provide the necessary road extension construction street improvements for the East Park Avenue to East Lake Avenue Connector Project to serve the City's customers and recommended the acquisition of all necessary property rights; and

WHEREAS, the City Council has considered the Connector Project and has determined that a public purpose and public necessity exists for the acquisition of all necessary and appropriate property rights for the project; and

WHEREAS, the City Council has funded and approved construction of street improvements for the East Park Avenue to East Lake Avenue Connector Project;

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

SECTION 1. That the City Council hereby finds and determines that a public purpose and public necessity exists for the City of Sherman to acquire all necessary and appropriate property rights of this parcel of land deemed necessary to pass through a portion of property and does further determine the public purpose and public necessity of the City of Sherman acquiring said property together with all necessary and appropriate appurtenances, additions and improvements on, over, under and through those certain lots, tracts and parcels of land.

SECTION 2. That the City Manager or his designee is authorized and directed to acquire all appropriate property rights for construction of street improvements for the East Park Avenue to East Lake Avenue Connector Project for the road extension to provide east/west

vehicular travel in the area for the City of Sherman, and to acquire said rights in compliance with State and Federal law. The City Manager, or his designee, is specifically authorized and directed to do each and every act necessary to acquire the needed property rights including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare contracts and, when necessary, to institute proceedings in eminent domain.

SECTION 3. That the City Manager or his designee is hereby appointed as “negotiator” for the acquisition of the property for construction of street improvements for the East Park Avenue to East Lake Avenue Connector Project and, as such, the City Manager or his designee is authorized and directed to do each and every act and deed hereinabove specified or authorized by reference. Subject to the availability of funds appropriated by the City Council for such purposes and with the advice and recommendation of the City Attorney and the City’s appointed appraiser, the City Manager is specifically authorized to establish the just compensation for the acquisition of this property. If the City Manager or his designee determines that an agreement with the property owner(s) as to just compensation cannot be reached, then the City Attorney is hereby authorized and directed to file or cause to be filed, against the owners and interested parties of the property, proceedings in eminent domain to acquire the above stated interest in the property.

SECTION 4. That a qualified appraiser shall be designated the appraiser of the property to be acquired as necessary.

SECTION 5. That the findings of fact, recitations and provisions set out in the preamble of this resolution are adopted and made a part of the body of this resolution, as if the same were fully set forth herein.

SECTION 6. 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 _____, 2017.

CITY OF SHERMAN, TEXAS

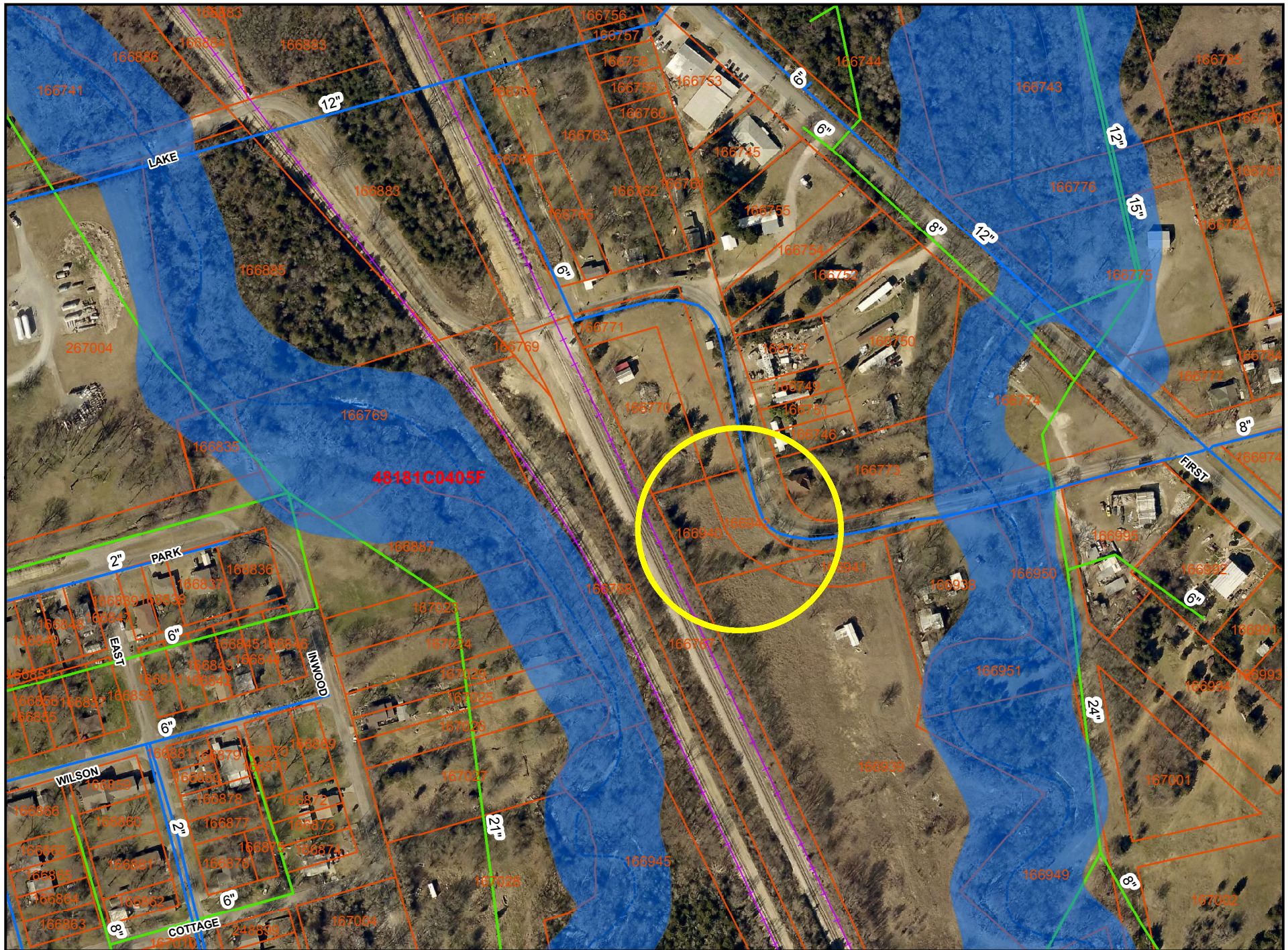
ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
DAVID PLYLER, MAYOR

**APPROVED AS TO FORM
AND CONTENT:**

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



1 inch = 250 feet



SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Regular Meeting

D.2.

Meeting Date: 03/06/2017

Prepared By: Steve Ayers, Director of Public Services

Approved By: Robby Hefton, City Manager

Caption:

*** RESOLUTION NO. 6194**

Awarding a Bid to and Authorizing Execution of a Contract with C&M Mowing and Landscaping for the 2017 City Parks and Grounds Finish Mowing Program

Issue:

To consider awarding a bid to and authorizing execution of a contract with C&M Mowing and Landscaping of Farmersville, Texas, for the annual finish mowing of City Parks and Grounds

Background:

City staff contracts annually for Parks and Grounds finish mowing for various City-owned properties. At the December 19, 2016 regular meeting, the City Council approved a request to advertise for public bids. Six bids were accepted and opened on January 17, 2017. City staff recommends the award and authorization of this contract to the lowest qualified bidder, C&M Mowing and Landscaping of Farmersville, Texas, in the amount of \$34.00/acre. Annual costs are estimated to be \$35,981.00.

Origination:

Parks and Recreation Department

Financial Consideration:

Funds have been budgeted in the 2016-17 Fiscal Year Budget.

Staff Recommendation:

Award the bid and authorize the City Manager to execute a contract with C&M Mowing and Landscaping of Farmersville, Texas.

Alternatives:

As may be recommended by the City Council

Attachments

Resolution No. 6194

Draft Contract

Bid Tabulation - Parks Finish Mowing

RESOLUTION NO. 6194

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH C&M MOWING AND LANDSCAPING FOR THE 2017 CITY PARKS AND GROUNDS FINISH MOWING PROGRAM; 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 C&M Mowing and Landscaping of Farmersville, Texas, is hereby awarded the City of Sherman's 2017 City Parks and Grounds Finish Mowing contract, in accordance with all bid documentation attached hereto and incorporated herein for all purposes.

SECTION 2. That the City Manager is hereby authorized and directed, subject to all contract documents being completed and approved as to form and content by the City Attorney, to execute a contract with C&M Mowing and Landscaping for the City of Sherman's 2017 City Parks and Grounds Finish Mowing Program, in the same or substantially same form as the contract documents to be attached hereto and incorporated herein for all purposes.

SECTION 3. 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 _____, 2017.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
DAVID PLYLER, MAYOR

**APPROVED AS TO FORM
AND CONTENT:**

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



**CITY OF SHERMAN
STANDARD CONTRACT**

This Agreement is made by and between the City of Sherman, Texas, a home-rule municipality, hereinafter referred to as "Buyer", and the hereinafter named SELLER, referred to as the "Seller," for the sale of goods, materials and items specified hereinafter, and the Buyer and Seller hereby agree as follows:

Seller:

C&M Mowing and Landscaping
Name
1231 Willow Ln
Address
Farmersville, Texas 75442
City, State, Zip
(903)819-5351 / (903)815-3923
Telephone
CM.MowingInc@gmail.com
Email

DESCRIPTION OF GOODS

This Contract is for the purchase by the City of Sherman, Texas, of the goods, services, materials and/or items described hereinafter as the "goods" or the subject of this Contract, and such parts, attachments, accessories, devices, and apparatus as may be considered an integral part of the Goods or necessary for the proper use or application of the Goods, whether or not specified herein. The Goods are more specifically described as follows:

City Parks and Grounds Finish Mowing
Services

[CHECK ONE:]

_____ This contract is a "fixed price – fixed quantity" Contract for the purchase of the specified quantity at the specified price. The full quantity of the Goods shall be delivered to and received at the designated point or points of delivery no later than the date specified herein below. This date is a material term and condition of the Contract and, in connection with the delivery date, time is and shall be of the essence.

Date of Delivery

OR

 X This Contract is for a specific duration wherein the Seller will supply, furnish and deliver at the designated point or points of delivery the specified Goods in the quantities requested by Buyer at the time of Buyer's order. The delivery date(s) shall be set forth in Buyer's order. This Contract is not intended to be and shall not be construed as an exclusive requirements contract. This Contract is non-exclusive and Buyer may acquire any or all of its requirements for the specified Goods from Seller or any other source deemed appropriate by Buyer. This Contract may extent for four additional one (1) year periods upon notice of intent to renew being issued in writing by the City within forty-five (45) days prior to Contract expiration date.

March 6, 2017 March 5, 2018

DURATION: From ~~February 6, 2017~~ to ~~February 5, 2018~~

PAYMENT TERMS

The purchase price of the Goods shall be that contained in the Seller's bid and specifically accepted in writing by Buyer. Seller shall submit separate invoices on each purchase order after each delivery. Invoices shall indicate the purchase order number, and shall be itemized. A copy of the packing slip should be attached to the invoice and mailed to the City of Sherman, Finance Department, PO Box 1106, Sherman, TX 75091-1106. Payment shall not be due until the above instruments are submitted, until the Goods have been received by Buyer, and until Buyer has had sufficient opportunity to inspect and exercise its right to accept or reject. Seller shall keep the Finance Department advised of any changes in their remittance addressees. In no event shall Buyer be responsible for interest of any kind on any funds due to Seller, and no term or provision contained in any Seller's invoice shall in any way modify, vary or alter the provisions hereof.

Buyer's obligation is payable solely from funds available for the purpose of the purchase. Lack of funds shall render this contract null and void and to the extent funds are not available, any delivered but unpaid for goods will be returned to Seller by Buyer.

CONTRACT TERMS AND CONDITIONS

This Contract is made and entered into between the parties hereto in accordance with and subject to the following additional terms and conditions:

1. **SELLER TO PACKAGE GOODS:** Seller will package Goods in accordance with good commercial practice. Each shipping container shall be clearly marked and permanently

packed as follows: (a) Seller's name and address; (b) Consignee's name, address, and purchase order number; (c) Container number and total number of containers, e.g. box 1 of 4 boxes; and (d) the number of the container bearing the packing slip. Seller shall bear cost of packing unless otherwise provided. Goods shall be suitably packed to secure lowest transportation costs and to conform to requirement of common carriers and any applicable specifications. Buyer's count or weight shall be final and conclusive on shipment not accompanied by packing lists.

2. **SHIPMENT UNDER RESERVATION PROHIBITED:** Seller is not authorized to ship the Goods under reservation and no tender of a bill of lading will operate as a tender of goods.
3. **TITLE AND RISK OF LOSS:** The title and risk of loss of the Goods shall not pass to the Buyer until the Buyer actually receives and takes possession of the Goods at the point or points of delivery.
4. **DELIVERY TERMS AND TRANSPORTATION CHARGES:** F.O.B. Destination Freight Prepaid unless delivery terms are specified otherwise in the bid; Seller shall pay for the transportation costs.
5. **NO PLACEMENT OF DEFECTIVE TENDER:** Every tender or delivery of Goods must fully comply with all provisions of this contract as to time of delivery, quality and the like. If a tender is made which does not fully conform, this shall constitute a breach and Seller shall not have the right to substitute a conforming tender, provided, where the time for performance has not yet expired, the Seller may reasonably notify Buyer of his intention to cure and may then make a conforming tender within the contract time but not afterward.
6. **PLACE OF DELIVERY:** The place of delivery shall be that set forth on the purchase order or in any other written designation by Buyer. The terms of this agreement are "no arrival, no sale."
7. **RIGHT OF INSPECTION:** Buyer shall have the right to inspect the goods at delivery before accepting them.
8. **REJECTION OF GOODS:** It is agreed that if Buyer rejects any of the goods sold pursuant to this agreement, Buyer's only duty shall be to reasonably notify Seller of the rejection and hold the goods for the disposition of Seller, and it is agreed that under no circumstances shall Buyer be required to resell the rejected goods or incur the cost to deliver same to Seller.
9. **GRATUITIES:** The Buyer may, by written notice to the Seller, cancel this contract without liability to the Seller if it be determined by the Buyer that gratuities, in the form of entertainment, gifts, or otherwise were offered or given by the Seller, or any agent or representative of the Seller, to any officer or employee of City of Sherman with view toward securing the contract or securing favorable treatment with respect to awarding or amending, or the making of any determination with respect to the performing of such a Contract. In the event this Contract is canceled by Buyer pursuant to this provision, Buyer shall be entitled in addition to any other rights and remedies, to recover and withhold the amount of the cost incurred by the Seller in providing such gratuities.

10. **SPECIAL TOOLS AND TEST EQUIPMENT:** If the price stated on the face hereof includes the cost of any special tooling or any special test equipment fabricated or required by Seller for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the Buyer and to the extent feasible shall be identified by the Seller as such.

11. **WARRANTY – PRICE:** The price to be paid by the Buyer shall be that contained in the Seller's bid which Seller warrants to be no higher than Seller's current prices on orders for products of the kind and specification covered by the agreement for similar quantities under similar or like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the Seller's current prices on orders by others, or in the alternative, Buyer may cancel this contract without liability for breach or Seller's actual expense.

The Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. For breach of violation of this warranty, the Buyer shall have the right in addition to any other right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

12. **WARRANTY-PRODUCTS:** Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the Buyer. No such attempts to limit, disclaim or exclude any warranties, whether of fitness, merchantability or otherwise, by Seller shall be binding or effective. Seller warrants that the Goods furnished will conform to the specifications, drawings, and descriptions listed in the bid invitation and to the sample(s) furnished by Seller, if any. In the event of a conflict between the specifications, drawings, and descriptions, the specifications shall govern.

13. **SAFETY WARRANTY:** Seller warrants the product sold to the Buyer shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event that the products do not conform to OSHA standards, Buyer may return the product for correction or replacement at the Seller's expense. In the event that Seller fails to make the appropriate correction within a reasonable time, any correction made by Buyer will be at Seller's expense.

14. **NO WARRANTY BY BUYER AGAINST INFRINGEMENTS:** As part of this contract for sale, Seller agrees to ascertain whether goods manufactured in accordance with the specifications attached to this agreement will give rise to the rightful claim of any third person by way of infringement or the like. Buyer makes no warranty that the production of goods according to the specifications will not give rise to such claim, and in no event shall Buyer be liable to Seller in the event that Seller issued on the grounds of infringement or the like. If Seller is of the opinion that an infringement or the like will result, he will notify Buyer to this effect in writing or the like, within two weeks after the signing of this agreement. If Buyer does not receive notice and a claim is asserted or Buyer is subsequently held liable for the infringement or the like, Seller will indemnify, defend and save Buyer harmless. If Seller in good faith ascertains that production of the goods in accordance with the specifications will result in infringement or the like, this

contract shall be null and void except that Buyer will pay Seller the reasonable cost of his search as to infringements.

15. **CANCELLATION:** Buyer shall have the right to cancel for default on all or any part of the undelivered portion of this order if Seller breaches any of the terms hereof including warranties of Seller or the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any remedies which Buyer may have at law or equity. The Buyer may for any reason whatsoever terminate performance under this Contract by the Seller for convenience at any time. The Buyer shall give notice of such termination to the Seller specifying when termination becomes effective. Goods received but unopened or unused shall be made available to Seller for delivery. Buyer will, in the event of termination, remit such sums to Seller as may be due only for those Goods retained by Buyer.
16. **FORCE MAJEURE:** If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligation under the Agreement, then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after the occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as is effected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereafter provided, but for no longer periods and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

The term "Force Majeure" as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbance, act of public enemy, orders of any kind of government of the United States or State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals, or other causes not reasonably within control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirements that any Force majeure shall be remedied with all reasonable dispatch shall not require the settlements of strikes and lockouts by exceeding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.
17. **ASSIGNMENT – DELEGATION:** No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. An attempted assignment or delegation of Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.
18. **MODIFICATIONS:** This contract can be modified or rescinded only in writing signed by both parties and their duly authorized agents.
19. **WAIVER:** No claim or right arising out of a breach in contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.
20. **INTERPRETATION-PAROL EVIDENCE:** This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive

statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to control.

21. **APPLICABLE LAW:** This agreement shall be governed by the Uniform Commercial Code. Wherever the term "Uniform Commercial Code" is used, it shall be construed as meaning the Uniform Commercial Code as adopted in the State of Texas as effective and in force on the date of this agreement.
22. **ADVERTISING:** Seller shall not advertise or publish, without Buyer's prior written consent, the fact that Buyer has entered into this contract, except to the extent necessary to comply with prior requests for information from an authorized representative of federal, state or local government.
23. **RIGHT TO ASSURANCE:** Whenever one party to this contract in good faith has reason to question the other party's intent to perform he may demand that the other party give written assurance of his intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.
24. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS:** No officer or employee shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, or services, except on behalf of the City as an officer or employee. Any knowing and willful violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the governing body of the City shall render the contract involved voidable by the City Manager or the City Council.
25. **ENTIRE AGREEMENT:** This Contract, and all Specifications and Addenda attached thereto, constitute the entire and exclusive agreement between the Buyer and Seller with reference to the Goods. Specifically, but without limitation, this Contract supersedes any bid documents and all prior written or oral communications, representations and negotiations, if any, between the Buyer and Seller not expressly made a part hereof.

INDEMNITY AND DISCLAIMER: BUYER SHALL NOT BE LIABLE OR RESPONSIBLE FOR, AND SHALL BE INDEMNIFIED, HELD HARMLESS AND RELEASED BY SELLER FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY CHARACTER, TYPE, OR DESCRIPTION, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES FOR INJURY OR DEATH TO ANY PERSON, OR INJURY OR LOSS TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS, INCLUDING THE SELLER, OR PROPERTY, ARISING OUT OF, OR OCCASIONED BY, DIRECTLY OR INDIRECTLY, THE PERFORMANCE OF SELLER UNDER THIS CONTRACT, INCLUDING CLAIMS AND DAMAGES ARISING IN

WHOLE OR IN PART FROM THE NEGLIGENCE OF BUYER, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE BUYER UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION 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. IT IS THE EXPRESSED INTENT OF THE PARTIES TO THIS AGREEMENT THAT THE INDEMNITY PROVIDED FOR IN THIS CONTRACT IS AN INDEMNITY EXTENDED BY SELLER TO INDEMNIFY AND PROTECT BUYER FROM THE CONSEQUENCES OF THE SELLER'S AS WELL AS THE BUYER'S NEGLIGENCE, WHETHER SUCH NEGLIGENCE IS THE SOLE OR PARTIAL CAUSE OF ANY SUCH INJURY, DEATH, OR DAMAGE. IN ADDITION, CONTRACTOR SHALL OBTAIN AND FILE WITH OWNER CITY OF SHERMAN A STANDARD CERTIFICATE OF INSURANCE AND APPLICABLE POLICY ENDORSEMENT EVIDENCING THE REQUIRED COVERAGE AND NAMING THE OWNER CITY OF SHERMAN AS AN ADDITIONAL INSURED ON THE REQUIRED COVERAGE.

26. **GOVERNING LAW:** The Contract shall be governed by the laws of the State of Texas. Venue for any causes of action arising under the terms or provisions of this Contract or the Goods to be delivered hereunder shall be in the courts of Grayson County, Texas.
27. **SUCCESSORS AND ASSIGNS:** The Buyer and Seller bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this Contract. The Seller shall not assign this Contract without written consent of the Buyer.
28. **SEVERABILITY:** The provisions of this Contract are herein declared to be severable; in the event that any term, provision or part hereof is determined to be invalid, void or unenforceable, such determination shall not affect the validity or enforceability of the remaining terms, provisions and parts, and this Contract shall be read as if the invalid, void or unenforceable portion had not been included herein.
29. **NOTICES:** All notices required by this Contract shall be presumed received when deposited in the mail properly addressed to the other party at the address set forth herein or set forth in a written designation of change of address delivered to all parties.

EXCUTED this 13 day of January, 2017.
SELLER:



(Signature)

Kiel Cathey / Co-Owner

(Type/Print Name and Title/Position)

1231 Willow Ln

(Address)

Farmersville, Texas 75442

(City, State, Zip)

CITY OF SHERMAN:

By: _____
Robby Hefton,
City Manager
220 W. Mulberry
Sherman, TX 75090

ATTEST:

By: _____
Linda Ashby,
City Clerk

APPROVED:

Brandon Shelby
City Attorney

CITY OF SHERMAN
BID TABULATION
Requirements for Mowing Services
BID OPENING Tuesday, January 17, 2017; 2:00 PM

Vendor	EXHIBIT A: Parks Finish Mowing (Per Acre Price)	EXHIBIT B: Right-of-Way Finish Mowing (Grand Total for one mow per location)	EXHIBIT C: Right-of-Way Rough Mowing (Grand Total for one mow per location)	NOTES
Perfection Landscape	\$ 47.00	No Bid	No Bid	
C & M Mowing and Landscaping	\$ 34.00	\$ 5,900.00	No Bid	
LSK Landscaping	\$ 45.00	No Bid	No Bid	
Weldon's Lawn and Tree	\$ 48.14	\$ 4,425.00	\$ 11,000.00	
SF Landscaping	\$ 32.50	\$ 3,425.00	\$ 1,955.00	
Glover Mowing & Landscaping	\$ 45.36	\$ 4,849.00	\$ 2,798.00	



SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Regular Meeting

D.3.

Meeting Date: 03/06/2017

Prepared By: Steve Ayers, Director of Public Services

Approved By: Robby Hefton, City Manager

Caption:

*** RESOLUTION NO. 6195**

Awarding a Bid to and Authorizing Execution of a Contract with Weldon's Lawn and Tree, LLC. for the 2017 City Right-of-Way Finish Mowing Program

Issue:

To consider awarding a bid to and authorizing execution of a contract with Weldon's Lawn and Tree, LLC. of Rockwall, Texas, for the annual finish mowing of City right-of-way areas

Background:

City staff contracts annually for right-of-way finish mowing for various City-owned properties. At the December 19, 2016 regular meeting, the City Council approved a request to advertise for public bids.

Four bids were accepted and opened on January 17, 2017. City staff recommends the award and authorization of this contract to the lowest qualified bidder, Weldon's Lawn and Tree, LLC. of Rockwall, Texas, in the amount of \$4,425.00/mowing cycle. Annual costs are estimated to be \$70,800.00.

Origination:

Street Maintenance Department

Financial Consideration:

Funds have been budgeted in the 2016-17 Fiscal Year Budget.

Staff Recommendation:

Award the bid and authorize the City Manager to execute a contract with Weldon's Lawn and Tree, LLC. of Rockwall, Texas.

Alternatives:

As may be recommended by the City Council

Attachments

Resolution No. 6195

Draft Contract

Bid Tabulation - Street Right-of-Way Finish Mowing

RESOLUTION NO. 6195

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH WELDON'S LAWN AND TREE, LLC. FOR THE 2017 CITY RIGHT-OF-WAY FINISH MOWING PROGRAM; 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 Weldon's Lawn and Tree, LLC. of Rockwall, Texas, is hereby awarded the City of Sherman's 2017 City Right-of-Way Finish Mowing contract, in accordance with all bid documentation attached hereto and incorporated herein for all purposes.

SECTION 2. That the City Manager is hereby authorized and directed, subject to all contract documents being completed and approved as to form and content by the City Attorney, to execute a contract with Weldon's Lawn and Tree, LLC. for the City of Sherman's 2017 City Right-of-Way Finish Mowing Program, in the same or substantially same form as the contract documents to be attached hereto and incorporated herein for all purposes.

SECTION 3. 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 _____, 2017.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
DAVID PLYLER, MAYOR

**APPROVED AS TO FORM
AND CONTENT:**

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



**CITY OF SHERMAN
STANDARD CONTRACT**

This Agreement is made by and between the City of Sherman, Texas, a home-rule municipality, hereinafter referred to as "Buyer", and the hereinafter named SELLER, referred to as the "Seller," for the sale of goods, materials and items specified hereinafter, and the Buyer and Seller hereby agree as follows:

Seller:

Weldon's Lawn and Tree LLC
Name

2460 Shorecrest
Address

Rockwall, TX 75087
City, State, Zip

972-979-8902
Telephone

weltonsawnandtree@exede.net
Email

DESCRIPTION OF GOODS

This Contract is for the purchase by the City of Sherman, Texas, of the goods, services, materials and/or items described hereinafter as the "goods" or the subject of this Contract, and such parts, attachments, accessories, devices, and apparatus as may be considered an integral part of the Goods or necessary for the proper use or application of the Goods, whether or not specified herein. The Goods are more specifically described as follows:

City Right of Way Finish Mowing

[CHECK ONE:]

_____ This contract is a "fixed price – fixed quantity" Contract for the purchase of the specified quantity at the specified price. The full quantity of the Goods shall be delivered to and received at the designated point or points of delivery no later than the date specified herein below. This date is a material term and condition of the Contract and, in connection with the delivery date, time is and shall be of the essence.

Date of Delivery

OR

 X This Contract is for a specific duration wherein the Seller will supply, furnish and deliver at the designated point or points of delivery the specified Goods in the quantities requested by Buyer at the time of Buyer's order. The delivery date(s) shall be set forth in Buyer's order. This Contract is not intended to be and shall not be construed as an exclusive requirements contract. This Contract is non-exclusive and Buyer may acquire any or all of its requirements for the specified Goods from Seller or any other source deemed appropriate by Buyer. This Contract may extent for four additional one (1) year periods upon notice of intent to renew being issued in writing by the City within forty-five (45) days prior to Contract expiration date.

March 6, 2017 March 5, 2018

DURATION: From February 6, 2017 to February 5, 2018

PAYMENT TERMS

The purchase price of the Goods shall be that contained in the Seller's bid and specifically accepted in writing by Buyer. Seller shall submit separate invoices on each purchase order after each delivery. Invoices shall indicate the purchase order number, and shall be itemized. A copy of the packing slip should be attached to the invoice and mailed to the City of Sherman, Finance Department, PO Box 1106, Sherman, TX 75091-1106. Payment shall not be due until the above instruments are submitted, until the Goods have been received by Buyer, and until Buyer has had sufficient opportunity to inspect and exercise its right to accept or reject. Seller shall keep the Finance Department advised of any changes in their remittance addressees. In no event shall Buyer be responsible for interest of any kind on any funds due to Seller, and no term or provision contained in any Seller's invoice shall in any way modify, vary or alter the provisions hereof.

Buyer's obligation is payable solely from funds available for the purpose of the purchase. Lack of funds shall render this contract null and void and to the extent funds are not available, any delivered but unpaid for goods will be returned to Seller by Buyer.

CONTRACT TERMS AND CONDITIONS

This Contract is made and entered into between the parties hereto in accordance with and subject to the following additional terms and conditions:

1. **SELLER TO PACKAGE GOODS:** Seller will package Goods in accordance with good commercial practice. Each shipping container shall be clearly marked and permanently

packed as follows: (a) Seller's name and address; (b) Consignee's name, address, and purchase order number; (c) Container number and total number of containers, e.g. box 1 of 4 boxes; and (d) the number of the container bearing the packing slip. Seller shall bear cost of packing unless otherwise provided. Goods shall be suitably packed to secure lowest transportation costs and to conform to requirement of common carriers and any applicable specifications. Buyer's count or weight shall be final and conclusive on shipment not accompanied by packing lists.

2. **SHIPMENT UNDER RESERVATION PROHIBITED:** Seller is not authorized to ship the Goods under reservation and no tender of a bill of lading will operate as a tender of goods.
3. **TITLE AND RISK OF LOSS:** The title and risk of loss of the Goods shall not pass to the Buyer until the Buyer actually receives and takes possession of the Goods at the point or points of delivery.
4. **DELIVERY TERMS AND TRANSPORTATION CHARGES:** F.O.B. Destination Freight Prepaid unless delivery terms are specified otherwise in the bid; Seller shall pay for the transportation costs.
5. **NO PLACEMENT OF DEFECTIVE TENDER:** Every tender or delivery of Goods must fully comply with all provisions of this contract as to time of delivery, quality and the like. If a tender is made which does not fully conform, this shall constitute a breach and Seller shall not have the right to substitute a conforming tender, provided, where the time for performance has not yet expired, the Seller may reasonably notify Buyer of his intention to cure and may then make a conforming tender within the contract time but not afterward.
6. **PLACE OF DELIVERY:** The place of delivery shall be that set forth on the purchase order or in any other written designation by Buyer. The terms of this agreement are "no arrival, no sale."
7. **RIGHT OF INSPECTION:** Buyer shall have the right to inspect the goods at delivery before accepting them.
8. **REJECTION OF GOODS:** It is agreed that if Buyer rejects any of the goods sold pursuant to this agreement, Buyer's only duty shall be to reasonably notify Seller of the rejection and hold the goods for the disposition of Seller, and it is agreed that under no circumstances shall Buyer be required to resell the rejected goods or incur the cost to deliver same to Seller.
9. **GRATUITIES:** The Buyer may, by written notice to the Seller, cancel this contract without liability to the Seller if it be determined by the Buyer that gratuities, in the form of entertainment, gifts, or otherwise were offered or given by the Seller, or any agent or representative of the Seller, to any officer or employee of City of Sherman with view toward securing the contract or securing favorable treatment with respect to awarding or amending, or the making of any determination with respect to the performing of such a Contract. In the event this Contract is canceled by Buyer pursuant to this provision, Buyer shall be entitled in addition to any other rights and remedies, to recover and withhold the amount of the cost incurred by the Seller in providing such gratuities.

10. **SPECIAL TOOLS AND TEST EQUIPMENT:** If the price stated on the face hereof includes the cost of any special tooling or any special test equipment fabricated or required by Seller for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the Buyer and to the extent feasible shall be identified by the Seller as such.

11. **WARRANTY – PRICE:** The price to be paid by the Buyer shall be that contained in the Seller's bid which Seller warrants to be no higher than Seller's current prices on orders for products of the kind and specification covered by the agreement for similar quantities under similar or like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the Seller's current prices on orders by others, or in the alternative, Buyer may cancel this contract without liability for breach or Seller's actual expense.

The Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. For breach of violation of this warranty, the Buyer shall have the right in addition to any other right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

12. **WARRANTY-PRODUCTS:** Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the Buyer. No such attempts to limit, disclaim or exclude any warranties, whether of fitness, merchantability or otherwise, by Seller shall be binding or effective. Seller warrants that the Goods furnished will conform to the specifications, drawings, and descriptions listed in the bid invitation and to the sample(s) furnished by Seller, if any. In the event of a conflict between the specifications, drawings, and descriptions, the specifications shall govern.

13. **SAFETY WARRANTY:** Seller warrants the product sold to the Buyer shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event that the products do not conform to OSHA standards, Buyer may return the product for correction or replacement at the Seller's expense. In the event that Seller fails to make the appropriate correction within a reasonable time, any correction made by Buyer will be at Seller's expense.

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contract shall be null and void except that Buyer will pay Seller the reasonable cost of his search as to infringements.

15. **CANCELLATION:** Buyer shall have the right to cancel for default on all or any part of the undelivered portion of this order if Seller breaches any of the terms hereof including warranties of Seller or the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any remedies which Buyer may have at law or equity. The Buyer may for any reason whatsoever terminate performance under this Contract by the Seller for convenience at any time. The Buyer shall give notice of such termination to the Seller specifying when termination becomes effective. Goods received but unopened or unused shall be made available to Seller for delivery. Buyer will, in the event of termination, remit such sums to Seller as may be due only for those Goods retained by Buyer.

16. **FORCE MAJEURE:** If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligation under the Agreement, then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after the occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as is effected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereafter provided, but for no longer periods and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

The term "Force Majeure" as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbance, act of public enemy, orders of any kind of government of the United States or State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals, or other causes not reasonably within control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirements that any Force majeure shall be remedied with all reasonable dispatch shall not require the settlements of strikes and lockouts by exceeding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.

17. **ASSIGNMENT – DELEGATION:** No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. An attempted assignment or delegation of Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

18. **MODIFICATIONS:** This contract can be modified or rescinded only in writing signed by both parties and their duly authorized agents.

19. **WAIVER:** No claim or right arising out of a breach in contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.

20. **INTERPRETATION-PAROL EVIDENCE:** This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive

statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to control.

21. **APPLICABLE LAW:** This agreement shall be governed by the Uniform Commercial Code. Wherever the term "Uniform Commercial Code" is used, it shall be construed as meaning the Uniform Commercial Code as adopted in the State of Texas as effective and in force on the date of this agreement.
22. **ADVERTISING:** Seller shall not advertise or publish, without Buyer's prior written consent, the fact that Buyer has entered into this contract, except to the extent necessary to comply with prior requests for information from an authorized representative of federal, state or local government.
23. **RIGHT TO ASSURANCE:** Whenever one party to this contract in good faith has reason to question the other party's intent to perform he may demand that the other party give written assurance of his intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.
24. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS:** No officer or employee shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, or services, except on behalf of the City as an officer or employee. Any knowing and willful violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the governing body of the City shall render the contract involved voidable by the City Manager or the City Council.
25. **ENTIRE AGREEMENT:** This Contract, and all Specifications and Addenda attached thereto, constitute the entire and exclusive agreement between the Buyer and Seller with reference to the Goods. Specifically, but without limitation, this Contract supersedes any bid documents and all prior written or oral communications, representations and negotiations, if any, between the Buyer and Seller not expressly made a part hereof.

INDEMNITY AND DISCLAIMER: BUYER SHALL NOT BE LIABLE OR RESPONSIBLE FOR, AND SHALL BE INDEMNIFIED, HELD HARMLESS AND RELEASED BY SELLER FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY CHARACTER, TYPE, OR DESCRIPTION, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES FOR INJURY OR DEATH TO ANY PERSON, OR INJURY OR LOSS TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS, INCLUDING THE SELLER, OR PROPERTY, ARISING OUT OF, OR OCCASIONED BY, DIRECTLY OR INDIRECTLY, THE PERFORMANCE OF SELLER UNDER THIS CONTRACT, INCLUDING CLAIMS AND DAMAGES ARISING IN

WHOLE OR IN PART FROM THE NEGLIGENCE OF BUYER, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE BUYER UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION 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. IT IS THE EXPRESSED INTENT OF THE PARTIES TO THIS AGREEMENT THAT THE INDEMNITY PROVIDED FOR IN THIS CONTRACT IS AN INDEMNITY EXTENDED BY SELLER TO INDEMNIFY AND PROTECT BUYER FROM THE CONSEQUENCES OF THE SELLER'S AS WELL AS THE BUYER'S NEGLIGENCE, WHETHER SUCH NEGLIGENCE IS THE SOLE OR PARTIAL CAUSE OF ANY SUCH INJURY, DEATH, OR DAMAGE. IN ADDITION, CONTRACTOR SHALL OBTAIN AND FILE WITH OWNER CITY OF SHERMAN A STANDARD CERTIFICATE OF INSURANCE AND APPLICABLE POLICY ENDORSEMENT EVIDENCING THE REQUIRED COVERAGE AND NAMING THE OWNER CITY OF SHERMAN AS AN ADDITIONAL INSURED ON THE REQUIRED COVERAGE.

26. **GOVERNING LAW:** The Contract shall be governed by the laws of the State of Texas. Venue for any causes of action arising under the terms or provisions of this Contract or the Goods to be delivered hereunder shall be in the courts of Grayson County, Texas.
27. **SUCCESSORS AND ASSIGNS:** The Buyer and Seller bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this Contract. The Seller shall not assign this Contract without written consent of the Buyer.
28. **SEVERABILITY:** The provisions of this Contract are herein declared to be severable; in the event that any term, provision or part hereof is determined to be invalid, void or unenforceable, such determination shall not affect the validity or enforceability of the remaining terms, provisions and parts, and this Contract shall be read as if the invalid, void or unenforceable portion had not been included herein.
29. **NOTICES:** All notices required by this Contract shall be presumed received when deposited in the mail properly addressed to the other party at the address set forth herein or set forth in a written designation of change of address delivered to all parties.

EXECUTED this _____ day of _____, _____.

SELLER:

Brandon Weldon
(Signature)

Brandon Weldon General Manager
(Type/Print Name and Title/Position)

2460 Shorecrest Dr
(Address)

Rockwall, TX 75087
(City, State, Zip)

CITY OF SHERMAN:

By: _____
Robby Hefton,
City Manager
220 W. Mulberry
Sherman, TX 75090

ATTEST:

By: _____
Linda Ashby,
City Clerk

APPROVED:

Brandon Shelby
City Attorney

CITY OF SHERMAN
 BID TABULATION
 Requirements for Mowing Services
 BID OPENING Tuesday, January 17, 2017; 2:00 PM

Vendor	EXHIBIT A: Parks Finish Mowing (Per Acre Price)	EXHIBIT B: Right-of-Way Finish Mowing (Grand Total for one mow per location)	EXHIBIT C: Right-of-Way Rough Mowing (Grand Total for one mow per location)	NOTES
Perfection Landscape	\$ 47.00	No Bid	No Bid	
C & M Mowing and Landscaping	\$ 34.00	\$ 5,900.00	No Bid	
LSK Landscaping	\$ 45.00	No Bid	No Bid	
Weldon's Lawn and Tree	\$ 48.14	\$ 4,425.00	\$ 11,000.00	
SF Landscaping	\$ 32.50	\$ 3,425.00	\$ 1,955.00	
Glover Mowing & Landscaping	\$ 45.36	\$ 4,849.00	\$ 2,798.00	



SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Regular Meeting

D.4.

Meeting Date: 03/06/2017

Prepared By: Danny Jones, Fire Chief

Approved By: Robby Hefton, City Manager

Caption:

*** RESOLUTION NO. 6196**

Awarding a Bid to and Authorizing Execution of a Contract with Frazer, Ltd. to Purchase an Ambulance under the FEMA Alternative Project Program

Issue:

To consider awarding a bid to and authorizing execution of a contract with Frazer, Ltd. of Houston, Texas, for the purchase of a new ambulance under the FEMA Alternative Project Program

Background:

At a regularly scheduled meeting on January 16, 2017, the City Council authorized staff to advertise for the purchase of a new ambulance under the FEMA Alternative Project Program. Public bids were accepted and opened on February 28, 2017, resulting in two bids received. City staff recommends the award and authorization of this contract to Frazer, Ltd. of Houston, Texas, in the amount of \$214,925.00.

Origination:

Fire Department

Financial Consideration:

Under the FEMA Alternative Project Program, the City of Sherman is required to contribute approximately twenty-five (25) percent in matching funds.

Staff Recommendation:

Award the bid and authorize the City Manager to execute a contract with Frazer, Ltd. of Houston, Texas.

Alternatives:

As may be recommended by the City Council

Attachments

Resolution No. 6196

Contract

Bid Tabulation - Ambulance

RESOLUTION NO. 6196

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH FRAZER, LTD. TO PURCHASE AN AMBULANCE UNDER THE FEMA ALTERNATIVE PROJECT PROGRAM; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the City Manager be and is hereby authorized and directed to purchase from Frazer, Ltd. of Houston, Texas, a 2017 Dodge Ram 4500 6.7 Liter Diesel Chassis Ambulance under the FEMA Alternative Project Program for the Sherman Fire Department at the total purchase price of Two Hundred Fourteen Thousand, Nine Hundred Twenty-Five Dollars and Zero Cents (\$214,925.00), in accordance with the provisions of the contract attached hereto and made a part hereof for all purposes. Any agreements related to the purchase must be approved by the City Attorney. Funds for this purchase are being committed out of the City of Sherman's fiscal year 2016-2017 budget.

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

PASSED AND APPROVED on this the ____ day of _____, 2017.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
DAVID PLYLER, MAYOR

**APPROVED AS TO FORM
AND CONTENT:**

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



**CITY OF SHERMAN
STANDARD CONTRACT**

This Agreement is made by and between the City of Sherman, Texas, a home-rule municipality, hereinafter referred to as "Buyer", and the hereinafter named SELLER, referred to as the "Seller," for the sale of goods, materials and items specified hereinafter, and the Buyer and Seller hereby agree as follows:

Seller:

Frazer, Ltd.

Name

7219 Rampart

Address

Houston, TX 77081

City, State, Zip

713-772-5511

Telephone

sales@Frazerbilt.com

Email

DESCRIPTION OF GOODS

This Contract is for the purchase by the City of Sherman, Texas, of the goods, materials and items described hereinafter as the "goods" or the subject of this Contract, and such parts, attachments, accessories, devices, and apparatus as may be considered an integral part of the Goods or necessary for the proper use or application of the Goods, whether or not specified herein. The Goods are more specifically described as follows:

**Frazer Type I 12'4" taller Generator Power Module on 2017 Dodge Ram 4500 6.7: diesel
chassis 84"CA w/ aluminum wheels (order red) per bid specifications**

[CHECK ONE:]

 X This contract is a "fixed price – fixed quantity" Contract for the purchase of the specified quantity at the specified price. The full quantity of the Goods shall be delivered to and received at the designated point or points of delivery no later than the date specified herein below. This date is a material term and condition of the Contract and, in connection with the delivery date, time is and shall be of the essence.

180 to 210 days from receipt of purchase order

Estimated Date of Delivery

OR

 This Contract is for a specific duration wherein the Seller will supply, furnish and deliver at the designated point or points of delivery the specified Goods in the quantities requested by Buyer at the time of Buyer's order. The delivery date(s) shall be set forth in Buyer's order. This Contract is not intended to be and shall not be construed as an exclusive requirements contract. This Contract is non-exclusive and Buyer may acquire any or all of its requirements for the specified Goods from Seller or any other source deemed appropriate by Buyer.

DURATION: NOT APPLICABLE TO THIS BID

PAYMENT TERMS

The purchase price of the Goods shall be that contained in the Seller's bid and specifically accepted in writing by Buyer. Seller shall submit separate invoices on each purchase order after each delivery. Invoices shall indicate the purchase order number, and shall be itemized. A copy of the packing slip should be attached to the invoice. Mail to the City of Sherman, Finance Department, PO Box 1106, Sherman, TX 75091-1106. Payment shall not be due until the above instruments are submitted, until the Goods have been received by Buyer, and until Buyer has had sufficient opportunity to inspect and exercise its right to accept or reject. Seller shall keep the Finance Department advised of any changes in their remittance addressees. In no event shall Buyer be responsible for interest of any kind on any funds due to Seller, and no term or provision contained in any Seller's invoice shall in any way modify, vary or alter the provisions hereof.

Buyer's obligation is payable solely from funds available for the purpose of the purchase. Lack of funds shall render this contract null and void and to the extent funds are not available, any delivered but unpaid for goods will be returned to Seller by Buyer.

CONTRACT TERMS AND CONDITIONS

This Contract is made and entered into between the parties hereto in accordance with and subject to the following additional terms and conditions:

1. **SELLER TO PACKAGE GOODS:** Seller will package Goods in accordance with good commercial practice. Each shipping container shall be clearly marked and permanently packed as follows: (a) Seller's name and address; (b) Consignee's name, address, and purchase order number; (c) Container number and total number of containers, e.g. box 1 of 4 boxes; and (d) the number of the container bearing the packing slip. Seller shall bear cost of packing unless otherwise provided. Goods shall be suitably packed to secure lowest transportation costs and to conform to requirement of common carriers and any applicable specifications. Buyer's count or weight shall be final and conclusive on shipment not accompanied by packing lists.

2. **SHIPMENT UNDER RESERVATION PROHIBITED:** Seller is not authorized to ship the Goods under reservation and no tender of a bill of lading will operate as a tender of goods.
3. **TITLE AND RISK OF LOSS:** The title and risk of loss of the Goods shall not pass to the Buyer until the Buyer actually receives and takes possession of the Goods at the point or points of delivery.
4. **DELIVERY TERMS AND TRANSPORTATION CHARGES:** F.O.B. Destination Freight Prepaid unless delivery terms are specified otherwise in the bid; Seller shall pay for the transportation costs.
5. **NO PLACEMENT OF DEFECTIVE TENDER:** Every tender or delivery of Goods must fully comply with all provisions of this contract as to time of delivery, quality and the like. If a tender is made which does not fully conform, this shall constitute a breach and Seller shall not have the right to substitute a conforming tender, provided, where the time for performance has not yet expired, the Seller may reasonably notify Buyer of his intention to cure and may then make a conforming tender within the contract time but not afterward.
6. **PLACE OF DELIVERY:** The place of delivery shall be that set forth on the purchase order or in any other written designation by Buyer. The terms of this agreement are "no arrival, no sale."
7. **RIGHT OF INSPECTION:** Buyer shall have the right to inspect the goods at delivery before accepting them.
8. **REJECTION OF GOODS:** It is agreed that if Buyer rejects any of the goods sold pursuant to this agreement, Buyer's only duty shall be to reasonably notify Seller of the rejection and hold the goods for the disposition of Seller, and it is agreed that under no circumstances shall Buyer be required to resell the rejected goods or incur the cost to deliver same to Seller.
9. **GRATUITIES:** The Buyer may, by written notice to the Seller, cancel this contract without liability to the Seller if it be determined by the Buyer that gratuities, in the form of entertainment, gifts, or otherwise were offered or given by the Seller, or any agent or representative of the Seller, to any officer or employee of City of Sherman with view toward securing the contract or securing favorable treatment with respect to awarding or amending, or the making of any determination with respect to the performing of such a Contract. In the event this Contract is canceled by Buyer pursuant to this provision, Buyer shall be entitled in addition to any other rights and remedies, to recover and withhold the amount of the cost incurred by the Seller in providing such gratuities.
10. **SPECIAL TOOLS AND TEST EQUIPMENT:** If the price stated on the face hereof includes the cost of any special tooling or any special test equipment fabricated or required by Seller for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the Buyer and to the extent feasible shall be identified by the Seller as such.

11. WARRANTY – PRICE:

- a. The price to be paid by the Buyer shall be that contained in the Seller's bid which Seller warrants to be no higher than Seller's current prices on orders for products of the kind and specification covered by the agreement for similar quantities under similar or like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the Seller's current prices on orders by others, or in the alternative, Buyer may cancel this contract without liability for breach or Seller's actual expense.
- b. The Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. For breach of violation of this warranty, the Buyer shall have the right in addition to any other right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

12. WARRANTY-PRODUCTS: Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the Buyer. No such attempts to limit, disclaim or exclude any warranties, whether of fitness, merchantability or otherwise, by Seller shall be binding or effective. Seller warrants that the Goods furnished will conform to the specifications, drawings, and descriptions listed in the bid invitation and to the sample(s) furnished by Seller, if any. In the event of a conflict between the specifications, drawings, and descriptions, the specifications shall govern.

13. SAFETY WARRANTY: Seller warrants the product sold to the Buyer shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event that the products do not conform to OSHA standards, Buyer may return the product for correction or replacement at the Seller's expense. In the event that Seller fails to make the appropriate correction within a reasonable time, any correction made by Buyer will be at Seller's expense.

14. NO WARRANTY BY BUYER AGAINST INFRINGEMENTS: As part of this contract for sale, Seller agrees to ascertain whether goods manufactured in accordance with the specifications attached to this agreement will give rise to the rightful claim of any third person by way of infringement or the like. Buyer makes no warranty that the production of goods according to the specifications will not give rise to such claim, and in no event shall Buyer be liable to Seller in the event that Seller issued on the grounds of infringement or the like. If Seller is of the opinion that an infringement or the like will result, he will notify Buyer to this effect in writing or the like, within two weeks after the signing of this agreement. If Buyer does not receive notice and a claim is asserted or Buyer is subsequently held liable for the infringement or the like, Seller will indemnify, defend and save Buyer harmless. If Seller in good faith ascertains that production of the

goods in accordance with the specifications will result in infringement or the like, this contract shall be null and void except that Buyer will pay Seller the reasonable cost of his search as to infringements.

15. **CANCELLATION:** Buyer shall have the right to cancel for default on all or any part of the undelivered portion of this order if Seller breaches any of the terms hereof including warranties of Seller or the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any remedies which Buyer may have at law or equity. The Buyer may for any reason whatsoever terminate performance under this Contract by the Seller for convenience at any time. The Buyer shall give notice of such termination to the Seller specifying when termination becomes effective. Goods received but unopened or unused shall be made available to Seller for delivery. Buyer will, in the event of termination, remit such sums to Seller as may be due only for those Goods retained by Buyer.

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The term "Force Majeure" as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbance, act of public enemy, orders of any kind of government of the United States or State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals, or other causes not reasonably within control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirements that any Force majeure shall be remedied with all reasonable dispatch shall not require the settlements of strikes and lockouts by exceeding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.

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18. **MODIFICATIONS:** This contract can be modified or rescinded only in writing signed by both parties and their duly authorized agents.

19. **WAIVER:** No claim or right arising out of a breach in contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or

renunciation is supported by consideration and is in writing signed by the aggrieved party.

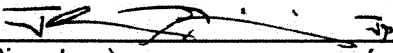
20. **INTERPRETATION-PAROL EVIDENCE:** This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to control.
21. **APPLICABLE LAW:** This agreement shall be governed by the Uniform Commercial Code. Wherever the term "Uniform Commercial Code" is used, it shall be construed as meaning the Uniform Commercial Code as adopted in the State of Texas as effective and in force on the date of this agreement.
22. **ADVERTISING:** Seller shall not advertise or publish, without Buyer's prior written consent, the fact that Buyer has entered into this contract, except to the extent necessary to comply with prior requests for information from an authorized representative of federal, state or local government.
23. **RIGHT TO ASSURANCE:** Whenever one party to this contract in good faith has reason to question the other party's intent to perform he may demand that the other party give written assurance of his intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.
24. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS:** No officer or employee shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, or services, except on behalf of the City as an officer or employee. Any knowing and willful violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the governing body of the City shall render the contract involved voidable by the City Manager or the City Council.
25. **ENTIRE AGREEMENT:** This Contract, and all Specifications and Addenda attached thereto, constitute the entire and exclusive agreement between the Buyer and Seller with reference to the Goods. Specifically, but without limitation, this Contract supersedes any bid documents and all prior written or oral communications, representations and negotiations, if any, between the Buyer and Seller not expressly made a part hereof.

26. **INDEMNITY AND DISCLAIMER:** BUYER SHALL NOT BE LIABLE OR RESPONSIBLE FOR, AND SHALL BE INDEMNIFIED, HELD HARMLESS AND RELEASED BY SELLER FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY CHARACTER, TYPE, OR DESCRIPTION, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES FOR INJURY OR DEATH TO ANY PERSON, OR INJURY OR LOSS TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS, INCLUDING THE SELLER, OR PROPERTY, ARISING OUT OF, OR OCCASIONED BY, DIRECTLY OR INDIRECTLY, THE PERFORMANCE OF SELLER UNDER THIS CONTRACT, INCLUDING CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF BUYER, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE BUYER UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION 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. IT IS THE EXPRESSED INTENT OF THE PARTIES TO THIS AGREEMENT THAT THE INDEMNITY PROVIDED FOR IN THIS CONTRACT IS AN INDEMNITY EXTENDED BY SELLER TO INDEMNIFY AND PROTECT BUYER FROM THE CONSEQUENCES OF THE SELLER'S AS WELL AS THE BUYER'S NEGLIGENCE, WHETHER SUCH NEGLIGENCE IS THE SOLE OR PARTIAL CAUSE OF ANY SUCH INJURY, DEATH, OR DAMAGE. IN ADDITION, CONTRACTOR SHALL OBTAIN AND FILE WITH OWNER CITY OF SHERMAN A STANDARD CERTIFICATE OF INSURANCE AND APPLICABLE POLICY ENDORSEMENT EVIDENCING THE REQUIRED COVERAGE AND NAMING THE OWNER CITY OF SHERMAN AS AN ADDITIONAL INSURED ON THE REQUIRED COVERAGE.
27. **GOVERNING LAW:** The Contract shall be governed by the laws of the State of Texas. Venue for any causes of action arising under the terms or provisions of this Contract or the Goods to be delivered hereunder shall be in the courts of Grayson County, Texas.
28. **SUCCESSORS AND ASSIGNS:** The Buyer and Seller bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this Contract. The Seller shall not assign this Contract without written consent of the Buyer.
29. **SEVERABILITY:** The provisions of this Contract are herein declared to be severable; in the event that any term, provision or part hereof is determined to be invalid, void or unenforceable, such determination shall not affect the validity or enforceability of the remaining terms, provisions and parts, and this Contract shall be read as if the invalid, void or unenforceable portion had not been included herein.

30. **NOTICES:** All notices required by this Contract shall be presumed received when deposited in the mail properly addressed to the other party at the address set forth herein or set forth in a written designation of change of address delivered to all parties.

EXECUTED this 27th day of February, 2017.

SELLER:


(Signature)

John Griffin, Jr. Partner/MIS Manager
(Type/Print Name and Title/Position)

7219 Rampart
(Address)

Houston, TX 77081
(City, State, Zip)

CITY OF SHERMAN:

By: _____
Robby Hefton,
City Manager
220 W. Mulberry
Sherman, TX 75090

ATTEST:

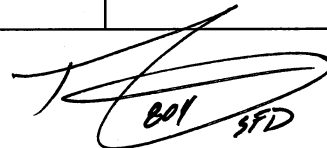
By: _____
Linda Ashby,
City Clerk

APPROVED:

Brandon Shelby
City Attorney

CITY OF SHERMAN
 BID TABULATION
 Requirements for Fire Dept. Ambulance Purchase
 BID OPENING Tuesday, February 28, 2017; 2:00 PM

Vendor	TOTAL BID PRICE	NOTES
Siddons - Martin Emergency Group	No Bid at this time	" Letter of No Bid only "
FIAZER LTD	214,925 ⁰⁰	With WAIVER and Insurance statements


 BOY SFD



SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Regular Meeting

D.5.

Meeting Date: 03/06/2017

Prepared By: Zachary Flores, Police Chief

Approved By: Robby Hefton, City Manager

Caption:

*** RESOLUTION NO. 6197**

Awarding a Bid to and Authorizing Execution of a Contract with Caldwell Country Chevrolet to Purchase a Chevrolet Police Tahoe under the FEMA Alternative Project Program

Issue:

To consider awarding a bid to and authorizing execution of a contract with Caldwell Country Chevrolet of Caldwell, Texas, for the purchase of a new patrol Tahoe under the FEMA Alternative Project Program

Background:

At a regularly scheduled meeting on January 16, 2017, the City Council authorized staff to advertise for the purchase of a new patrol Tahoe under the FEMA Alternative Project Program. Public bids were accepted and opened on February 28, 2017, resulting in one bid received. City staff recommends the award and authorization of this contract to Caldwell Country Chevrolet of Caldwell, Texas, in the amount of \$30,889.00.

Origination:

Police Department

Financial Consideration:

Under the FEMA Alternative Project Program, the City of Sherman is required to contribute approximately twenty-five (25) percent in matching funds.

Staff Recommendation:

Award the bid and authorize the City Manager to execute a contract with Caldwell Country Chevrolet of Caldwell, Texas.

Alternatives:

As may be recommended by the City Council

Attachments

Resolution No. 6197

Contract

Bid Tabulation - Patrol Tahoe

RESOLUTION NO. 6197

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AWARDING A BID TO AND AUTHORIZING EXECUTION OF A CONTRACT WITH CALDWELL COUNTRY CHEVROLET TO PURCHASE A CHEVROLET POLICE TAHOE UNDER THE FEMA ALTERNATIVE PROJECT PROGRAM; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

SECTION 1. That the City Manager be and is hereby authorized and directed to purchase from Caldwell Country Chevrolet of Caldwell, Texas, a 2017 Chevrolet Police Tahoe under the FEMA Alternative Project Program for the Sherman Police Department at the total purchase price of Thirty Thousand, Eight Hundred Eighty-Nine Dollars and Zero Cents (\$30,889.00), in accordance with the provisions of the contract attached hereto and made a part hereof for all purposes. Any agreements related to the purchase must be approved by the City Attorney. Funds for this purchase are being committed out of the City of Sherman's fiscal year 2016-2017 budget.

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

PASSED AND APPROVED on this the ____ day of _____, 2017.

CITY OF SHERMAN, TEXAS

ATTEST:

BY: _____
LINDA ASHBY, CITY CLERK

BY: _____
DAVID PLYLER, MAYOR

**APPROVED AS TO FORM
AND CONTENT:**

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



**CITY OF SHERMAN
STANDARD CONTRACT**

This Agreement is made by and between the City of Sherman, Texas, a home-rule municipality, hereinafter referred to as "Buyer", and the hereinafter named SELLER, referred to as the "Seller," for the sale of goods, materials and items specified hereinafter, and the Buyer and Seller hereby agree as follows:

Seller:

Caldwell Country Chevrolet

Name

PO Box 27

Address

Caldwell, TX 77036

City, State, Zip

979-567-6116

Telephone

aknapp@caldwellcountry.com

Email

DESCRIPTION OF GOODS

This Contract is for the purchase by the City of Sherman, Texas, of the goods, materials and items described hereinafter as the "goods" or the subject of this Contract, and such parts, attachments, accessories, devices, and apparatus as may be considered an integral part of the Goods or necessary for the proper use or application of the Goods, whether or not specified herein. The Goods are more specifically described as follows:

Chevrolet police Tahoe

[CHECK ONE:]

 X This contract is a "fixed price – fixed quantity" Contract for the purchase of the specified quantity at the specified price. The full quantity of the Goods shall be delivered to and received at the designated point or points of delivery no later than the date specified herein below. This date is a material term and condition of the Contract and, in connection with the delivery date, time is and shall be of the essence.

60-90 days
Estimated Date of Delivery

OR

 This Contract is for a specific duration wherein the Seller will supply, furnish and deliver at the designated point or points of delivery the specified Goods in the quantities requested by Buyer at the time of Buyer's order. The delivery date(s) shall be set forth in Buyer's order. This Contract is not intended to be and shall not be construed as an exclusive requirements contract. This Contract is non-exclusive and Buyer may acquire any or all of its requirements for the specified Goods from Seller or any other source deemed appropriate by Buyer.

DURATION: NOT APPLICABLE TO THIS BID

PAYMENT TERMS

The purchase price of the Goods shall be that contained in the Seller's bid and specifically accepted in writing by Buyer. Seller shall submit separate invoices on each purchase order after each delivery. Invoices shall indicate the purchase order number, and shall be itemized. A copy of the packing slip should be attached to the invoice. Mail to the City of Sherman, Finance Department, PO Box 1106, Sherman, TX 75091-1106. Payment shall not be due until the above instruments are submitted, until the Goods have been received by Buyer, and until Buyer has had sufficient opportunity to inspect and exercise its right to accept or reject. Seller shall keep the Finance Department advised of any changes in their remittance addressees. In no event shall Buyer be responsible for interest of any kind on any funds due to Seller, and no term or provision contained in any Seller's invoice shall in any way modify, vary or alter the provisions hereof.

Buyer's obligation is payable solely from funds available for the purpose of the purchase. Lack of funds shall render this contract null and void and to the extent funds are not available, any delivered but unpaid for goods will be returned to Seller by Buyer.

CONTRACT TERMS AND CONDITIONS

This Contract is made and entered into between the parties hereto in accordance with and subject to the following additional terms and conditions:

1. **SELLER TO PACKAGE GOODS:** Seller will package Goods in accordance with good commercial practice. Each shipping container shall be clearly marked and permanently packed as follows: (a) Seller's name and address; (b) Consignee's name, address, and purchase order number; (c) Container number and total number of containers, e.g. box 1 of 4 boxes; and (d) the number of the container bearing the packing slip. Seller shall bear cost of packing unless otherwise provided. Goods shall be suitably packed to secure lowest transportation costs and to conform to requirement of common carriers and any applicable specifications. Buyer's count or weight shall be final and conclusive on shipment not accompanied by packing lists.

2. **SHIPMENT UNDER RESERVATION PROHIBITED:** Seller is not authorized to ship the Goods under reservation and no tender of a bill of lading will operate as a tender of goods.
3. **TITLE AND RISK OF LOSS:** The title and risk of loss of the Goods shall not pass to the Buyer until the Buyer actually receives and takes possession of the Goods at the point or points of delivery.
4. **DELIVERY TERMS AND TRANSPORTATION CHARGES:** F.O.B. Destination Freight Prepaid unless delivery terms are specified otherwise in the bid; Seller shall pay for the transportation costs.
5. **NO PLACEMENT OF DEFECTIVE TENDER:** Every tender or delivery of Goods must fully comply with all provisions of this contract as to time of delivery, quality and the like. If a tender is made which does not fully conform, this shall constitute a breach and Seller shall not have the right to substitute a conforming tender, provided, where the time for performance has not yet expired, the Seller may reasonably notify Buyer of his intention to cure and may then make a conforming tender within the contract time but not afterward.
6. **PLACE OF DELIVERY:** The place of delivery shall be that set forth on the purchase order or in any other written designation by Buyer. The terms of this agreement are "no arrival, no sale."
7. **RIGHT OF INSPECTION:** Buyer shall have the right to inspect the goods at delivery before accepting them.
8. **REJECTION OF GOODS:** It is agreed that if Buyer rejects any of the goods sold pursuant to this agreement, Buyer's only duty shall be to reasonably notify Seller of the rejection and hold the goods for the disposition of Seller, and it is agreed that under no circumstances shall Buyer be required to resell the rejected goods or incur the cost to deliver same to Seller.
9. **GRATUITIES:** The Buyer may, by written notice to the Seller, cancel this contract without liability to the Seller if it be determined by the Buyer that gratuities, in the form of entertainment, gifts, or otherwise were offered or given by the Seller, or any agent or representative of the Seller, to any officer or employee of City of Sherman with view toward securing the contract or securing favorable treatment with respect to awarding or amending, or the making of any determination with respect to the performing of such a Contract. In the event this Contract is canceled by Buyer pursuant to this provision, Buyer shall be entitled in addition to any other rights and remedies, to recover and withhold the amount of the cost incurred by the Seller in providing such gratuities.
10. **SPECIAL TOOLS AND TEST EQUIPMENT:** If the price stated on the face hereof includes the cost of any special tooling or any special test equipment fabricated or required by Seller for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the Buyer and to the extent feasible shall be identified by the Seller as such.

11. WARRANTY – PRICE:

- a. The price to be paid by the Buyer shall be that contained in the Seller's bid which Seller warrants to be no higher than Seller's current prices on orders for products of the kind and specification covered by the agreement for similar quantities under similar or like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the Seller's current prices on orders by others, or in the alternative, Buyer may cancel this contract without liability for breach or Seller's actual expense.
- b. The Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. For breach of violation of this warranty, the Buyer shall have the right in addition to any other right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

12. WARRANTY-PRODUCTS: Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the Buyer. No such attempts to limit, disclaim or exclude any warranties, whether of fitness, merchantability or otherwise, by Seller shall be binding or effective. Seller warrants that the Goods furnished will conform to the specifications, drawings, and descriptions listed in the bid invitation and to the sample(s) furnished by Seller, if any. In the event of a conflict between the specifications, drawings, and descriptions, the specifications shall govern.

13. SAFETY WARRANTY: Seller warrants the product sold to the Buyer shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event that the products do not conform to OSHA standards, Buyer may return the product for correction or replacement at the Seller's expense. In the event that Seller fails to make the appropriate correction within a reasonable time, any correction made by Buyer will be at Seller's expense.

14. NO WARRANTY BY BUYER AGAINST INFRINGEMENTS: As part of this contract for sale, Seller agrees to ascertain whether goods manufactured in accordance with the specifications attached to this agreement will give rise to the rightful claim of any third person by way of infringement or the like. Buyer makes no warranty that the production of goods according to the specifications will not give rise to such claim, and in no event shall Buyer be liable to Seller in the event that Seller issued on the grounds of infringement or the like. If Seller is of the opinion that an infringement or the like will result, he will notify Buyer to this effect in writing or the like, within two weeks after the signing of this agreement. If Buyer does not receive notice and a claim is asserted or Buyer is subsequently held liable for the infringement or the like, Seller will indemnify, defend and save Buyer harmless. If Seller in good faith ascertains that production of the

goods in accordance with the specifications will result in infringement or the like, this contract shall be null and void except that Buyer will pay Seller the reasonable cost of his search as to infringements.

15. **CANCELLATION:** Buyer shall have the right to cancel for default on all or any part of the undelivered portion of this order if Seller breaches any of the terms hereof including warranties of Seller or the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any remedies which Buyer may have at law or equity. The Buyer may for any reason whatsoever terminate performance under this Contract by the Seller for convenience at any time. The Buyer shall give notice of such termination to the Seller specifying when termination becomes effective. Goods received but unopened or unused shall be made available to Seller for delivery. Buyer will, in the event of termination, remit such sums to Seller as may be due only for those Goods retained by Buyer.

16. **FORCE MAJEURE:** If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligation under the Agreement, then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after the occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as is effected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereafter provided, but for no longer periods and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

The term "Force Majeure" as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbance, act of public enemy, orders of any kind of government of the United States or State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals, or other causes not reasonably within control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirements that any Force majeure shall be remedied with all reasonable dispatch shall not require the settlements of strikes and lockouts by exceeding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.

17. **ASSIGNMENT – DELEGATION:** No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. An attempted assignment or delegation of Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

18. **MODIFICATIONS:** This contract can be modified or rescinded only in writing signed by both parties and their duly authorized agents.

19. **WAIVER:** No claim or right arising out of a breach in contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or

renunciation is supported by consideration and is in writing signed by the aggrieved party.

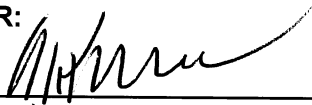
20. **INTERPRETATION-PAROL EVIDENCE:** This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to control.
21. **APPLICABLE LAW:** This agreement shall be governed by the Uniform Commercial Code. Wherever the term "Uniform Commercial Code" is used, it shall be construed as meaning the Uniform Commercial Code as adopted in the State of Texas as effective and in force on the date of this agreement.
22. **ADVERTISING:** Seller shall not advertise or publish, without Buyer's prior written consent, the fact that Buyer has entered into this contract, except to the extent necessary to comply with prior requests for information from an authorized representative of federal, state or local government.
23. **RIGHT TO ASSURANCE:** Whenever one party to this contract in good faith has reason to question the other party's intent to perform he may demand that the other party give written assurance of his intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.
24. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS:** No officer or employee shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, or services, except on behalf of the City as an officer or employee. Any knowing and willful violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the governing body of the City shall render the contract involved voidable by the City Manager or the City Council.
25. **ENTIRE AGREEMENT:** This Contract, and all Specifications and Addenda attached thereto, constitute the entire and exclusive agreement between the Buyer and Seller with reference to the Goods. Specifically, but without limitation, this Contract supersedes any bid documents and all prior written or oral communications, representations and negotiations, if any, between the Buyer and Seller not expressly made a part hereof.

26. **INDEMNITY AND DISCLAIMER:** BUYER SHALL NOT BE LIABLE OR RESPONSIBLE FOR, AND SHALL BE INDEMNIFIED, HELD HARMLESS AND RELEASED BY SELLER FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY CHARACTER, TYPE, OR DESCRIPTION, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES FOR INJURY OR DEATH TO ANY PERSON, OR INJURY OR LOSS TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS, INCLUDING THE SELLER, OR PROPERTY, ARISING OUT OF, OR OCCASIONED BY, DIRECTLY OR INDIRECTLY, THE PERFORMANCE OF SELLER UNDER THIS CONTRACT, INCLUDING CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF BUYER, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE BUYER UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION 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. IT IS THE EXPRESSED INTENT OF THE PARTIES TO THIS AGREEMENT THAT THE INDEMNITY PROVIDED FOR IN THIS CONTRACT IS AN INDEMNITY EXTENDED BY SELLER TO INDEMNIFY AND PROTECT BUYER FROM THE CONSEQUENCES OF THE SELLER'S AS WELL AS THE BUYER'S NEGLIGENCE, WHETHER SUCH NEGLIGENCE IS THE SOLE OR PARTIAL CAUSE OF ANY SUCH INJURY, DEATH, OR DAMAGE. IN ADDITION, CONTRACTOR SHALL OBTAIN AND FILE WITH OWNER CITY OF SHERMAN A STANDARD CERTIFICATE OF INSURANCE AND APPLICABLE POLICY ENDORSEMENT EVIDENCING THE REQUIRED COVERAGE AND NAMING THE OWNER CITY OF SHERMAN AS AN ADDITIONAL INSURED ON THE REQUIRED COVERAGE.
27. **GOVERNING LAW:** The Contract shall be governed by the laws of the State of Texas. Venue for any causes of action arising under the terms or provisions of this Contract or the Goods to be delivered hereunder shall be in the courts of Grayson County, Texas.
28. **SUCCESSORS AND ASSIGNS:** The Buyer and Seller bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this Contract. The Seller shall not assign this Contract without written consent of the Buyer.
29. **SEVERABILITY:** The provisions of this Contract are herein declared to be severable; in the event that any term, provision or part hereof is determined to be invalid, void or unenforceable, such determination shall not affect the validity or enforceability of the remaining terms, provisions and parts, and this Contract shall be read as if the invalid, void or unenforceable portion had not been included herein.

30. **NOTICES:** All notices required by this Contract shall be presumed received when deposited in the mail properly addressed to the other party at the address set forth herein or set forth in a written designation of change of address delivered to all parties.

EXECUTED this 21 day of FEBRUARY, 2017.

SELLER:


(Signature)

AVERYT KNAPP
(Type/Print Name and Title/Position)

PO BOX 27
(Address)

Caldwell, TX 77836
(City, State, Zip)

CITY OF SHERMAN:

By: _____
Robby Hefton,
City Manager
220 W. Mulberry
Sherman, TX 75090

ATTEST:

By: _____
Linda Ashby,
City Clerk

APPROVED:

Brandon Shelby
City Attorney

CITY OF SHERMAN
 BID TABULATION
 Requirements for Police Patrol Tahoe Purchase
 BID OPENING Tuesday, February 28, 2017; 2:30 PM

Vendor	TOTAL BID PRICE	NOTES
Caldwell County Chevrolet	\$ 30,889 ⁰⁰	60-90 day deliv.

only 1 bid received


 804 SFD
 OEM



SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Regular Meeting

E.1.

Meeting Date: 03/06/2017

Prepared By: Pamela Cloer, Assistant to the City Manager

Approved By: Robby Hefton, City Manager

Caption:

OTHER BUSINESS

Receive Quarterly Progress Report from Sherman Economic Development Corporation Board Chairman Greg Kirkpatrick and SEDCO President John Plotnik

Issue:

To receive the Sherman Economic Development Corporation (SEDCO) quarterly progress report from Board Chairman Greg Kirkpatrick and SEDCO President John Plotnik

Background:

The brief presentation by the SEDCO Board Chairman and SEDCO President will provide the City Council with an overview of SEDCO's activities and accomplishments during the last three (3) months. SEDCO's last update was presented at the City Council's regular meeting on December 5, 2016.

Origination:

City Council

Financial Consideration:

This presentation is for informational purposes only and has no impact on the City's revenues or expenses.

Staff Recommendation:

No action is required of the City Council.

Alternatives:

None recommended

Attachments

SEDCO's Quarterly Progress Report

REPORTING FORM FOR BOARDS AND COMMISSIONS

Name of Board: Sherman Economic Development Corporation

Name of Chairman: Greg Kirkpatrick

Name of Vice Chairman: John Sild

Date of Report to City Council: March 6, 2017

1. In simple terms and as briefly as possible, please describe the mission of your board.

- *The mission of the Sherman Economic Development Corporation (SEDCO) is to grow and diversify the Sherman and surrounding area economies through the addition of new jobs and investment.*

**2. Please list the top accomplishments of your board within the past quarter.
(Please limit the list to five or fewer items).**

- *On January 12th, SEDCO hosted a Groundbreaking Ceremony of our newest industry in Progress Industrial Park III – J.P. Hart Lumber Company. This new company brings to Sherman a \$5.5 million capital investment and 37 new jobs.*
- *On January 19th, a day-long Texoma Career Fair was held in the Sherman Municipal Ballroom. There were 300 job seekers in attendance. The participating companies collected 568 applications, and to date, they have held 227 interviews. This successful event was sponsored in partnership with the Denison Development Alliance, Workforce Solutions Texoma, and the City of Sherman.*
- *On January 24th, SEDCO presented GlobiTech with their final incentive payment of \$450,000 towards their \$18 Million capital investment in facility upgrades and the creation of 20 new jobs.*
- *On February 1st, 903 Brewers received a SEDCO Small Business Grant of \$43,000 towards their \$215,000 capital investment in a new canning line and a 30-barrel brew system.*
- *On February 15th, SEDCO presented Christmas Designers with their final incentive payment of \$20,000 towards their \$275,000 capital investment in new equipment and facility renovations, as well as 36 jobs.*

3. What are your plans for this board in the next quarter?

- *On March 8th, SEDCO will hold a Sherman Plant Manager's Forum at Mueller Construction Company.*
- *SEDCO is assisting in the planning of the Spring Manufacturing Tours for Sherman ISD middle school students, which will take place on March 9th. These student tours through our local manufacturing facilities are part of the Texoma Workforce Initiative's effort to develop a talent pipeline of middle-skills workers for advanced manufacturing and healthcare occupations.*
- *On April 18th, SEDCO will host the Spring Leadership Breakfast.*
- *On April 20th, SEDCO will hold a Sherman Safety Leaders Forum at Ball DPF/Nature's Source.*
- *SEDCO will host Sherman's first Economic Development Week (EDW) on May 8-13th. EDW was created by the International Economic Development Council (IEDC) and the goal is to increase awareness for economic development local programs that support the*

creation of jobs, advance career development opportunities and contribute to an increased quality of life.

- On May 31st, SEDCO will host the Spring Mentor Breakfast.
- John Plotnik will attend the North Texas Commercial Association of Realtors and Real Estate Professionals Quarterly Meeting in Dallas.
- Frank Gadek will attend the Industrial Asset Management Council's (IAMC) Spring 2017 Professional Forum in Tampa, Florida.
- Stacey Jones will attend the OU Economic Development Institute (EDI) in San Antonio, where she will be attending her last two training courses for the Economic Development Certification. She will also be attending the Call Center Conference-311 in Fort Worth.
- Ashton Ghaemi will attend Legislative Day in Austin with Leadership Sherman. She will graduate from Leadership Sherman in May.
- SEDCO advertising efforts for the next quarter include the following:
 - Ads in the Dallas Business Journal on March 10th, April 14th, and May 5th & 12th
 - Sherman will be a featured city in the Texas Real Estate Business magazine's annual EDC Development Spotlight Section of the March issue.
 - SEDCO was offered a running, free ad space on the digital billboard on eastbound HWY 82, just west of the Travis St. exit. Our first ad - "Bring Your Business to Sherman" - will appear in March.
 - Other efforts include advertising for Economic Development Week and the new Midway Spec Building, monthly President's Reports, and our second social media campaign.
- SEDCO will continue its partnership with Texas Aviation Partners, Grayson County, and Denison Development Alliance on marketing the North Texas Regional Airport.
- SEDCO will launch the new sedco.org website, which includes the new logo and branding.
- SEDCO will update the interactive map on ProgressParks.com to include J.P. Hart Lumber Co.
- SEDCO will work to compete aggressively for the attraction of new jobs and investments to the city from existing Sherman employers and new companies, both nationally and internationally.
- SEDCO will work closely with companies that have announced new investments in Sherman to ensure they have the support to meet their goals and receive the incentives as identified in the Economic Development Performance Agreements including Ball, DPF; Cellarman's, Emerson Process Management/Fisher Controls, J.P. Hart Lumber Co., Metallenium Iron Works, Modular Power Solutions, and Panda Sherman Power.

4. How often did this board meet in the last quarter?

- The SEDCO Board meets on the second Tuesday of each month and holds special called meetings when needed. Since our last report, the SEDCO Board held three regularly scheduled meetings (December 13th, January 10th, and February 14th).

5. In what percentage of those meetings was a quorum of board members present?

- 100%

6. Did any member attend less than 75% of those meetings? If so, which member and how often did they attend.

- Since our last report, the SEDCO board met for just three board meetings. Brad Douglass and Greg Kirkpatrick attended two of the three board meetings with excused absences.

**7. What other information would your board like to communicate to the City Council?
(please be concise in your response).**

- *At present, SEDCO is working 18 active projects with an estimated \$1,037,500,000 in investments and 2,138 new jobs.*
- *During the last three months, we hosted five site visits from new companies interested in a possible location in Sherman and attended seven other meetings with site selectors and potential clients.*
- *On December 13th, the SEDCO Board approved the Addendum to the Sherman Economic Development Corporation Economic Development Performance Agreement with Metallanium Iron Works Sherman, LLC to amend sections 7.1 and 10.14 of the Agreement to extend the term from December 31, 2016 to December 31, 2017.*
- *On January 13th, SEDCO staff delivered lunch to the employees of Mueller Construction Company to show appreciation to the company for housing, delivering, and setting up the shovel at our groundbreaking events.*
- *On January 17th, SEDCO hosted its Winter Leadership Breakfast.*
- *On February 6th, Stacey Jones visited Governor Greg Abbott's Office of Economic Development & Tourism. This office provides information about projects interested in expanding or relocating to our area. She spoke to 11 team members from the Small Business, Finance, and Strategic Business Development departments about Sherman's expanding City infrastructure, existing industries, and workforce programs. The team shared information about the programs available through the Governor's Office to assist communities in growing their economy.*
- *On February 14th, the SEDCO Board approved an Economic Development Performance Agreement with Cellarman's American Pub, Inc. for a \$19,000 incentive towards their \$380,000 capital investment in facility improvement and/or equipment at the facility located at 2130 Texoma Parkway, Sherman, TX 75090.*
- *Also on February 14th, the SEDCO Board approved an Economic Development Performance Agreement with Fisher Controls Intl., LLC for a \$150,000 incentive towards the company's addition of 30 new full-time jobs.*
- *SEDCO mailed 120 flyers, advertising the 60,000 sq. ft. industrial building in Midway Industrial Park to the North Texas Society of Industrial and Office Realtors (SIOR) and sent an email blast to 2,328 national SIOR members.*
- *John Plotnik attended the DFW Marketing Team Quarterly Meeting, the SIOR Annual Meeting, and the 2017 Broker (Site Selector) Forecast in Dallas.*
- *Stacey Jones attended the Texas Association of Workforce Boards (TAWB) Workforce Day in Austin. This event brought together workforce development board representatives and their partners in raising awareness among the Texas Legislature of the vital role workforce development plays in the Texas economy.*
- *SEDCO continued the Business Retention and Expansion (BRE) Program with the following:*
 - o *On December 14th, SEDCO sponsored a Sherman Plant Manager's Forum hosted by Chris Craze at CertainTeed with the following key employers in attendance: Emerson Process Management/Fisher Controls, Mueller Construction Company, Texas Instruments, and Washington Iron Works.*
 - o *On January 24th, SEDCO sponsored a Sherman Safety Leaders Forum, hosted by Sunny Delight.*
 - o *SEDCO sponsored two HR Network Meetings on January 26th and February 23rd. The February meeting was hosted by Emerson Process Management/Fisher Controls.*

- o *Existing industry visits for this quarter included 903 Brewers, CertainTeed Corporation, Christmas Designers, Commissary Express, Emerson Process Management/Fisher Controls, Future Payment Technologies, GlobiTech, Kaiser Aluminum, MPS, Mueller Construction Company, Omega Industries, Panda Sherman Power, Sunny Delight, Tyson Fresh Meats, and Washington Iron Works.*
- *SEDCO staff attended the following meetings and events since our last report:*
 - o *2017 Governor's Small Business Initiatives*
 - o *Advanced Manufacturing Program Meeting*
 - o *AmeriState Bank Christmas Party*
 - o *Building Bearcat's 2030*
 - o *Career Connection Planning Committee*
 - o *Child and Family Guidance Center Board Meeting*
 - o *City Council Meeting*
 - o *Coffee with the Mayor*
 - o *Community Conversation*
 - o *CWL Board Meeting*
 - o *David Baca Studio 10th Anniversary*
 - o *DDA Annual Economic Development Summit*
 - o *DFW Marketing Team Quarterly Meeting*
 - o *Downtown Escape Rooms Ribbon Cutting*
 - o *Emerson's 40th Anniversary Celebration*
 - o *Eye-Do Optical Ribbon Cutting*
 - o *Industrial Maintenance Technology Program Meeting*
 - o *Izzy's Pet Emporium Ribbon Cutting*
 - o *Landmark Bank Christmas Party*
 - o *Leadership Sherman*
 - o *Manufacturing Skills Development Grant Information Meeting*
 - o *Manufacturing Tours Planning Meeting*
 - o *North Texas Regional Airport's 75th Anniversary*
 - o *North Texas Regional Leadership Day*
 - o *North Texas Young Professionals Christmas Party*
 - o *North Texas Young Professionals Happy Hour*
 - o *Planning and Zoning Commission Meeting*
 - o *Print Works Ribbon Cutting*
 - o *Restoration Senior Living Groundbreaking*
 - o *Select ER Ribbon Cutting*
 - o *Sherman Chamber Ambassador's Meeting*
 - o *Sherman Chamber Annual Awards Luncheon*
 - o *Sherman Chamber of Commerce Christmas Party*
 - o *Sherman Chamber of Commerce Events Committee*
 - o *Sherman ISD's Citizens Advisory Committee*
 - o *Sherman Rotary*
 - o *SIOR North Texas Holiday Luncheon*
 - o *SISD School Board Meeting*
 - o *Texoma Career Fair Planning Meeting*
 - o *Texoma Health Foundation's Giving Tuesday*
 - o *Texoma HR Management Association Meeting*
 - o *Texoma Middle-Skill Workgroup Steering Committee*
 - o *TMC Emergency Department Expansion Project & New Patient Tower Groundbreaking*
 - o *TWC Manufacturing Committee Meeting*



SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Regular Meeting

E.2.

Meeting Date: 03/06/2017

Prepared By: Mary Lawrence, Director of Finance

Approved By: Robby Hefton, City Manager

Caption:

OTHER BUSINESS

Accept Annual Audit Report for Year Ended September 30, 2016 from Adami, Lindsey and Company, L.L.P.

Issue:

To receive a presentation from Adami, Lindsey and Company, L.L.P. of Sherman, Texas, and accept the audit report for the year ended September 30, 2016

Background:

On February 21, 2017, the Audit Committee, City Manager and Director of Finance met with the City's external auditors to discuss the results of the independent audit for the year ended September 30, 2016. The auditors gave a "clean" audit opinion, meaning that, in their opinion, the financial statements are fairly presented in accordance with established accounting standards. The financial statements reflect that the operating results for the year ended September 30, 2016 were generally in line with expected results, and that overall financial performance was on par with the budget. There were no material findings arising out of the audit. After discussion, the Audit Committee recommended the report be presented to the Council at the March 6, 2017 meeting.

Origination:

City Manager Robby Hefton

Financial Consideration:

None

Staff Recommendation:

The staff recommends that the Council accept the audit report as recommended by the Audit Committee.

Alternatives:

None recommended



SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Regular Meeting

E.3.

Meeting Date: 03/06/2017

Prepared By: Steve Ayers, Director of Public Services

Approved By: Robby Hefton, City Manager

Caption:

OTHER BUSINESS

Consider Sholdon Daniels' Request to Prioritize Bicycle Infrastructure Improvements to Enhance Public Safety in the City of Sherman

Issue:

Citizen Sholdon Daniels, Parks and Recreation Board Chairman, has approached the City with a request that bicycle infrastructure improvements be prioritized in the City of Sherman

Background:

With growing community interest in bicycle activities and transportation, Sholdon Daniels would like to address the City Council concerning the City's prioritization of this issue.

Origination:

Sholdon Daniels

Financial Consideration:

There is no financial impact to be considered.



SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Regular Meeting

E.4.

Meeting Date: 03/06/2017

Prepared By: Steve Ayers, Director of Public Services

Approved By: Robby Hefton, City Manager

Caption:

OTHER BUSINESS

Consider Rejection of Bids for the Annual City Right-of-Way Rough Mowing Contract

Issue:

To consider the rejection of all bids received for the annual contract to rough mow some City right-of-way properties

Background:

City staff contracts for various City-owned right-of-way properties to be rough mowed on a periodic basis. This annual service was advertised, pursuant to the City Council's approval at the December 19, 2016 meeting; and three (3) bids were received and opened on January 17, 2017. City staff recommends the rejection of current bids and re-advertisement for right-of-way rough mowing services because one of the bids appeared to be significantly above market rates, and the other two bidders have had a poor track record of performance with the City.

Origination:

Street Maintenance Department

Financial Consideration:

Funding has been budgeted in the 2016-17 Fiscal Year Budget. Costs for re-advertising are expected to be about \$200.00.

Staff Recommendation:

It is recommended that all bids be rejected and City staff be authorized to re-advertise for public bids.

Alternatives:

No alternatives are recommended.

Attachments

Bid Tabulation - Right-of-Way Rough Mowing

CITY OF SHERMAN
BID TABULATION
Requirements for Mowing Services
BID OPENING Tuesday, January 17, 2017; 2:00 PM

Vendor	EXHIBIT A: Parks Finish Mowing (Per Acre Price)	EXHIBIT B: Right-of-Way Finish Mowing (Grand Total for one mow per location)	EXHIBIT C: Right-of-Way Rough Mowing (Grand Total for one mow per location)	NOTES
Perfection Landscape	\$ 47.00	No Bid	No Bid	
C & M Mowing and Landscaping	\$ 34.00	\$ 5,900.00	No Bid	
LSK Landscaping	\$ 45.00	No Bid	No Bid	
Weldon's Lawn and Tree	\$ 48.14	\$ 4,425.00	\$ 11,000.00	
SF Landscaping	\$ 32.50	\$ 3,425.00	\$ 1,955.00	
Glover Mowing & Landscaping	\$ 45.36	\$ 4,849.00	\$ 2,798.00	



SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Regular Meeting

E.5.

Meeting Date: 03/06/2017

Prepared By: Pamela Cloer, Assistant to the City Manager

Approved By: Robby Hefton, City Manager

Caption:

OTHER BUSINESS

Consider Scheduling a Joint Meeting of the City Council and the Sherman Independent School District Board of Trustees for March 21, 2017, for a Strategic Planning Session

Issue:

To consider scheduling a joint meeting of the City Council and the Sherman Independent School District (SISD) Board of Trustees for Tuesday, March 21, 2017, to hold a Strategic Planning Session

Background:

City Manager Robby Hefton and Sherman ISD Superintendent Dr. David Hicks collaborated to hold joint meetings between their respective boards to discuss issues that could affect both groups. These joint meeting were held on Monday, April 11, 2016, Thursday, June 23, 2016, and Thursday, September 8, 2016. These meetings have opened dialogue between the City and the SISD to better communicate and work together on common issues.

The next joint meeting has been suggested for Tuesday, March 21st, in the SISD Administration Building located at 2701 Loy Lake Road in Sherman.

Origination:

SISD Board of Trustees President Tim Millerick and SISD Superintendent Dr. David Hicks
Mayor David Plyler and City Manager Robby Hefton

Financial Consideration:

There is no financial impact to be considered.

Staff Recommendation:

It is recommended that the City Council, **by motion and order**, schedule a joint meeting with the SISD Board of Trustees for Tuesday, March 21st in the SISD Administration Building.

Alternatives:

None recommended



SHERMAN CITY COUNCIL

Agenda Communication Form

City Council Regular Meeting

Meeting Date: 03/06/2017

Prepared By: Pamela Cloer, Assistant to the City Manager

Approved By: Robby Hefton, City Manager

Caption:

COUNCIL CALENDAR

Attachments

2017 Council Calendar

2017

JANUARY						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
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29	30	31				

FEBRUARY						
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MARCH						
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APRIL						
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MAY						
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JUNE						
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JULY						
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AUGUST						
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SEPTEMBER						
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OCTOBER						
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NOVEMBER						
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DECEMBER						
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24	25	26	27	28	29	30
31						

1/2/2017	New Years Day/Called Council Meeting on 1/3/2017 - Cancelled
4/21/2017	Called Budget Planning Mtg in Council Chambers
6/15-16/2017	Called Budget Workshop in Council Chambers
9/4/2017	Labor Day/Called Council Meeting on 9/5/2017

[illegible]