



TOWN COUNCIL AGENDA

February 21, 2023 at 6:30 PM

Town Hall - 1941 E. Jeter Road, Bartonville, TX 76226

A. CALL MEETING TO ORDER

B. CLOSED SESSION

Pursuant to the Open Meetings Act, Chapter 551, the Town Council will meet in a Closed Executive Session in accordance with the Texas Government Code.

1. Section 551.071 Consultation with Town Attorney, and Section 551.074 Personnel: To deliberate and consider the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of public officers or employees; to wit: Town Engineer, and any and all legal issues related thereto.

C. RECONVENE OPEN MEETING

The Town Council to reconvene into an open meeting and consider action, if any, on items discussed in closed session.

D. PLEDGE OF ALLEGIANCE

E. PRESENTATIONS

1. Salvation Army Mayors Red Kettle Challenge

F. PUBLIC PARTICIPATION

If you wish to address the Council, please fill out a "Public Meeting Appearance Card" and present it to the Town Secretary, preferably before the meeting begins. Pursuant to Section 551.007 of the Texas Government Code, citizens wishing to address the Council for items listed as public hearings will be recognized when the public hearing is opened. For citizens wishing to speak on a non-public hearing item, they may either address the Council during the Citizen Comments portion of the meeting or when the item is considered by the Town Council.

G. APPOINTED REPRESENTATIVE/LIAISON REPORTS

1. Denton County Emergency Services District #1 - Ricky Vaughan, Fire Chief.
- [2.](#) Police Chief Report - Department Statistics/Activities January 2023.
- [3.](#) Town Administrator - Monthly Reports January 2023: Financial, Animal Control, Code Enforcement, Engineering, Municipal Court, Permits.
4. Town Secretary - Update on the May 6, 2023 General Election.

H. CONSENT AGENDA

This agenda consists of non-controversial or “housekeeping” items required by law. Items may be approved with a single motion. Items may be removed from the Consent Agenda by any Councilmember by making such request prior to a motion and vote on the Consent Agenda.

1. Consider approval of the January 17, 2023, regular meeting minutes.

I. REGULAR ITEMS

2. First Reading of a resolution concerning the approval of a Type B Economic Development Project and Third Amended and Restated Performance Agreement by and between the Bartonville Community Development Corporation, and Cloud 9 Management LLC..
3. Discuss and consider approval of a resolution declaring lack of confidence in the Town Engineer and removal of the Town Engineer pursuant to Texas Local Government Code Section 22.077(b), and authorizing the Town Administrator to terminate the Professional Services Agreement with Teague Nall and Perkins, Inc. on behalf of the Town.
4. Second Reading of a resolution concerning the approval of a Type B Economic Development Project and Third Amended and Restated Performance Agreement by and between the Bartonville Community Development Corporation, and Cloud 9 Management LLC..
5. Presentation by Westwood Professional Services, Inc.
6. Discuss and consider approval of a Consultant Services Contract with Westwood Professional Services, Inc. (formerly Pacheco Koch) for engineering services; and authorization for the Town Administrator to execute same on behalf of the Town.
7. Discuss and consider approval of a resolution amending the Annual Contract for Miscellaneous Pavement Repair and Drainage Improvements between the Town of Bartonville and SPI Asphalt, LLC., and authorizing the Town Administrator to execute contract documents.
8. Discuss and consider appointing members to the ad hoc Special Events Advisory Committee.
9. Discuss and act on a resolution concerning the approval of a Type B Economic Development Project and Third Amended and Restated Performance Agreement by and between the Bartonville Community Development Corporation, and Cloud 9 Management LLC..

J. FUTURE ITEMS

K. ADJOURNMENT

I hereby certify that this Notice of Meeting was posted on the Town Website, and on the bulletin board, at Town Hall of the Town of Bartonville, Texas, a place convenient and readily accessible to the public at all times. Said Notice was posted on the following date and time; and remained posted continuously prior to the scheduled time of said meeting and shall remain posted until meeting is adjourned.

/s/ Tammy Dixon, Town Secretary

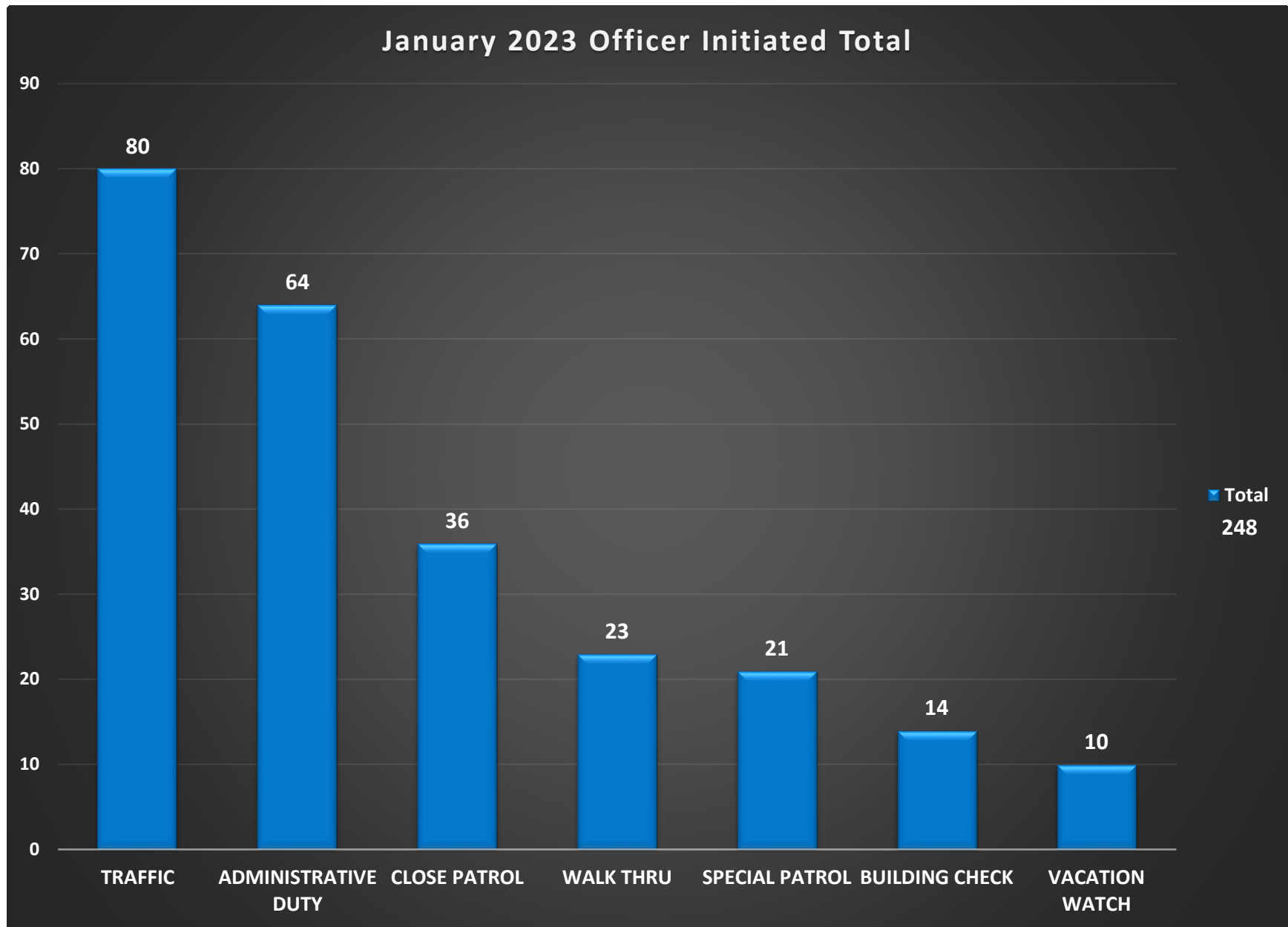
Posted: February 17, 2023 at 3:30 p.m.

The Town Council reserves the right to adjourn into executive session during the course of this meeting to discuss any item on the posted agenda as authorized by Chapter 551 of the Texas Government.

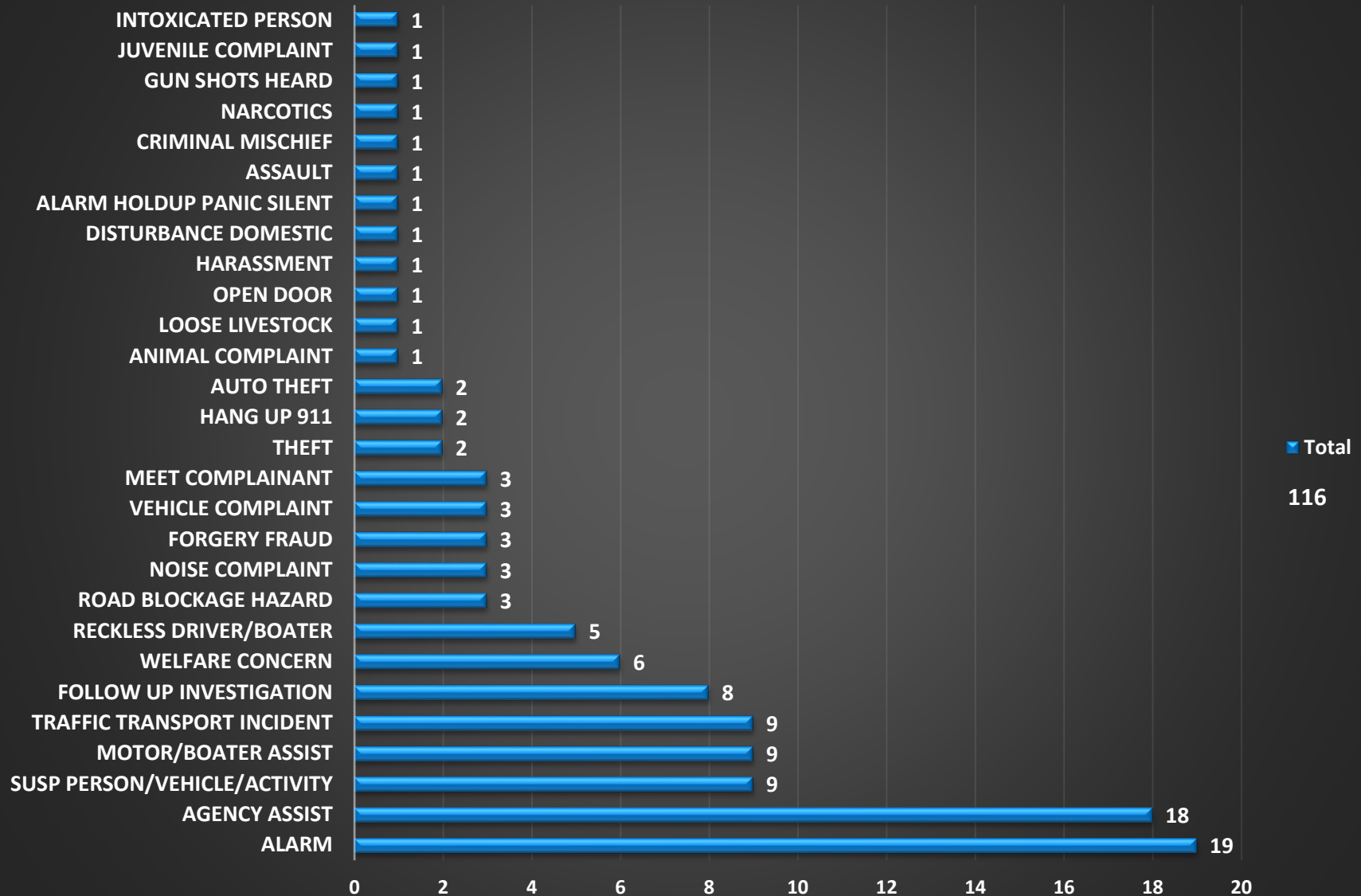
Bartonville Police Department

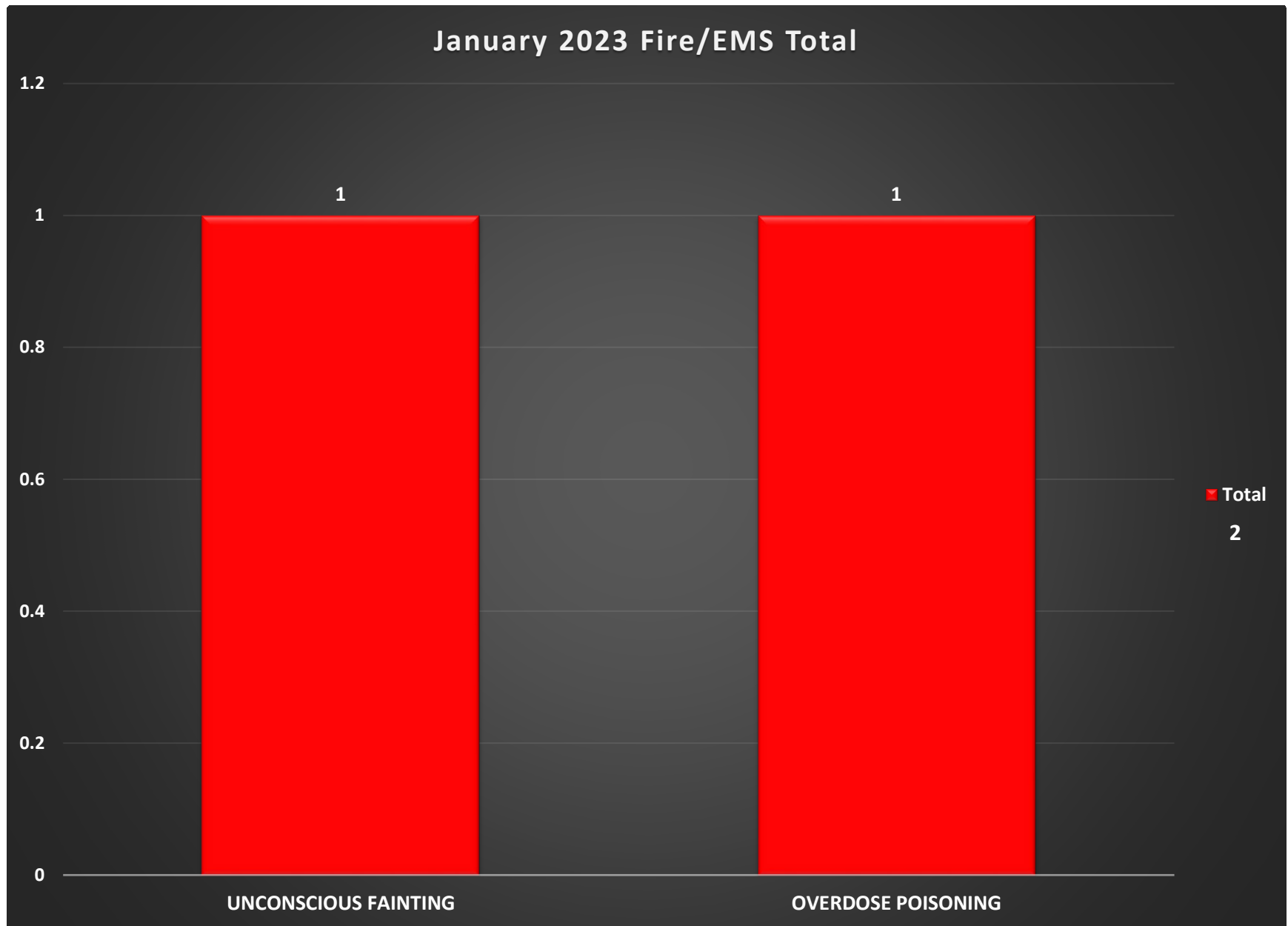
Monthly Report

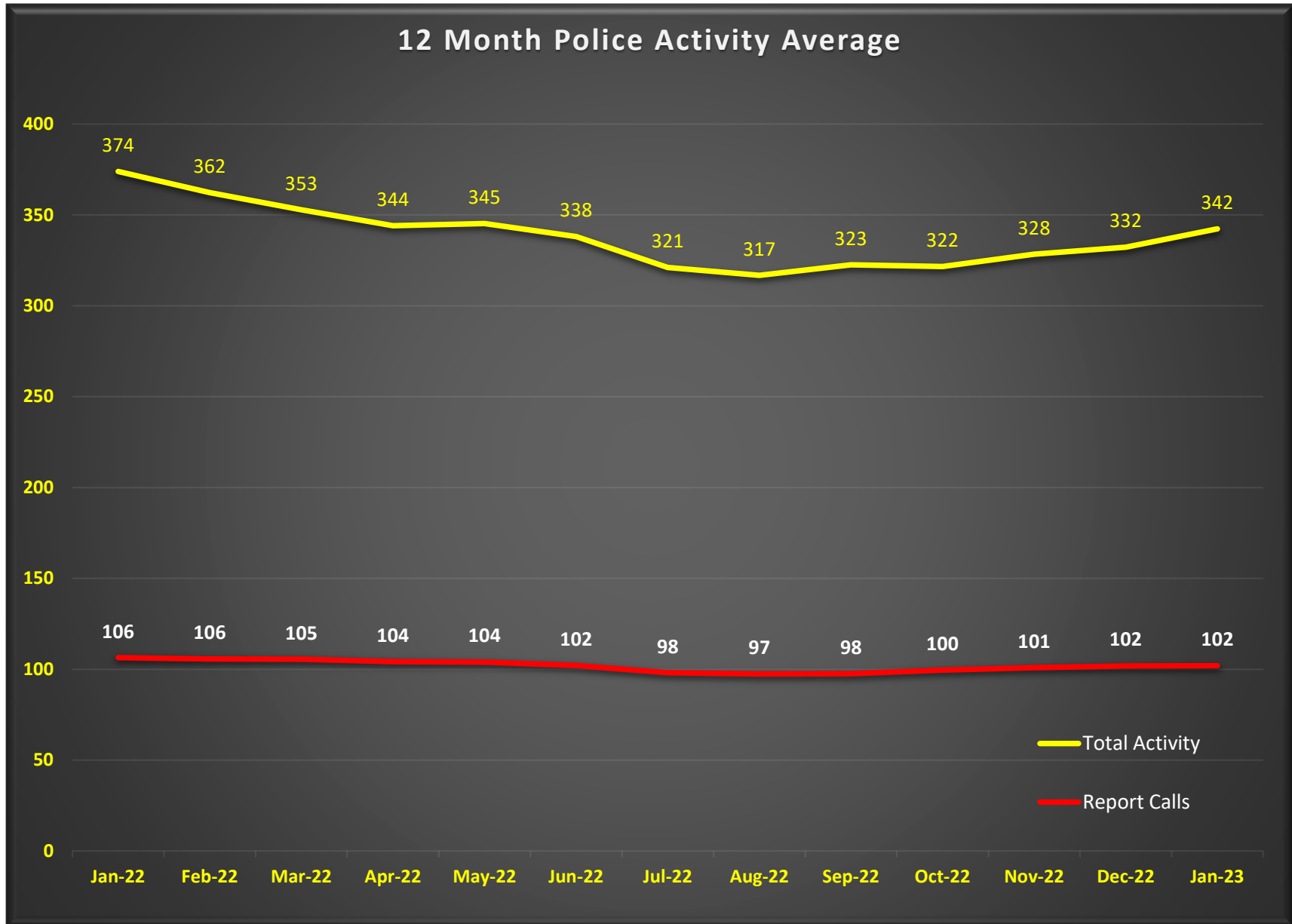




January 2023 Calls for Service Total



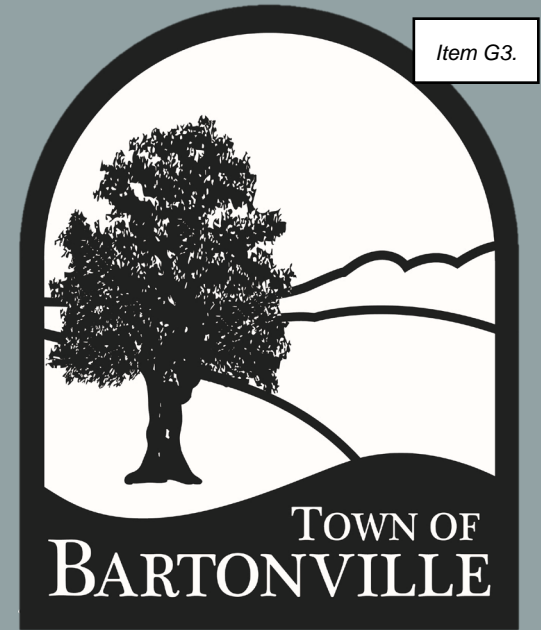




Town of Bartonville

Monthly Financial Report

Month Ending
January 31, 2023

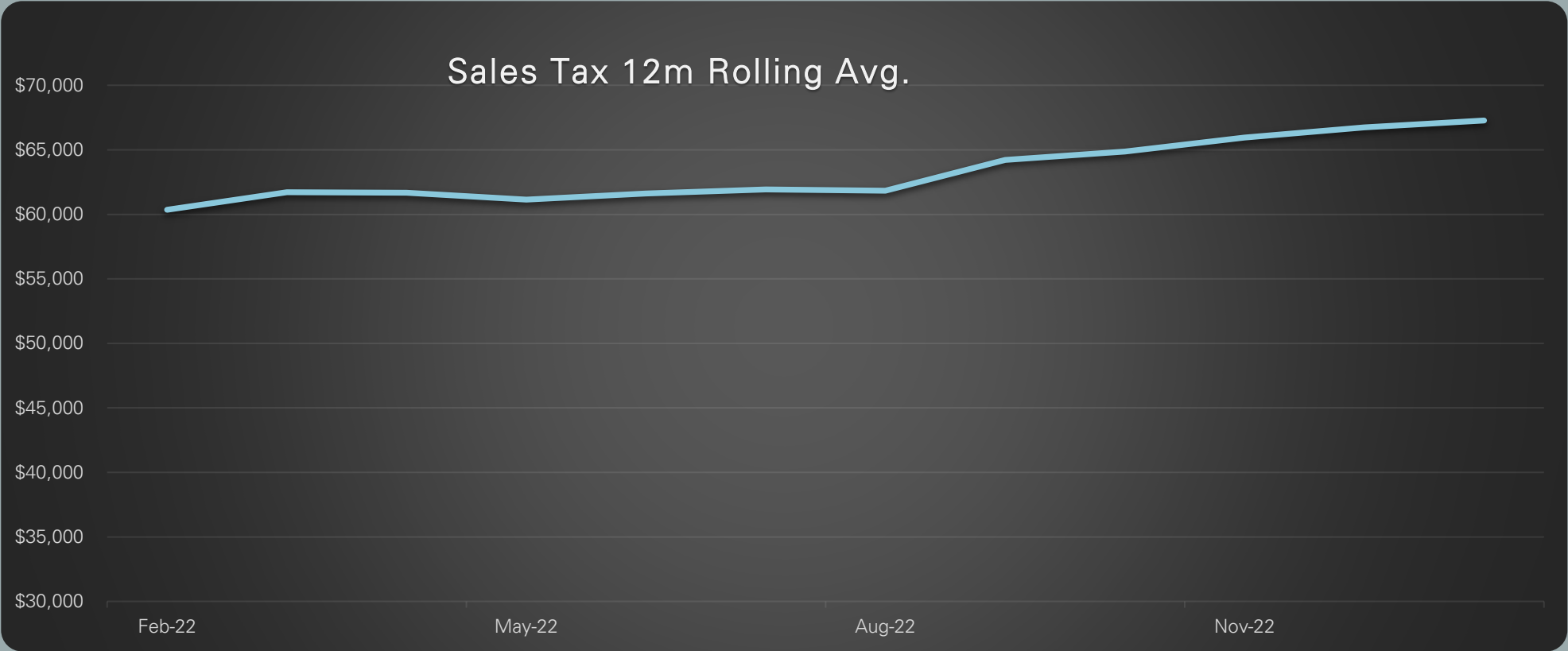


PRESENTED:
FEBRUARY 21, 2023

All General Fund Revenues

	December Revenue	Year to Date Revenue	Current Year Budget	Projected Revenue Remaining	% of Budgeted Revenue Remaining	Prior year YTD	Prior year ending balance
Sales Tax	\$54,369.26	\$267,645.90	\$759,800.00	\$492,154.10	64.77%	\$231,046.19	\$770,632.31
Property Tax	\$403,731.31	\$710,186.64	\$943,000.00	\$232,813.36	24.69%	\$570,122.43	\$810,247.20
Franchise Fees	\$39,858.71	\$111,310.31	\$157,500.00	\$46,189.69	29.33%	\$75,766.03	\$211,360.40
Other/Transfer	\$42,358.57	\$79,847.00	\$134,000.00	\$54,153.00	40.41%	\$3,480.88	\$14,453.01
Development Fees	\$5,391.00	\$5,391.00	\$30,000.00	\$24,609.00	82.03%	\$124,581.64	\$130,143.64
Permit Fees	\$26,355.70	\$87,253.18	\$132,900.00	\$45,646.82	34.30%	\$58,190.76	\$201,909.51
Municipal Court	\$4,362.40	\$26,311.91	\$60,000.00	\$33,688.09	56.15%	\$12,931.77	\$56,295.24
Total Revenue	\$576,426.95	\$1,287,945.94	\$2,217,200.00	\$929,254.06	41.91%	\$1,076,119.70	\$2,195,041.31

Sales Tax Collections



All General Fund Expenditures

	January Expense	Year to Date Expense	Current Year Budget	Budget Remaining	% of Balance Remaining	Prior year YTD	Prior year ending balance
Administration	\$108,993.08	\$327,889.58	\$1,092,716.00	\$764,826.42	69.99%	\$242,449.41	\$935,678.77
Police	\$87,805.28	\$250,830.11	\$780,986.00	\$530,155.89	67.88%	\$146,267.01	\$537,727.68
Municipal Court	\$450.00	\$1,550.00	\$5,400.00	\$3,850.00	71.30%	\$1,800.00	\$6,000.00
Transfers	\$7,240.70	\$97,462.50	\$241,600.00	\$144,137.50	59.66%	\$58,888.06	\$307,035.89
Total Expenses	\$204,489.06	\$677,732.19	\$2,120,702.00	\$1,442,969.81	68.04%	\$449,404.48	\$1,786,442.34

Expenditures by Department

Administration

	Current Month Expenditures	YTD Expenditures	Current Year Budget	Budget Balance Remaining	% Balance Remaining	Prior Year YTD Balance	Prior Year FY End Bal.
Salary & Benefits	\$48,044.89	\$154,227.46	\$502,256.00	\$348,028.54	69.29%	\$74,405.57	\$276,241.26
Supplies	\$2,171.91	\$18,460.52	\$52,500.00	\$34,039.48	64.84%	\$16,072.50	\$37,727.88
Maintenance	\$2,929.35	\$12,660.98	\$37,500.00	\$24,839.02	66.24%	\$11,749.63	\$34,364.04
Contracted Service	\$38,384.24	\$101,051.96	\$338,490.00	\$237,438.04	70.15%	\$134,288.05	\$559,772.49
Fees & Service Charges	\$204.00	\$339.00	\$1,170.00	\$831.00	71.03%	\$202.67	\$1,237.84
Other	\$17,258.69	\$41,149.66	\$160,800.00	\$119,650.34	74.41%	\$5,730.99	\$26,335.26
Total Administration:	\$108,993.08	\$327,889.58	\$1,092,716.00	\$764,826.42	69.99%	\$242,449.41	\$935,678.77

Expenditures by Department

Police

	Current Month Expenditures	YTD Expenditures	Current Year Budget	Budget Balance Remaining	% Balance Remaining	Prior Year YTD Balance	Prior Year FY End Bal.
Salary & Benefits	\$84,238.92	\$222,970.45	\$709,486.00	\$486,515.55	68.57%	\$117,376.36	\$446,681.36
Supplies	\$1,693.76	\$6,396.25	\$30,000.00	\$23,603.75	78.68%	\$1,879.30	\$23,174.72
Maintenance	\$1,872.60	\$14,105.78	\$28,000.00	\$13,894.22	49.62%	\$20,236.83	\$58,407.99
Contracted Service	\$0.00	\$6,722.00	\$9,500.00	\$2,778.00	29.24%	\$6,320.00	\$8,082.21
Other	\$0.00	\$635.63	\$4,000.00	\$3,364.37	84.11%	\$454.52	\$1,381.40
Total Police Department:	\$87,805.28	\$250,830.11	\$780,986.00	\$530,155.89	67.88%	\$146,267.01	\$537,727.68

Location	Notes	Code
Jan 26, 2023 12:18 PM 822 witherspoon way	we picked up a stray kitten from this location	Animal Control
Jan 24, 2023 4:52 PM 1941 JETER RD E	Patrolled city focusing on stray animals. spoke to thad	Animal Control
Jan 17, 2023 4:27 PM 1941 JETER RD E	Patrolled city focusing on stray animals. spoke to thad	Animal Control
Jan 10, 2023 4:01 PM 1941 JETER RD E	Patrolled city focusing on stray animals. spoke to thad and tammy	Animal Control
Jan 3, 2023 5:02 PM 1941 JETER RD E	Patrolled city focusing on stray animals. spoke to thad	Animal Control

Location	Notes	Code
Jan 26, 2023 5:10 PM 1310 gibbons	attempted contact but no one answered when i rang the gate	Code Enforcement
Jan 24, 2023 4:53 PM	Patrolled city focusing on stray animals. spoke to thad	Code Enforcement
Jan 17, 2023 4:28 PM	Patrolled city focusing on stray animals. spoke to thad	Code Enforcement
Jan 10, 2023 4:19 PM 1212 Redbud	not abated will send certified letters	Code Enforcement
Jan 10, 2023 4:17 PM 506 oakwood	no change it appears to be abandoned and have requested the city have the PD do a welfare check	Code Enforcement
Jan 10, 2023 4:16 PM 1200 maple	not abated will prepare certified letters	Code Enforcement
Jan 10, 2023 4:13 PM 1113 maple	property has even more trash, junk and debris certified letters will be prepared and sent	Code Enforcement
Jan 10, 2023 4:01 PM	Patrolled city focusing on code issues. spoke to thad and tammy	Code Enforcement
Jan 9, 2023 2:45 PM 64 mcmakin	ABATED	Code Enforcement

Location	Notes	Code
Jan 5, 2023 4:08 PM 64 mcmakin	the owner of this property has put up a sign detailing their frustration with their neighbors and the city. it violates the cities sign ordinance. i spoke with the owner and had an amenable conversation. the sign will be taken down before the opening of the next business day.	Code Enforcement
Jan 3, 2023 5:03 PM	Patrolled city focusing on stray animals. spoke to thad	Code Enforcement

Town of Bartonville
Municipal Court Council Report
From 1/1/2023 to 1/31/2023

2/8/2023 8

Item G3.

Violations by Type

Traffic	Penal	City Ordinance	Parking	Other	Total
58	0	0	0	2	60

Financial

State Fees	Court Costs	Fines	Tech Fund	Building Security	Total
\$3,035.60	\$983.20	\$3,589.00	\$128.00	\$156.80	\$7,892.60

Warrants

Issued	Served	Closed	Total
0	0	0	0

FTAs/VPTAs

FTAs	VPTAs	Total
0	0	0

Dispositions

Paid	Non-Cash Credit	Dismissed	Driver Safety	Deferred	Total
13	0	8	15	22	58

Trials & Hearings

Jury	Bench	Appeal	Total
0	0	0	0

Omni/Scofflaw/Collection

Omni	Scofflaw	Collections	Total
0	0	0	0

PermitReport

2/7/2023 11:21

Item G3.

Permit #	Contact	Property	Permit Type	Issued Date	Estimated Value	Square Footage	Paid Amount
22-00148-07	Drew Walling	600 W Jeter Rd	OSSF Permit - Residential	1/13/2023			\$410.00
22-00148-08	Drew Walling	600 W Jeter Rd	OSSF Permit - Residential	1/13/2023			\$615.00
22-00249-01	GHA Architects	2660 FM 407	New Commercial Building	1/10/2023			\$16,638.60
22-00356-01	7-Eleven Convenience Store #38332A	2670 FM 407	Food Establishment Permit	1/3/2023			\$300.00
22-00363-01	Kroger #572 Bakery	3400 FM 407	Food Establishment Permit	1/18/2023			\$300.00
22-00364-01	Kroger #572 Coffee Shop	3400 FM 407	Food Establishment Permit	1/18/2023			\$300.00
22-00369-01	Marty Bs	2664 FM 407	Food Establishment Permit	1/3/2023			\$300.00
22-00370-01	Marty B's Coffee Co.	2656 FM 407	Food Establishment Permit	1/3/2023			\$300.00
22-00371-01	Marty B's To Go	2652 FM 407 Unit 100	Food Establishment Permit	1/3/2023			\$300.00
22-00434-01	Truvail Homes	780 Rockgate	New Residence Permit	1/17/2023			\$3,660.15
22-00434-02	Truvail Homes	780 Rockgate	New Residence (Non AC)	1/17/2023			\$822.15
22-00434-04	Truvail Homes	780 Rockgate	Culvert/Driveway	1/17/2023	\$845,000.00	5631.00	\$120.00
22-00434-05	Truvail Homes	780 Rockgate	Grading and Drainage Permit	1/17/2023	\$845,000.00	5631.00	\$275.00
23-00001-01	Chapman Air & Heat		Contractor Registration - Mechanical	1/3/2023			\$0.00
23-00002-01	A & M Septic	573 Stonewood Blvd	OSSF Application - Modification	1/13/2023			\$200.00
23-00003-01	Agape Electric		Contractor Registration - Electrical	1/5/2023			\$0.00
23-00004-01	Dodson Electric and Construction, LLC		Contractor Registration - Electrical	1/5/2023			\$0.00
23-00005-01	PGP Construction		Contractor Registration - General	1/6/2023			\$125.00
23-00006-01	MAK HVAC LLC		Contractor Registration - Mechanical	1/6/2023			\$0.00
23-00007-01	Dave Carroll		Truck Permit	1/11/2023			\$25.00
23-00008-01	Capital Plumbing		Contractor Registration - Plumbing	1/10/2023			\$0.00
23-00009-01	A Plus Pools LLC		Contractor Registration - General	1/10/2023			\$125.00
23-00013-01	Cassidi McCollum	800 Rockgate Rd	Misc. Permit/Inspection Fee (Not Listed)	1/20/2023			\$64.80
23-00014-01	Wilson McLain Plumbing		Contractor Registration - Plumbing	1/12/2023			\$0.00
23-00015-01	Generation X Mechanical		Contractor Registration - Mechanical	1/12/2023			\$0.00
23-00018-01	Pacific Lawn Sprinklers		Contractor Registration - Irrigation	1/23/2023			\$125.00
23-00020-01	Cleaver Electric, Inc.		Contractor Registration - Electrical	1/19/2023			\$0.00
23-00021-01	Dawn to Dusk Solar		Contractor Registration - Electrical	1/10/2023			\$0.00
23-00022-01	EIB Homes II, LLC		Contractor Registration - General	1/23/2023			\$125.00
23-00023-01	Team Enoch		Contractor Registration - Electrical	1/17/2023			\$0.00
23-00024-01	Enoch Electric, LLC		Contractor Registration - Electrical	1/17/2023			\$0.00
23-00025-01	International Plumbing Service		Contractor Registration - Plumbing	1/4/2023			\$0.00
23-00026-01	S&T Plumbing		Contractor Registration - Plumbing	1/10/2023			\$0.00
23-00027-01	Sol Nova Electric		Contractor Registration - Electrical	1/11/2023			\$0.00
23-00028-01	Soltherma		Contractor Registration - Plumbing	1/12/2023			\$0.00
23-00029-01	Southwestern Plumbing Company		Contractor Registration - Plumbing	1/10/2023			\$0.00
23-00030-01	Southwestern Plumbing Company, Inc.		Contractor Registration - Plumbing	1/10/2023			\$0.00
23-00031-01	Integrated Mechanical & Electrical Services LLC		Contractor Registration - Electrical	1/20/2023			\$0.00
23-00032-01	CR Plumbing	660 Stonewood Blvd	Plumbing Permit	1/24/2023			\$130.00
23-00034-01	Soltherma	726 Porter Rd	Plumbing Permit	1/25/2023			\$130.00
23-00035-01	CR Plumbing	1486 Gibbons Rd S	Plumbing Permit	1/25/2023			\$130.00
23-00036-01	GM Electric		Contractor Registration - Electrical	1/24/2023			\$0.00
23-00037-01	Mackie Electric Co Inc.		Contractor Registration - Electrical	1/24/2023			\$0.00



TOWN COUNCIL COMMUNICATION

DATE February 21, 2023

FROM: Tammy Dixon

AGENDA ITEM: Consider approval of the January 17, 2023, regular meeting minutes.

SUMMARY:

The Town Council held a regular meeting on January 17, 2023.

FISCAL INFORMATION:

N/A

RECOMMENDED MOTION OR ACTION:

Approve the meeting minutes for the regular meeting held on January 17, 2023.

ATTACHMENTS:

January 17, 2023, regular meeting minutes.

THE BARTONVILLE TOWN COUNCIL REGULAR MEETING HELD ON THE 17TH DAY OF JANUARY 2023, AT 1941 E. JETER ROAD, BARTONVILLE, TEXAS 6:30 P.M.

Item H1.

The Town Council met in a regular meeting with the following members present:

Jaclyn Carrington, Mayor
Clay Sams, Mayor Pro Tem
Jim Roberts, Councilmember Place 1
Matt Chapman, Councilmember Place 2
Keith Crandall, Councilmember Place 4
Josh Phillips, Councilmember Place 5

constituting a quorum with the following members of the Town Staff participating: Thad Chambers, Town Administrator; Tammy Dixon, Town Secretary; Bobby Dowell, Chief of Police; and Ed Voss, Town Attorney.

A. CALL REGULAR MEETING TO ORDER

Mayor Carrington called the regular meeting to order at 6:30 p.m.

B./C. CLOSED SESSION/OPEN SESSION

Pursuant to the Open Meetings Act, Chapter 551, the Town Council convened into a Closed Executive Session at 6:30 p.m. and reconvened into open session at 7:00 p.m. in accordance with the Texas Government Code regarding:

1. *Section 551.074 Personnel:* To deliberate and consider the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of public officers or employees; to wit: Town Engineer. **No Action Taken.**

D. PLEDGE OF ALLEGIANCE

Mayor Carrington led the pledge of allegiance.

E. PUBLIC PARTICIPATION

No one addressed the Council.

F. PRESENTATIONS

1. Proclamation - Roberta "Tutu" DuTeil 101st Birthday

Mayor Carrington read aloud and presented a proclamation to Roberta "Tutu" DuTeil in recognition of her 101st birthday.

2. Recognition of Bartonville Police Department Sergeant Promotion

Mayor Carrington provided the Oath of Office to Sergeant Colby Scudder.

G. APPOINTED REPRESENTATIVE/LIAISON REPORTS

1. Denton County Emergency Services District #1

Jim Strange provided a handout to the Town Council and provided a summary of the December 12, 2022, DCESD#1 meeting.

2. Planning and Zoning Commission Report

Mr. Chambers stated the Board was diligently working on the review of the comprehensive plan.

3. Community Development Corporation Report
a. Traffic Study

Ms. Dixon stated a copy of the 2022 Traffic Study was included in the Council packet for informational purposes; and stated the Board would be sending out a Business Survey to all Bartonville businesses by the end of the month.

4. Police Chief Report December 2022

Chief Dowell reviewed the December statistics and answered questions from the Town Council. Chief Dowell distributed and reviewed a two-year Crime Comparison and answered questions from the Town Council.

5. Town Administrator Monthly Reports December 2022: Financial, Animal Control, Code Enforcement, Engineering, Municipal Court, Permits

Mr. Chambers reviewed the monthly financials and answered questions from the Town Council.

H. CONSENT AGENDA

1. Consider approval of the December 20, 2022, regular meeting minutes.
2. Consider acceptance of the 2022 Racial Profiling Report
3. Consider approval of a resolution of the Town Council of the Town of Bartonville ordering a General Election to be held on May 6, 2023, for the purpose of electing three Councilmembers Places 1, 3, and 5, for two-year terms each; and providing for a joint services contract with Denton County.

Mayor Pro Tem Sams moved to approve consent agenda items 1 - 3. Councilmember Crandall seconded the motion.

VOTE ON THE MOTION

AYES: Phillips, Chapman, Sams, Crandall, Roberts

NAYS: None

VOTE: 5/0

I. REGULAR ITEMS

4. Discuss and consider approval of the purchase of signage from Roadrunner Traffic Supply, Inc. in the amount \$31,589.85 for placement throughout the town to enhance driving safety; and to authorize the Town Administrator to expend budgeted funds on behalf of the Town.

Mr. Chambers stated this item addressed the signage portion of the recommendations provided by the Traffic Ad Hoc Committee and approved by Town Council. He added that the radar signs, striping and rumble strips were not included and would be addressed at a future meeting.

Councilmember Crandall moved to the purchase of signage from Roadrunner Traffic Supply, Inc. in the amount \$31,589.85 for placement throughout the town to enhance driving safety; and authorize the Town Administrator to expend budgeted funds on behalf of the Town. Councilmember Roberts seconded the motion.

VOTE ON THE MOTION

AYES: Phillips, Chapman, Sams, Crandall, Roberts

NAYS: None

VOTE: 5/0

6. Discuss and consider approval of a resolution creating a Special Events Advisory Committee.

Ms. Dixon stated during the December 20, 2022, meeting, staff was directed to bring forward a resolution creating a Special Events Advisory Committee for the planning and execution of the Town's 50th anniversary celebration and other events as deemed necessary by the Town Council.

Following discussion, the council directed staff to advertise the acceptance of applications on the Town's social media platforms.

Councilmember Chapman moved to approve Resolution 2023-02 creating a Special Events Advisory Committee. Mayor Pro Tem Sams seconded the motion.

VOTE ON THE MOTION

AYES: Phillips, Chapman, Sams, Crandall, Roberts

NAYS: None

VOTE: 5/0

J. FUTURE ITEMS

There were none.

K. ADJOURNMENT

Mayor Carrington declared the meeting adjourned at 7:30 p.m.

APPROVED this the 21st day of February 2023.

Approved:

Jaclyn Carrington, Mayor

Attest:

Tammy Dixon, Town Secretary



TOWN COUNCIL COMMUNICATION

DATE February 21, 2023

FROM: Tammy Dixon, Town Secretary

AGENDA ITEM: First Reading of a resolution concerning the approval of a Type B Economic Development Project and Third Amended and Restated Performance Agreement by and between the Bartonville Community Development Corporation, and Cloud 9 Management LLC..

SUMMARY:

A Performance Agreement between the Board and Cloud 9 Management LLC (Kim Cloud) was approved in April 2019, and amended the agreement in 2020 and 2021, to provide financial assistance for the construction of Cloud 9 Salon and Spa. The agreement provided a total incentive of \$32,000. \$16,000 was paid in accordance of the agreement and the remaining \$16,000 was to paid within 30 days after the issuance of a Certificate of Occupancy (April 2023).

Due to required architectural design changes, project cost negotiations and cost of materials, the groundbreaking of the project was delayed to January of 2023.

On February 8, 2023, the Bartonville Community Development Corporation Board approved a Third Amended and Restated Performance Agreement by and between the Community Development Corporation, and Cloud 9 Management LLC amending the dates of Section 4 of the agreement to coincide with the new construction completion date of early 2024.

Section 505.158 of the Texas Local Government Code provides that a Type B corporation may not undertake a project that requires an expenditure of more than \$10,000 until the governing body of the corporation's authorizing municipality adopts a resolution authorizing the project after giving the resolution at least two separate readings.

FISCAL INFORMATION: N/A

LEGAL REVIEW: The resolution and Seconded Amended and Restated Performance Agreement were prepared by Jeff Moore, BCDC Attorney.

RECOMMENDED MOTION OR ACTION: No Action. First Reading of Resolution

ATTACHMENTS:

1. Request from Cloud 9
2. Resolution

KIM CLOUD CLOUD 9 SALON AND SPA

7160 Justin Rd Lantana Texas 76226 | 972-317-4384 | kim@cloud9salon.com

January 24, 2023

Town Of Bartonville

Dear Town of Bartonville and Bartonville Community Development Corporation,

Cloud 9 Salon and Spa is seeking an amendment for the construction completion date of our Development Corporation Funds. In our second amendment we received an approval for a construction completion date of April 16, 2019.

Due to required architectural design changes, project cost negotiations and cost of materials we experienced a delay in our groundbreaking date.

We officially broke ground on January 16th and are excited to have a projected completion date for December 2023.

We are requesting an extension for our completion deadline from the Bartonville Community Development Corporation. The requested date is February 1, 2024.

Thank you and we look so forward to doing business in Bartonville Texas!

Sincerely,



**Kim Cloud
Cloud 9 Salon and Spa**

RESOLUTION NO. 2023-____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BARTONVILLE, TEXAS, APPROVING A THIRD AMENDED AND RESTATED PERFORMANCE AGREEMENT BY AND BETWEEN THE BARTONVILLE COMMUNITY DEVELOPMENT CORPORATION, AND CLOUD 9 MANAGEMENT, LLC, A TEXAS LIMITED LIABILITY COMPANY, TO PROVIDE A FINANCIAL INCENTIVE FOR ECONOMIC DEVELOPMENT PURPOSES, AUTHORIZED PURSUANT TO SECTIONS 501.103 AND 505.158 OF THE TEXAS LOCAL GOVERNMENT CODE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the Bartonville Community Development Corporation (hereinafter referred to as the “BCDC”) is a Type B Community development corporation, created pursuant to Chapter 505 of the Texas Local Government Code, as amended; and

WHEREAS, Section 501.103 of the Texas Local Government Code, in pertinent part, defines the term “project” to mean “expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to: (1) streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements; (2) telecommunications and Internet improvements . . .”; and

WHEREAS, Section 505.158 of the Texas Local Government Code provides that “[f]or a Type B corporation authorized to be created by a municipality with a population of 20,000 or less, “project” also includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the corporation’s board of directors to promote new or expanded business development.” Further, the statute provides that “[a] Type B corporation may not undertake a project authorized by this section that requires an expenditure of more than \$10,000 until the governing body of the corporation’s authorizing municipality adopts a resolution authorizing the project after giving the resolution at least two separate readings”; and

WHEREAS, on or about April 16, 2019, the Developer and BCDC approved and executed an original Performance Agreement concerning financial assistance for the construction of Qualified Expenditures (as defined herein) to be made to the Property generally located at 2660 F.M. 407, Town of Bartonville, Texas; and

WHEREAS, on or about December 9, 2020, the Developer and BCDC approved and executed an Amended Performance Agreement concerning financial assistance for the construction of Qualified Expenditures (as defined herein) to be made to the Property generally located at 2660 F.M. 407, Town of Bartonville, Texas; and

WHEREAS, on or about November 17, 2021, the Developer and BCDC approved and executed a Second Amended Performance Agreement concerning financial assistance for the

construction of Qualified Expenditures (as defined herein) to be made to the Property generally located at 2660 F.M. 407, Town of Bartonville, Texas; and

WHEREAS, the parties desire to amend the original Performance Agreement with this Third Amended and Restated Performance Agreement to amend certain dates within the Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BARTONVILLE, TEXAS, AS FOLLOWS:

Section 1. That the foregoing recitals are hereby found to be true and correct findings of the Town of Bartonville, Texas, and are fully incorporated into the body of this Resolution.

Section 2. That the Town Council of the Town of Bartonville, Texas, finds and determines that the Third Amended and Restated Performance Agreement, attached hereto as ***Exhibit A***, will promote new and expanded business development, and is otherwise consistent with Sections 501.103 and 505.158 of the Texas Local Government Code.

Section 3. That the Town Council of the Town of Bartonville, Texas, approves the Third Amended and Restated Performance Agreement, attached hereto as ***Exhibit A***, and authorize the Mayor to execute this Resolution.

Section 4. That this Resolution shall become effective from and after its passage.

DULY RESOLVED by the Town Council of the Town of Bartonville, Texas, on this the 21st day of February 2023.

Jaclyn Carrington, Mayor
Town of Bartonville, Texas

ATTEST:

Tammy Dixon, Town Secretary
Town of Bartonville, Texas

Exhibit A

Third Amended and Restated Performance Agreement

In an effort to reduce duplication, the agreement can be viewed under Agenda Item 9.



TOWN COUNCIL COMMUNICATION

DATE February 21, 2023

FROM: Thad Chambers, Town Administrator

AGENDA ITEM: Discuss and consider approval of a resolution declaring lack of confidence in the Town Engineer and removal of the Town Engineer pursuant to Texas Local Government Code Section 22.077(b), and authorizing the Town Administrator to terminate the Professional Services Agreement with Teague Nall and Perkins, Inc. on behalf of the Town.

SUMMARY:

FISCAL INFORMATION: N/A

RECOMMENDED MOTION OR ACTION:

Consider resolution declaring lack of confidence in the Town Engineer and removal of the Town Engineer pursuant to Texas Local Government Code Section 22.077(b), and authorizing the Town Administrator to terminate the Professional Services Agreement with Teague Nall and Perkins, Inc. on behalf of the Town.

ATTACHMENTS:

Resolution

TOWN OF BARTONVILLE, TEXAS

RESOLUTION 2023- _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BARTONVILLE, TEXAS, DECLARING LACK OF CONFIDENCE IN THE TOWN ENGINEER PURSUANT TO TEXAS LOCAL GOVERNMENT CODE SECTION 22.077(b); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Bartonville, Texas, is a Type A general-law municipality incorporated and organized under the laws of the State of Texas; and

WHEREAS, Chris Hartke, was appointed Town Engineer by the Town Council of the Town of Bartonville, Texas ("Town Council"), on March 16, 2021, and his engineering firm, Teague Nall and Perkins, Inc. entered into a contract with the Town to provide professional engineering services to the Town, dated June 15, 2021 (the "Contract"); and

WHEREAS, Section 22.077(b) of the Texas Local Government Code provides that the governing body of a Type A general-law municipality may remove a municipal officer at any time if the governing body lacks confidence in a municipal officer appointed by the governing body, provided that two-thirds of the elected aldermen vote in favor of a resolution declaring the lack of confidence; and

WHEREAS, the Town Engineer is a municipal officer subject to the provisions of Chapter 22 of the Texas Local Government Code pursuant to Section 22.071(a) thereof; and

WHEREAS, the Town Council desires to remove the Town Engineer declaring the lack of confidence in the Town Engineer pursuant to Section 22.077(b) of the Texas Local Government Code, and to terminate the Contract.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BARTONVILLE, TEXAS, THAT:

SECTION 1. FINDINGS INCORPORATED. The Town Council finds that the statements made in the preamble above are true and correct legislative determinations and incorporates them into the body of this Resolution as if fully stated herein.

SECTION 2. DECLARATION OF LACK OF CONFIDENCE. The Town Council hereby declares a lack of confidence in the Town Engineer, with at least four (4) of the elected aldermen of the Town voting in favor of this Resolution.

SECTION 3. REMOVAL OF TOWN ENGINEER. The Town Council hereby removes Chris Hartke as Town Engineer pursuant to Texas Local Government Code Section 22.077(b), and hereby directs the Town Administrator to take necessary action to terminate the Contract.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect immediately from and after the passage and approval of this Resolution.

PASSED AND APPROVED, by a vote of _____ in favor of this Resolution, this the ____ day of February 2023.

APPROVED:

Jaclyn Carrington, Mayor

ATTEST:

Tammy Dixon, Town Secretary



TOWN COUNCIL COMMUNICATION

DATE February 21, 2023

FROM: Tammy Dixon, Town Secretary

AGENDA ITEM: Second Reading of a resolution concerning the approval of a Type B Economic Development Project and Third Amended and Restated Performance Agreement by and between the Bartonville Community Development Corporation, and Cloud 9 Management LLC..

SUMMARY:

A Performance Agreement between the Board and Cloud 9 Management LLC (Kim Cloud) was approved in April 2019, and amended the agreement in 2020 and 2021, to provide financial assistance for the construction of Cloud 9 Salon and Spa. The agreement provided a total incentive of \$32,000. \$16,000 was paid in accordance of the agreement and the remaining \$16,000 was to paid within 30 days after the issuance of a Certificate of Occupancy (April 2023).

Due to required architectural design changes, project cost negotiations and cost of materials, the groundbreaking of the project was delayed to January of 2023.

On February 8, 2023, the Bartonville Community Development Corporation Board approved a Third Amended and Restated Performance Agreement by and between the Community Development Corporation, and Cloud 9 Management LLC amending the dates of Section 4 of the agreement to coincide with the new construction completion date of early 2024.

Section 505.158 of the Texas Local Government Code provides that a Type B corporation may not undertake a project that requires an expenditure of more than \$10,000 until the governing body of the corporation's authorizing municipality adopts a resolution authorizing the project after giving the resolution at least two separate readings.

FISCAL INFORMATION: N/A

LEGAL REVIEW: The resolution and Seconded Amended and Restated Performance Agreement were prepared by Jeff Moore, BCDC Attorney.

RECOMMENDED MOTION OR ACTION: No Action. Second Reading of Resolution

ATTACHMENTS:

1. Request from Cloud 9
2. Resolution

KIM CLOUD CLOUD 9 SALON AND SPA

7160 Justin Rd Lantana Texas 76226 | 972-317-4384 | kim@cloud9salon.com

January 24, 2023

Town Of Bartonville

Dear Town of Bartonville and Bartonville Community Development Corporation,

Cloud 9 Salon and Spa is seeking an amendment for the construction completion date of our Development Corporation Funds. In our second amendment we received an approval for a construction completion date of April 16, 2019.

Due to required architectural design changes, project cost negotiations and cost of materials we experienced a delay in our groundbreaking date.

We officially broke ground on January 16th and are excited to have a projected completion date for December 2023.

We are requesting an extension for our completion deadline from the Bartonville Community Development Corporation. The requested date is February 1, 2024.

Thank you and we look so forward to doing business in Bartonville Texas!

Sincerely,



**Kim Cloud
Cloud 9 Salon and Spa**

RESOLUTION NO. 2023-____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BARTONVILLE, TEXAS, APPROVING A THIRD AMENDED AND RESTATED PERFORMANCE AGREEMENT BY AND BETWEEN THE BARTONVILLE COMMUNITY DEVELOPMENT CORPORATION, AND CLOUD 9 MANAGEMENT, LLC, A TEXAS LIMITED LIABILITY COMPANY, TO PROVIDE A FINANCIAL INCENTIVE FOR ECONOMIC DEVELOPMENT PURPOSES, AUTHORIZED PURSUANT TO SECTIONS 501.103 AND 505.158 OF THE TEXAS LOCAL GOVERNMENT CODE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the Bartonville Community Development Corporation (hereinafter referred to as the “BCDC”) is a Type B Community development corporation, created pursuant to Chapter 505 of the Texas Local Government Code, as amended; and

WHEREAS, Section 501.103 of the Texas Local Government Code, in pertinent part, defines the term “project” to mean “expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to: (1) streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements; (2) telecommunications and Internet improvements . . .”; and

WHEREAS, Section 505.158 of the Texas Local Government Code provides that “[f]or a Type B corporation authorized to be created by a municipality with a population of 20,000 or less, “project” also includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the corporation’s board of directors to promote new or expanded business development.” Further, the statute provides that “[a] Type B corporation may not undertake a project authorized by this section that requires an expenditure of more than \$10,000 until the governing body of the corporation’s authorizing municipality adopts a resolution authorizing the project after giving the resolution at least two separate readings”; and

WHEREAS, on or about April 16, 2019, the Developer and BCDC approved and executed an original Performance Agreement concerning financial assistance for the construction of Qualified Expenditures (as defined herein) to be made to the Property generally located at 2660 F.M. 407, Town of Bartonville, Texas; and

WHEREAS, on or about December 9, 2020, the Developer and BCDC approved and executed an Amended Performance Agreement concerning financial assistance for the construction of Qualified Expenditures (as defined herein) to be made to the Property generally located at 2660 F.M. 407, Town of Bartonville, Texas; and

WHEREAS, on or about November 17, 2021, the Developer and BCDC approved and executed a Second Amended Performance Agreement concerning financial assistance for the

construction of Qualified Expenditures (as defined herein) to be made to the Property generally located at 2660 F.M. 407, Town of Bartonville, Texas; and

WHEREAS, the parties desire to amend the original Performance Agreement with this Third Amended and Restated Performance Agreement to amend certain dates within the Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BARTONVILLE, TEXAS, AS FOLLOWS:

Section 1. That the foregoing recitals are hereby found to be true and correct findings of the Town of Bartonville, Texas, and are fully incorporated into the body of this Resolution.

Section 2. That the Town Council of the Town of Bartonville, Texas, finds and determines that the Third Amended and Restated Performance Agreement, attached hereto as **Exhibit A**, will promote new and expanded business development, and is otherwise consistent with Sections 501.103 and 505.158 of the Texas Local Government Code.

Section 3. That the Town Council of the Town of Bartonville, Texas, approves the Third Amended and Restated Performance Agreement, attached hereto as **Exhibit A**, and authorize the Mayor to execute this Resolution.

Section 4. That this Resolution shall become effective from and after its passage.

DULY RESOLVED by the Town Council of the Town of Bartonville, Texas, on this the 21st day of February 2023.

Jaclyn Carrington, Mayor
Town of Bartonville, Texas

ATTEST:

Tammy Dixon, Town Secretary
Town of Bartonville, Texas

Exhibit A

Third Amended and Restated Performance Agreement

In an effort to reduce duplication, the agreement can be viewed under Agenda Item 9.



TOWN COUNCIL COMMUNICATION

DATE February 21, 2023

FROM: Thad Chambers, Town Administrator

AGENDA ITEM: Discuss and consider approval of a Consultant Services Contract with Westwood Professional Services, Inc. (formerly Pacheco Koch) for engineering services; and authorization for the Town Administrator to execute same on behalf of the Town.

SUMMARY:

This agreement provides for professional engineering and municipal consulting services with Westwood Professional Services, Inc. (formerly Pacheco Koch) used for review of development proposals, floodplain management, capital improvement planning and projects, administration support, attendance at public meetings, and miscellaneous engineering services.

FISCAL INFORMATION:

N/A

RECOMMENDED MOTION OR ACTION:

Move to approve a Consultant Services Contract with Westwood Professional Services, Inc. (formerly Pacheco Koch) for engineering services; and authorization for the Town Administrator to execute same on behalf of the Town.

ATTACHMENTS:

Consultant Services Contract – Currently in legal review



TOWN COUNCIL COMMUNICATION

DATE February 21, 2023

FROM: Thad Chambers, Town Administrator

AGENDA ITEM: Discuss and consider approval of a resolution amending the Annual Contract for Miscellaneous Pavement Repair and Drainage Improvements between the Town of Bartonville and SPI Asphalt, LLC., and authorizing the Town Administrator to execute contract documents.

SUMMARY:

The Annual Contract for Miscellaneous Pavement Repair and Drainage contract was awarded to SPI Asphalt, LLC in November of 2021. The agreement was extended and amended to add additional unit items not previously included in the original agreement in November 2022. After meeting with the contractor several times, it has become apparent that the 2021 pricing levels have become problematic due to materials and labor cost increases.

In some cases, unit pricing is now at or below the cost to complete the work. Ultimately this imbalance impacts the Town's ability to get some work scheduled and completed in a timely manner. This has been discussed with SPI, and the proposed price changes are a result of those meetings. The Town Engineer has reviewed the pricing, and has stated that the increases are reasonable and within what is being seen across the industry.

FISCAL INFORMATION:

While the contract amount would increase to \$353,700, the current impact to the Town's budget remains \$100,000 to the street maintenance fund. Should additional work be identified and recommended, it would require a budget amendment to be approved by the Town Council.

RECOMMENDED MOTION OR ACTION:

Move to approve a resolution amending the Annual Contract for Miscellaneous Pavement Repair and Drainage Improvements between the Town of Bartonville and SPI Asphalt, LLC., and authorizing the Town Administrator to execute contract documents.

ATTACHMENTS:

Resolution

Second Amendment to contract

Updated unit bid pricing

RESOLUTION 2023- ____

A RESOLUTION OF THE TOWN OF BARTONVILLE, TEXAS, APPROVING A SECOND AMENDMENT TO THE ANNUAL CONTRACT FOR MISCELLANEOUS PAVEMENT REPAIR AND DRAINAGE IMPROVEMENTS BETWEEN THE TOWN OF BARTONVILLE AND SPI ASPHALT, LLC, TO ADOPT REVISED UNIT PRICES FOR BID ITEMS FOR WORK UNDER THE CONTRACT; AUTHORIZING THE TOWN ADMINISTRATOR TO EXECUTE CONTRACT AMENDMENT DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The Town of Bartonville and SPI Asphalt, LLC, entered into that certain 2021 Annual Contract for Miscellaneous Pavement Repair and Drainage Improvements, effective November 19, 2021 (the “Contract”), that was scheduled to expire on November 30, 2022; and

WHEREAS, under the terms of the Contract set forth in the Contract Documents, Special Instructions to Bidders, Section 5, Contract Term, the Town renewed the Contract for a one-year term by that certain First Amendment to Contract Between Town of Bartonville and SPI Asphalt, LLC, approved by Bartonville Resolution No. 2022-22, dated November 15, 2022; and

WHEREAS, a negotiation of revised unit prices for bid items for work under the Contract have been negotiated recently between the Town and SPI Asphalt, LLC; and

WHEREAS, upon full review and consideration of the Contract and all matters related thereto, the Town Council is of the opinion and finds that said Contract shall be amended by the adoption of revised unit prices for bid items as the result of negotiation between the Town and SPI Asphalt, LLC.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BARTONVILLE, TEXAS, THAT:

SECTION 1. The Second Amendment to the Contract to adopt revised unit prices for bid items is hereby approved, and the Town Administrator is hereby authorized to sign the necessary documents amending the Contract, attached hereto as Exhibit “A,” under the same terms and conditions as set forth in the Contract, as was amended by the First Amendment to the Contract, dated November 15, 2022, except for the revised unit prices for bid items adopted hereunder, as shown on the attached Exhibit “A.”

SECTION 2. This Resolution shall take effect immediately from and after its passage, and it is accordingly so resolved.

DULY ADOPTED by the Bartonville Town Council on this ____ day of February 2023.

APPROVED:

Jaclyn Carrington, Mayor

ATTEST:

Tammy Dixon, Town Secretary

SECOND AMENDMENT TO CONTRACT BETWEEN TOWN OF BARTONVILLE AND SPI ASPHALT, LLC

This Second Amendment to the 2021 Annual Contract for Miscellaneous Pavement Repair and Drainage Improvements (this “Second Amendment”) is made and entered into by the Town of Bartonville, Texas, a municipal corporation (hereinafter referred to as “Town”) and SPI Asphalt, LLC, authorized to conduct business in the State of Texas (hereinafter referred to as “SPI”) (collectively, the “Parties”), and constitutes an amendment to the 2021 Annual Contract for Miscellaneous Pavement Repair and Drainage Improvements, effective November 19, 2021, (the “Contract”) executed by the Parties to provide for street pavement repair and drainage improvements in the Town.

RECITALS:

WHEREAS, the Parties executed the Contract effective November 19, 2021; and

WHEREAS, the Contract provides certain provisions regarding street pavement repair and drainage improvements in the Town for a period of one (1) year, with provision for two one-year extensions at the option of the Town and as agreed upon by the Parties; and

WHEREAS, the Parties extended the term of the Contract for one (1) year in accordance with the availability of such option set forth in the Contract Documents, Special Instructions to Bidders, Section 5, Contract Term, by that First Amendment to Contract Between Town of Bartonville and SPI Asphalt, LLC, dated November 22, 2022; and

WHEREAS, the Parties have concluded that the Contract, as amended by this Second Amendment, will continue SPI’s provision of street pavement repair and drainage improvements in the Town under the same terms and conditions of the Contract, except for revised unit prices for various bid items, as have been negotiated by the Parties and as are reflected on Exhibit 1 attached to this Second Amendment; and

WHEREAS, this Second Amendment is in the best interest of the Parties.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES AND CONSIDERATION PROVIDED FOR HEREIN, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY CONFIRMED, THE PARTIES HERETO AGREE TO THE FOLLOWING:

Section 1. All matters stated above in the preamble are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

Section 2. **Adoption of Revised Unit Prices for Bid Items**: By way of amendment to the Contract Documents, the unit prices for bid items for work under the Contract are hereby modified as set forth on Exhibit 1 attached hereto.

Section 3. **Remainder of Terms of the Contract Remain the Same**: The rest and remainder of the terms and conditions set forth in the Contract, as originally executed and as amended by the First Amendment, dated November 22, 2022,

are unchanged and are not amended or altered by this Second Amendment.

IN WITNESS WHEREOF, we have hereunto set our hands this _____ day of February, 2023, in duplicate originals.

TOWN OF BARTONVILLE, TEXAS

SPI ASPHALT, LLC

By: _____

By: _____

Name: Thad Chambers

Name: _____

Title: Town Administrator

Title: _____

ATTEST:

ATTEST:

By: _____

By: _____

Name: Tammy Dixon

Name: _____

Title: Town Secretary

Title: _____

**Town of Bartonville, Texas
2021 ANNUAL CONTRACT FOR
FOR MISCELLANEOUS PAVEMENT REPAIR AND DRAINAGE IMPROVEMENTS**

PROPOSAL/UNIT PRICE BID SCHEDULE

THIS BID IS SUBMITTED TO:

Town of Bartonville
1941 E. Jeter Road
Bartonville, Texas 76226

The Undersigned Bidder proposes to complete the work as shown on the Plans and described in the specifications for the following prices:

No.	Bid Item Description	Estimated Quantity	Old Unit Price Bid	New Unit Price Bid	Percentage Increase	Total Amount Bid
Base Bid Items						
1	Mobilization for Crack Sealing	2 LS	\$ 1,500.00 /LS	\$ 1,800.00 /LS	20.00%	\$ 3,600.00
2	Crack Sealing (0 to 4,000 LF)	4,000 LF	\$ 2.75 /LF	\$ 3.20 /LF	16.36%	\$ 12,800.00
3	Crack Sealing (more than 4,000 LF)	15,000 LF	\$ 2.50 /LF	\$ 2.75 /LF	10.00%	\$ 41,250.00
4	Mobilization for Asphalt Spot Repairs	3 LS	\$ 1,500.00 /LS	\$ 1,800.00 /LS	20.00%	\$ 5,400.00
5	4" Asphalt Spot Repair (0 to 50 SY)	50 SY	\$ 68.00 /SY	\$ 76.00 /SY	11.76%	\$ 3,800.00
6	4" Asphalt Spot Repair (51 to 100 SY)	125 SY	\$ 68.00 /SY	\$ 74.00 /SY	8.82%	\$ 9,250.00
7	4" Asphalt Spot Repair (more than 100 SY)	200 SY	\$ 68.00 /SY	\$ 70.00 /SY	2.94%	\$ 14,000.00
8	8" Asphalt Spot Repair (0 to 50 SY)	20 SY	\$ 115.00 /SY	\$ 130.00 /SY	13.04%	\$ 2,600.00
9	8" Asphalt Spot Repair (more than 50 SY)	75 SY	\$ 115.00 /SY	\$ 125.00 /SY	8.70%	\$ 9,375.00
10	Asphalt for Spot Repairs	20 TON	\$ 125.00 /TON	\$ 145.00 /TON	16.00%	\$ 2,900.00
11	Flexbase for Base Repair	100 TON	\$ 55.00 /TON	\$ 60.00 /TON	9.09%	\$ 6,000.00
12	Pothole Patch	15 SF	\$ 5.00 /SF	\$ 50.00 /SF	900.00%	\$ 750.00
13	Mobilization for Asphalt Overlay	2 LS	\$ 1,500.00 /LS	\$ 1,800.00 /LS	20.00%	\$ 3,600.00
14	Type C Asphalt Overlay (0 to 200 Tons)	175 TON	\$ 120.00 /TON	\$ 130.00 /TON	8.33%	\$ 22,750.00
15	Type C Asphalt Overlay (more than 200 Tons)	400 TON	\$ 120.00 /TON	\$ 130.00 /TON	8.33%	\$ 52,000.00

No.	Bid Item Description	Estimated Quantity	Old Unit Price Bid	New Unit Price Bid	Percentage Increase	Total Amount Bid
16	Fog Seal	2,500 SY	\$ 2.00 /SY	\$ 2.15 /SY	7.50%	\$ 5,375.00
Total Base Bid						\$ 195,450.00
Add Alternate Bid Items						
17	Mobilization for Drainage Work	1 LS	\$ 1,000.00 /LS	\$ 1,500.00 /LS	50.00%	\$ 1,500.00
18	Ditch Grading	6 Day	\$ 1,500.00 /Day	\$ 1,500.00 /Day	0.00%	\$ 9,000.00
19	Remove Existing Culvert	2 EA	\$ 500.00 /EA	\$ 500.00 /EA	0.00%	\$ 1,000.00
20	18" RCP Culvert	30 LF	\$ 125.00 /LF	\$ 125.00 /LF	0.00%	\$ 3,750.00
21	24" RCP Culvert	30 LF	\$ 145.00 /LF	\$ 145.00 /LF	0.00%	\$ 4,350.00
22	36" RCP Culvert	30 LF	\$ 350.00 /LF	\$ 350.00 /LF	0.00%	\$ 10,500.00
23	48" RCP Culvert	30 LF	\$ 500.00 /LF	\$ 500.00 /LF	0.00%	\$ 15,000.00
24	Safety End Treatment for 18" Culvert	2 EA	\$ 1,500.00 /EA	\$ 1,500.00 /EA	0.00%	\$ 3,000.00
25	Safety End Treatment for 21" - 27" Culvert	2 EA	\$ 2,000.00 /EA	\$ 2,000.00 /EA	0.00%	\$ 4,000.00
26	Safety End Treatment for 30" - 36" Culvert	2 EA	\$ 3,000.00 /EA	\$ 3,000.00 /EA	0.00%	\$ 6,000.00
27	Safety End Treatment for 42" - 48" Culvert	2 EA	\$ 3,500.00 /EA	\$ 3,500.00 /EA	0.00%	\$ 7,000.00
28	Parallel Wings Headwall for 42" - 48" Culvert	2 EA	\$ 5,000.00 /EA	\$ 5,000.00 /EA	0.00%	\$ 10,000.00
29	12" Rock Riprap	20 SY	\$ 150.00 /SY	\$ 150.00 /SY	0.00%	\$ 3,000.00
30	4" ReflectORIZED Pavement Markings	1,000 LF	\$ 1.50 /LF	\$ 1.90 /LF	26.67%	\$ 1,900.00
31	Solid Sod (Common Bermuda)	500 SY	\$ 9.00 /SY	\$ 12.00 /SY	33.33%	\$ 6,000.00
32	Turf Reinforcing Mat	200 SY	\$ 35.00 /SY	\$ 35.00 /SY	0.00%	\$ 7,000.00
33	8" Full-Depth Concrete Repair	30 SF	\$ 20.00 /SF	\$ 30.00 /SF	50.00%	\$ 900.00
34	Clean Out Culverts (Up to 27")	3 EA	\$ 650.00 /EA	\$ 900.00 /EA	38.46%	\$ 2,700.00

No.	Bid Item Description	Estimated Quantity	Old Unit Price Bid	New Unit Price Bid	Percentage Increase	Total Amount Bid
35	Clean Out Culverts (30" and larger)	2 EA	\$ 950.00 /EA	\$ 1,100.00 /EA	15.79%	\$ 2,200.00
36	Object Markers	6 EA	\$ 200.00 /EA	\$ 200.00 /EA	0.00%	\$ 1,200.00
37	Remove Existing Tree (6" dbh to 18" dbh)	3 EA	\$ 500.00 /EA	\$ 750.00 /EA	50.00%	\$ 2,250.00
38	Remove Existing Tree (greater than 18" dbh)	3 EA	\$ 1,000.00 /EA	\$ 1,000.00 /EA	0.00%	\$ 3,000.00
39	2' Concrete Flume	200 LF	\$ 30.00 /LF	\$ 42.00 /LF	40.00%	\$ 8,400.00
40	Grouted Rock Rip Rap	25 SY	\$ 100.00 /SY	\$ 100.00 /SY	0.00%	\$ 2,500.00
41	Pulvamic and Cement Stabilize Base	500 SY	\$ 12.00 /SY	\$ 15.00 /SY	25.00%	\$ 7,500.00
42	Backfill Shoulder	200 LF	\$ 5.00 /LF	\$ 8.00 /LF	60.00%	\$ 1,600.00
43	Flowable Fill	20 CY	\$ 400.00 /CY	\$ 400.00 /CY	0.00%	\$ 8,000.00
44	Cleaning & Sealing Concrete Joints	5,000 LF	\$ 5.00 /LF	\$ 5.00 /LF	0.00%	\$ 25,000.00

Total Add Alternate Bid: \$ 158,250.00

Total Base Bid: \$ 195,450.00

Total Combined Bid: \$ 353,700.00

The undersigned agrees to execute and file with the Owner a contract within ten (10) days after written notification of award of the contract to him and to begin the work to be performed under the contract within ten (10) days after written authorization to begin the work (Work Order) and to complete the work in full in accordance with the schedule outlined on each Work Order.

Signed: _____

SEAL
(If Corporation)

Company: _____

Address: _____

Telephone: _____

Email: _____



TOWN COUNCIL COMMUNICATION

DATE February 21, 2023

FROM: Tammy Dixon

AGENDA ITEM: Discuss and consider appointing members to the ad hoc Special Events Advisory Committee.

SUMMARY:

On January 17, 2023, the Town Council adopted Resolution 2023-02 creating an ad hoc Special Events Advisory Committee (Committee). Staff posted notices on the Town's Social Media outlets advertising for applications for the Committee.

Per the Resolution, the Committee will be comprised of four members who are residents of the Town who shall be appointed by the Town Council; and two members of Town Council.

The following individuals have applied to be on the committee:

1. Melissa DeWitt
2. Noah Ray Shah
3. Lori Van Alstine
4. Randy Van Alstine
5. Margie Arens
6. Tina Bennett

FISCAL INFORMATION:

N/A

RECOMMENDED MOTION OR ACTION:

Move to appoint members to the Committee.

ATTACHMENTS:

Resolution 2023-02
Applications

**TOWN OF BARTONVILLE
RESOLUTION 2023-02**

Item 18.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BARTONVILLE, TEXAS, CREATING A SPECIAL EVENTS ADVISORY AD HOC COMMITTEE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Bartonville (“Town”), Texas was incorporated as a town by the State of Texas in 1973; and

WHEREAS, the Year 2023 marks the 50th year anniversary of the Town; and

WHEREAS, the Town Council recognizes there are many citizens who desire to participate in the planning of the Town events; and

WHEREAS, the Town Council desires to create a committee to advise and make recommendations to the Town Council for the successful planning and execution of the Town’s 50th Anniversary celebration and other events as deemed necessary by the Town Council; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BARTONVILLE, TEXAS, THAT:

SECTION 1: The foregoing recitals are adopted and incorporated herein for all purposes.

SECTION 2: The Town Council does hereby create an ad hoc committee to be known as the “Special Events Advisory Committee” (the “Committee”) to plan and organize the Town’s 50th Anniversary celebration and other events as deemed necessary by the Town Council.

SECTION 3: The Committee will act as an advisory committee to the Mayor and Town Council and shall be comprised of the following:

- A. Four members who are residents of Town who shall be appointed by the Town Council.
- B. Two members of Town Council.

SECTION 4: The Committee shall establish its rules of procedures and a schedule for regular meetings subject to the following:

- The Committee shall elect its own Chair and Vice-Chair at its first meeting; and
- The Committee shall comply with the provisions of the Texas Open Meetings Act to the same extent as the Town’s standing committees.

SECTION 5. The Town’s 50th anniversary celebration and other events may be fully or partially funded by the Town of Bartonville as determined by the Town Council’s budget process.

SECTION 6. The Town, through the Town Administrator, shall provide such clerical and staffing support to the Committee as the Town Administrator deems reasonable and necessary to allow the Committee to perform its purposes or as otherwise determined by the Town Council.

SECTION 7. This resolution shall take effect immediately upon its passage.

PASSED AND APPROVED this the 17TH day of January 2023.

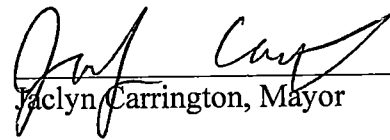


ATTEST:



Tammy Dixon, Town Secretary

APPROVED:



Jaclyn Carrington, Mayor

Print

Application for Special Events Advisory Committee - Submission #1814

Date Submitted: 1/27/2023

This application and all information contained herein is a public record. Public service opportunities are offered by the Town of Bartonville without regard to race, color, national origin, religion, sex, genetic information or disability

Date & Time

1/27/2023

4:30 PM

First Name*

Margie

Last Name*

Arens

Address1*

611, Dove Creek rd

City*

Bartonville

State*

TX

Zip*

76226

Phone Number*

9725236159

Email Address

Length of Residency in Bartonville*

23 years

Occupation (if retired, indicate former occupation/profession)*

Corporate Manager

List any experience that qualifies you to serve in the position(s) sought:

Event planning during career,

Are you currently serving on a Board, Commissions, or other capacity?*

☒ Yes

☐ No

If yes, which

P&Z

Have you served on a Board, Commission, or Committee before?*

☒ Yes

☐ No

If yes, which

Dention Republican Woman’s Club. Denton County Conservative Coalition

Print**Application for Special Events Advisory Committee - Submission #1819****Date Submitted: 1/31/2023**

This application and all information contained herein is a public record. Public service opportunities are offered by the Town of Bartonville without regard to race, color, national origin, religion, sex, genetic information or disability

Date & Time

1/31/2023

6:15 PM

First Name*

Tina

Last Name*

Bennett

Address1*

422 Wolf Run Rd

City*

Bartonville

State*

TX

Zip*

76226

Phone Number*

7192902930

Email Address**Length of Residency in Bartonville***

Since 2013

Occupation (if retired, indicate former occupation/profession)*

Retired Military and current VP TECHNOLOGY

List any experience that qualifies you to serve in the position(s) sought:

I have planned events from Military banquets to school and sporting events

Are you currently serving on a Board, Commissions, or other capacity?*

- ☐ Yes
- ☒ No

If yes, which

Have you served on a Board, Commission, or Committee before?*

- ☐ Yes
- ☒ No

If yes, which

Print**Application for Special Events Advisory Committee - Submission #1790****Date Submitted: 1/19/2023**

This application and all information contained herein is a public record. Public service opportunities are offered by the Town of Bartonville without regard to race, color, national origin, religion, sex, genetic information or disability

Date & Time

1/19/2023

5:57 PM

First Name*

Melissa

Last Name*

DeWitt

Address1*

568 Wolf Run Road

City*

Bartonville

State*

TX

Zip*

76226

Phone Number*

9722477844

Email Address**Length of Residency in Bartonville***

Since 2004

Occupation (if retired, indicate former occupation/profession)*

Retired CPA

List any experience that qualifies you to serve in the position(s) sought:

Active in Rotary and other community events

Are you currently serving on a Board, Commissions, or other capacity?*

- ☒ Yes
- ☐ No

If yes, which

Texas A&M Library Board

Have you served on a Board, Commission, or Committee before?*

- ☒ Yes
- ☐ No

If yes, which

Rotary, A&M Library, others

Print**Application for Special Events Advisory Committee - Submission #1792****Date Submitted: 1/21/2023**

This application and all information contained herein is a public record. Public service opportunities are offered by the Town of Bartonville without regard to race, color, national origin, religion, sex, genetic information or disability

Date & Time

1/21/2023

hh:mm am

First Name*

Noah Ray

Last Name*

Shah

Address1*

1718 E Jeter Rd

City*

Bartonville

State*

TX

Zip*

76226

Phone Number*

760-977-9026

Email Address**Length of Residency in Bartonville***

40 years

Occupation (if retired, indicate former occupation/profession)*

Retired- real estate & stocks investor

List any experience that qualifies you to serve in the position(s) sought:

Are you currently serving on a Board, Commissions, or other capacity?*

- ☐ Yes
- ☒ No

If yes, which

Have you served on a Board, Commission, or Committee before?*

- ☐ Yes
- ☒ No

If yes, which

Print

Application for Special Events Advisory Committee - Submission #1797

Date Submitted: 1/23/2023

This application and all information contained herein is a public record. Public service opportunities are offered by the Town of Bartonville without regard to race, color, national origin, religion, sex, genetic information or disability

Date & Time

1/23/2023

hh:mm am

First Name*

Lori

Last Name*

Van Alstine

Address1*

555 Seals Road

City*

Bartonville

State*

TX

Zip*

76226

Phone Number*

469-682-9850

Email Address

Length of Residency in Bartonville*

18 years

Occupation (if retired, indicate former occupation/profession)*

Executive Assistant to the CEO of a private investigation company

List any experience that qualifies you to serve in the position(s) sought:

Planned and orchestrated many large parties and events in the past. Very organized. Work well with others.

Are you currently serving on a Board, Commissions, or other capacity?*

☒ Yes

☐ No

If yes, which

Crime Control and Prevention

Have you served on a Board, Commission, or Committee before?*

☒ Yes

☐ No

If yes, which

Crime Control and Prevention

Print

Application for Special Events Advisory Committee - Submission #1799

Date Submitted: 1/23/2023

This application and all information contained herein is a public record. Public service opportunities are offered by the Town of Bartonville without regard to race, color, national origin, religion, sex, genetic information or disability

Date & Time

1/23/2023

1:30 PM

First Name*

Randy

Last Name*

Van Alstine

Address1*

555 Seals Road

City*

Bartonville

State*

TX

Zip*

76226

Phone Number*

214-929-6993

Email Address

Length of Residency in Bartonville*

18 years

Occupation (if retired, indicate former occupation/profession)*

Construction

List any experience that qualifies you to serve in the position(s) sought:

We/Lori and I along with two other couples planned and carried out the Bartonville Community Picnic Summer of 2022

Are you currently serving on a Board, Commissions, or other capacity?*

☒ Yes

☐ No

If yes, which

Economic Development Committee

Have you served on a Board, Commission, or Committee before?*

☒ Yes

☐ No

If yes, which

Board of Adjustments



TOWN COUNCIL COMMUNICATION

DATE February 21, 2023

FROM: Tammy Dixon, Town Secretary

AGENDA ITEM: Discuss and act on a resolution concerning the approval of a Type B Economic Development Project and Third Amended and Restated Performance Agreement by and between the Bartonville Community Development Corporation, and Cloud 9 Management LLC..

SUMMARY:

A Performance Agreement between the Board and Cloud 9 Management LLC (Kim Cloud) was approved in April 2019, and amended the agreement in 2020 and 2021, to provide financial assistance for the construction of Cloud 9 Salon and Spa. The agreement provided a total incentive of \$32,000. \$16,000 was paid in accordance of the agreement and the remaining \$16,000 was to paid within 30 days after the issuance of a Certificate of Occupancy (April 2023).

Due to required architectural design changes, project cost negotiations and cost of materials, the groundbreaking of the project was delayed to January of 2023.

On February 8, 2023, the Bartonville Community Development Corporation Board approved a Third Amended and Restated Performance Agreement by and between the Community Development Corporation, and Cloud 9 Management LLC amending the dates of Section 4 of the agreement to coincide with the new construction completion date of early 2024.

Section 505.158 of the Texas Local Government Code provides that a Type B corporation may not undertake a project that requires an expenditure of more than \$10,000 until the governing body of the corporation's authorizing municipality adopts a resolution authorizing the project after giving the resolution at least two separate readings.

FISCAL INFORMATION: N/A

LEGAL REVIEW: The resolution and Seconded Amended and Restated Performance Agreement were prepared by Jeff Moore, BCDC Attorney.

RECOMMENDED MOTION OR ACTION: Move to approve a resolution concerning the approval of a Type B Economic Development Project and Third Amended and Restated Performance Agreement by and between the Bartonville Community Development Corporation, and Cloud 9 Management LLC

ATTACHMENTS:

1. Request from Cloud 9
2. Resolution

KIM CLOUD

CLOUD 9 SALON AND SPA

7160 Justin Rd Lantana Texas 76226 | 972-317-4384 | kim@cloud9salon.com

January 24, 2023

Town Of Bartonville

Dear Town of Bartonville and Bartonville Community Development Corporation,

Cloud 9 Salon and Spa is seeking an amendment for the construction completion date of our Development Corporation Funds. In our second amendment we received an approval for a construction completion date of April 16, 2019.

Due to required architectural design changes, project cost negotiations and cost of materials we experienced a delay in our groundbreaking date.

We officially broke ground on January 16th and are excited to have a projected completion date for December 2023.

We are requesting an extension for our completion deadline from the Bartonville Community Development Corporation. The requested date is February 1, 2024.

Thank you and we look so forward to doing business in Bartonville Texas!

Sincerely,



Kim Cloud
Cloud 9 Salon and Spa

RESOLUTION NO. 2023-___

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BARTONVILLE, TEXAS, APPROVING A THIRD AMENDED AND RESTATED PERFORMANCE AGREEMENT BY AND BETWEEN THE BARTONVILLE COMMUNITY DEVELOPMENT CORPORATION, AND CLOUD 9 MANAGEMENT, LLC, A TEXAS LIMITED LIABILITY COMPANY, TO PROVIDE A FINANCIAL INCENTIVE FOR ECONOMIC DEVELOPMENT PURPOSES, AUTHORIZED PURSUANT TO SECTIONS 501.103 AND 505.158 OF THE TEXAS LOCAL GOVERNMENT CODE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the Bartonville Community Development Corporation (hereinafter referred to as the “BCDC”) is a Type B Community development corporation, created pursuant to Chapter 505 of the Texas Local Government Code, as amended; and

WHEREAS, Section 501.103 of the Texas Local Government Code, in pertinent part, defines the term “project” to mean “expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to: (1) streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements; (2) telecommunications and Internet improvements . . .”; and

WHEREAS, Section 505.158 of the Texas Local Government Code provides that “[f]or a Type B corporation authorized to be created by a municipality with a population of 20,000 or less, “project” also includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the corporation’s board of directors to promote new or expanded business development.” Further, the statute provides that “[a] Type B corporation may not undertake a project authorized by this section that requires an expenditure of more than \$10,000 until the governing body of the corporation’s authorizing municipality adopts a resolution authorizing the project after giving the resolution at least two separate readings”; and

WHEREAS, on or about April 16, 2019, the Developer and BCDC approved and executed an original Performance Agreement concerning financial assistance for the construction of Qualified Expenditures (as defined herein) to be made to the Property generally located at 2660 F.M. 407, Town of Bartonville, Texas; and

WHEREAS, on or about December 9, 2020, the Developer and BCDC approved and executed an Amended Performance Agreement concerning financial assistance for the construction of Qualified Expenditures (as defined herein) to be made to the Property generally located at 2660 F.M. 407, Town of Bartonville, Texas; and

WHEREAS, on or about November 17, 2021, the Developer and BCDC approved and executed a Second Amended Performance Agreement concerning financial assistance for the

construction of Qualified Expenditures (as defined herein) to be made to the Property generally located at 2660 F.M. 407, Town of Bartonville, Texas; and

WHEREAS, the parties desire to amend the original Performance Agreement with this Third Amended and Restated Performance Agreement to amend certain dates within the Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BARTONVILLE, TEXAS, AS FOLLOWS:

Section 1. That the foregoing recitals are hereby found to be true and correct findings of the Town of Bartonville, Texas, and are fully incorporated into the body of this Resolution.

Section 2. That the Town Council of the Town of Bartonville, Texas, finds and determines that the Third Amended and Restated Performance Agreement, attached hereto as **Exhibit A**, will promote new and expanded business development, and is otherwise consistent with Sections 501.103 and 505.158 of the Texas Local Government Code.

Section 3. That the Town Council of the Town of Bartonville, Texas, approves the Third Amended and Restated Performance Agreement, attached hereto as **Exhibit A**, and authorize the Mayor to execute this Resolution.

Section 4. That this Resolution shall become effective from and after its passage.

DULY RESOLVED by the Town Council of the Town of Bartonville, Texas, on this the 21st day of February 2023.

Jaclyn Carrington, Mayor
Town of Bartonville, Texas

ATTEST:

Tammy Dixon, Town Secretary
Town of Bartonville, Texas

~~SECOND~~THIRD AMENDED AND RESTATED PERFORMANCE AGREEMENT

This **~~SECOND~~THIRD AMENDED AND RESTATED PERFORMANCE AGREEMENT** between ***CLOUD 9 MANAGEMENT, LLC***, a Texas limited liability company (hereinafter referred to as the “Developer”), and the ***BARTONVILLE COMMUNITY DEVELOPMENT CORPORATION***, a Texas non-profit corporation (hereinafter referred to as the “BCDC”), is made and executed on the following recitals, terms and conditions.

WHEREAS, BCDC is an economic development corporation operating pursuant to Chapter 505 of the Texas Local Government Code, as amended (also referred to as the “Act”), and the Texas Non-Profit Corporation Act, as codified in the Texas Business Organizations Code, as amended; and

WHEREAS, on or about April 16, 2019, the Developer and BCDC approved and executed an original Performance Agreement concerning financial assistance for the construction of Qualified Expenditures (as defined herein) to be made to the Property generally located at 2660 F.M. 407, Town of Bartonville, Texas; and

WHEREAS, on or about December 9, 2020, the Developer and BCDC approved and executed an Amended and Restated Performance Agreement concerning financial assistance for the construction of Qualified Expenditures (as defined herein) to be made to the Property generally located at 2660 F.M. 407, Town of Bartonville, Texas; and

WHEREAS, the parties desire to amend the Amended and Restated Performance Agreement with this **~~Second~~Third** Amended and Restated Performance Agreement to amend certain dates within the Agreement.

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the BCDC and Developer agree as follows:

SECTION 1. FINDINGS INCORPORATED.

The foregoing recitals are hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

SECTION 2. TERM.

This Agreement shall be effective as of the Effective Date, as defined herein, and shall continue thereafter until **March 31, ~~2029~~2028**, unless terminated sooner under the provisions hereof.

SECTION 3. DEFINITIONS.

The following words shall have the following meanings when used in this Agreement.

- (a) **Act.** The word “Act” means Chapters 501 to 505 of the Texas Local Government Code, as amended.
- (b) **Agreement.** The word “Agreement” means this ~~Second~~Third Amended and Restated Performance Agreement, together with all exhibits and schedules attached to this ~~Second~~Third Amended and Restated Performance Agreement from time to time, if any.
- (c) **BCDC.** The term “BCDC” means the Bartonville Community Development Corporation, a Texas non-profit corporation, its successors and assigns, whose corporate address for the purposes of this Agreement is 1941 East Jeter Road, Bartonville, Texas 76226.
- (d) **Developer.** The word “Developer” means Cloud 9 Management, LLC, a Texas limited liability company, and its successors and assigns, whose address for the purposes of this Agreement is 1651 F.M. 407, Flower Mound, Texas 75028.
- (e) **Effective Date.** The words “Effective Date” mean the date of the latter to execute this Agreement by and between the Developer and the BCDC.
- (f) **Event of Default.** The words “Event of Default” mean and include any of the Events of Default set forth below in the section entitled “Events of Default.”
- (g) **Full-Time Equivalent Employment Positions.** The words “Full-Time Equivalent Employment Position” or “Full-Time Equivalent Employment Positions” mean and include a job requiring a minimum of One Thousand Nine Hundred Twenty (1,920) hours of work averaged over a twelve (12) month period.
- (h) **Property.** The word “Property” means Lot 1R - 4, Block A of the Denkman Plaza Addition, an addition to the Town of Bartonville, Denton County, Texas, and generally located at 2660 F.M. 407, Bartonville, Texas.
- (i) **Qualified Expenditures.** The words “Qualified Expenditures” mean those expenditures consisting of construction of a minimum 8,000 square foot hair salon establishment located on the Property, and Property acquisition costs, and those expenses which otherwise meet the definition of “project” as that term is defined by Sections 501.103 and 505.158 of the Act, and the definition of “cost” as that term is defined by Section 501.152 of the Act.
- (j) **Related Documents.** The words “Related Documents” mean and include without limitation all promissory notes, loan agreements, and all other instruments and documents, whether now or hereafter existing, executed in connection with this Agreement.
- (k) **Term.** The word “Term” means the term of this Agreement as specified in Section 2 of this Agreement.

SECTION 4. AFFIRMATIVE COVENANTS OF DEVELOPER.

Developer covenants and agrees with BCDC that, while this Agreement is in effect, it shall comply with the following terms and conditions:

- (a) **Qualified Expenditures.** Developer covenants and agrees to submit to the BCDC invoices, receipts, or other documentation in a form acceptable to the BCDC for the Qualified Expenditures made to the Property in a minimum amount of **Two Million Five Hundred Thousand and No/100 Dollars (\$2,500,000.00)** by **April 1, ~~2024~~2023**.
- (b) **Certificate of Occupancy.** Developer covenants and agrees to obtain or cause to be obtained by **April 1, ~~2024~~2023**, a Certificate of Occupancy from the Town of Bartonville, Texas, for a minimum of 8,000 square feet of hair salon, retail space located on the Property.
- (c) **Operate Cloud 9 Establishment.** Developer covenants and agrees by **April 1, ~~2024~~2023**, and during the Term of this Agreement to keep open to the general public the Cloud 9 Hair Salon Establishment located on the Property.
- (d) **Job Creation and Retention.** Developer covenants and agrees by **April 1, ~~2024~~2023**, and during the Term of this Agreement to employ and maintain a minimum of thirty-five (35) Full-Time Equivalent Employment Positions working at the Property. Developer covenants and agrees beginning on **April 1, ~~2025~~2024**, and during the Term of this Agreement, Developer shall deliver to BCDC an annual compliance verification signed by a duly authorized representative of Developer that shall certify the number of Full-Time Equivalent Employment Positions, and shall disclose and certify the average wage for all Full-Time Equivalent Employment Positions (the "Annual Compliance Verification"). The Developer covenants and agrees beginning on **April 1, ~~2025~~2024**, and annually thereafter during the Term of this Agreement, there will be a total of four (4) Annual Compliance Verifications due and submitted to the BCDC covering the Full-Time Equivalent Employment Positions created and maintained during the Term of this Agreement. All Annual Compliance Verifications shall include quarterly IRS 941 returns, or Texas Workforce Commission Employer Quarterly Reports.
- (e) **Performance.** Developer agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements between Developer and BCDC.

SECTION 5. AFFIRMATIVE COVENANTS OF BCDC.

BCDC covenants and agrees with Developer that, while this Agreement is in effect, it shall comply with the following terms and conditions:

- (a) **Reimbursement for Qualified Expenditures.** BCDC covenants and agrees to submit reimbursement for Qualified Expenditures made by the Developer pursuant to Section 4(a) of this Agreement, in the amount not to exceed **Thirty-Two Thousand and No/100 Dollars (\$32,000.00)** as follows:
- (1) **Sixteen Thousand and No/100 Dollars (\$16,000.00)** was previously paid to the Developer or about June 26, 2019; and
 - (2) **Sixteen Thousand and No/100 Dollars (\$16,000.00)** paid to Developer within thirty (30) days of Developer's receipt of the Certificate of Occupancy consistent with Section 4(b) of this Agreement.
- (b) **Performance.** BCDC agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements between Developer and BCDC.

SECTION 6. CESSATION OF ADVANCES.

If BCDC has made any commitment to make any financial assistance to Developer, whether under this Agreement or under any other agreement, BCDC shall have no obligation to advance or disburse financial assistance if: (i) Developer becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged bankrupt; or (ii) an Event of Default occurs.

SECTION 7. EVENTS OF DEFAULT.

Each of the following shall constitute an Event of Default under this Agreement:

- (a) **General Event of Default.** Failure of Developer or BCDC to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement, or failure of Developer or BCDC to comply with or to perform any other term, obligation, covenant or condition contained in any other agreement by and between Developer and BCDC is an Event of Default.
- (b) **False Statements.** Any warranty, representation, or statement made or furnished to the BCDC by or on behalf of Developer under this Agreement that is false or misleading in any material respect, either now or at the time made or furnished is an Event of Default.
- (c) **Insolvency.** Developer's insolvency, appointment of receiver for any part of Developer's property, any assignment for the benefit of creditors of Developer, any type of creditor workout for Developer, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Developer is an Event of Default.

- (d) **Ad Valorem Taxes.** Developer allows its ad valorem taxes owed to the Town of Bartonville, Texas, to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of such taxes and to cure such failure within thirty (30) days after written notice thereof from BCDC and/or Denton County Central Appraisal District is an Event of Default.

SECTION 8. EFFECT OF AN EVENT OF DEFAULT.

In the event of default under Section 7 of this Agreement, the non-defaulting party shall give written notice to the other party of any default, and the defaulting party shall have thirty (30) days to cure said default. Should said default remain uncured as of the last day of the applicable cure period, and the non-defaulting party is not otherwise in default, the non-defaulting party shall have the right to immediately terminate this Agreement, enforce specific performance as appropriate, or maintain a cause of action for damages caused by the event(s) of default. In the event, Developer defaults and is unable or unwilling to cure said default within the prescribed time period, the amounts provided by BCDC to Developer pursuant to Section 5(a) of this Agreement shall become immediately due and payable by Developer to BCDC as follows:

- (a) Event of Default occurs from the Effective Date through **March 31, ~~2025~~2024**, repay **Thirty-Two Thousand and No/100 Dollars (\$32,000.00)** or as much as has been advanced to Developer by BCDC;
- (b) Event of Default occurs from **April 1, ~~2025~~2024**, to **March 31, ~~2026~~2025**, repay **Twenty-Five Thousand Six Hundred and No/100 Dollars (\$25,600.00)**;
- (c) Event of Default occurs from **April 1, ~~2026~~2025**, to **March 31, ~~2027~~2026**, repay **Nineteen Thousand Two Hundred and No/100 Dollars (\$19,200.00)**;
- (d) Event of Default occurs from **April 1, ~~2027~~2026**, to **March 31, ~~2028~~2027**, repay **Twelve Thousand Eight Hundred and No/100 Dollars (\$12,800.00)**; and
- (e) Event of Default occurs from **April 1, ~~2028~~2027**, to **March 31, ~~2029~~2028**, repay **Six Thousand Four Hundred and No/100 Dollars (\$6,400.00)**.

SECTION 9. INDEMNIFICATION.

TO THE EXTENT ALLOWED BY LAW, EACH PARTY AGREES TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE OTHER (AND ITS OFFICERS, AGENTS, AND EMPLOYEES) FROM AND AGAINST ALL CLAIMS OR CAUSES OF ACTION FOR INJURIES (INCLUDING DEATH), PROPERTY DAMAGES (INCLUDING LOSS OF USE), AND ANY OTHER LOSSES, DEMAND, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO OR RESULTING FROM

ITS PERFORMANCE UNDER THIS AGREEMENT, OR CAUSED BY ITS NEGLIGENT ACTS OR OMISSIONS (OR THOSE OF ITS RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, OR ANY OTHER THIRD PARTIES FOR WHOM IT IS LEGALLY RESPONSIBLE) IN CONNECTION WITH PERFORMING THIS AGREEMENT.

SECTION 10. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

- (a) **Amendments.** This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- (b) **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Denton County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of Denton County, Texas.
- (c) **Assignment.** This Agreement may not be assigned without the express written consent of the other party.
- (d) **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. Developer warrants and represents that the individual or individuals executing this Agreement on behalf of Developer has full authority to execute this Agreement and bind Developer to the same. BCDC warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same.
- (e) **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement.
- (f) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- (g) **Notices.** Any notice or other communication required or permitted by this Agreement (hereinafter referred to as the “Notice”) is effective when in writing and (i) personally delivered either by facsimile (with electronic information and a mailed copy to follow) or by hand or (ii) three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

if to Developer:

Cloud 9 Management, LLC
1651 F.M. 407
Flower Mound, Texas 75028
Attn: Kim Cloud
Telephone: 214-415-4806

if to BCDC:

Bartonville Community Development Corporation
1941 East Jeter Road
Bartonville, Texas 76226
Attn: Tammy Dixon
Telephone: (817) 693-5280

- (h) **Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.
- (i) **Time is of the Essence.** Time is of the essence in the performance of this Agreement.
- (j) **Undocumented Workers.** Developer certifies that the Developer does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Developer is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of the public subsidy provided under this Agreement plus interest, at the rate of eight percent (8%), not later than the 120th day after the date the BCDC notifies Developer of the violation.

[The Remainder of this Page Intentionally Left Blank]

DEVELOPER ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS ~~SECOND~~THIRD AMENDED AND RESTATED PERFORMANCE AGREEMENT, AND DEVELOPER AGREES TO ITS TERMS. THIS ~~SECOND~~THIRD AMENDED AND RESTATED PERFORMANCE AGREEMENT IS EFFECTIVE AS OF THE EFFECTIVE DATE AS DEFINED HEREIN.

BCDC:

***BARTONVILLE COMMUNITY
DEVELOPMENT CORPORATION,***
a Texas non-profit corporation

By: _____

Dwain Skrobarcek, Chair

Date Signed: _____

STATE OF TEXAS

§

§

COUNTY OF DENTON

§

This instrument was acknowledged before me on the _____ day of _____, ~~2023~~2024, by Dwain Skrobarcek, Chair of the Bartonville Community Development Corporation, a Texas non-profit corporation, on behalf of said Texas corporation.

Notary Public, State of Texas

DEVELOPER:

CLOUD 9 MANAGEMENT, LLC,
A Texas limited liability company,

By: _____

Name: Kim Cloud, Member

Date Signed: _____

STATE OF TEXAS

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COUNTY OF DENTON

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This instrument was acknowledged before me on the _____ day of _____, ~~2023~~2024, by Kim Cloud, Member of Cloud 9 Management, LLC, a Texas limited liability company, on behalf of said Texas company.

Notary Public, State of Texas