



**CITY OF DENISON  
CITY COUNCIL MEETING  
AGENDA**

**Monday, December 18, 2023**

After determining that a quorum is present, the City Council of the City of Denison, Texas will convene in a Regular Meeting on **Monday, December 18, 2023 at 6:00 PM** in the Council Chambers at City Hall, 300 W. Main Street, Denison, Texas at which the following items will be considered:

**1. INVOCATION, PLEDGE OF ALLEGIANCE AND TEXAS PLEDGE**

**2. PROCLAMATIONS AND PRESENTATION**

A. St. Luke's Episcopal Church 150th Anniversary Proclamation.

**3. PUBLIC COMMENTS**

Citizens may speak on items listed on the Agenda. A “Request to Speak Card” should be completed and returned to the City Clerk upon arrival, prior to the Council reaching the Public Comments section of the agenda. Citizen comments are limited to three (3) minutes, unless otherwise required by law. Comments related to the Public Hearings listed below will be heard when the specific hearing starts.

**4. CONSENT AGENDA**

A. Receive a report, hold a discussion and take action on approving the Minutes from the Regular City Council Meeting held on December 4, 2023.

B. Receive a report, hold a discussion and take action on the appointment of Ken Brawley to the Civil Service Commission.

C. Receive a report, hold a discussion, and take action on authorizing the Interim City Manager to enter into a First Amendment to the Professional Services Agreement with MuniServices, LLC for sales tax compliance review services, the sales tax capture leakage analysis service, and local occupancy tax program audit and administration services.

D. Receive a report, hold a discussion and take action on the reappointment of Dorothy Wilson as a member of the Community Development Steering Committee.

- E. Receive a report, hold a discussion, and take action on an Ordinance amending Chapter 26, “Utilities” of the City’s Code of Ordinances by adding Article IX “Liquid Waste” to regulate the operation of liquid waste generators and liquid waste transporters.
- F. Receive a report, hold a discussion, and take action on reappointing Paisley Conrad, Brandon Cates, Tracey Bullard, and Lee Thornton to the Sister Cities Board of Directors.
- G. Receive a report, hold a discussion and take action on the reappointment of Michael Roberts, Zac Duce, and Laura Longmire and appointment of Amanda Lanum to the Conventions and Visitors Bureau Advisory Board.
- H. Receive a report, hold a discussion and take action on the reappointment of current members Derrick Roberts, Lexi Rains, Kimberlea Miller, Mel Climer, Jimmayshun Mundine, and Kathy Pryor to the Main Street Advisory Board each to serve a two-year term, commencing January 1, 2024.
- I. Receive a report, hold a discussion and take action on the reappointment of Linda Anderson and Rhonda Borgne as members to the Historic Preservation Board each to serve a two-year term, commencing January 1, 2024.
- J. Receive a report, hold a discussion and take action on the reappointment of Derrick Roberts, Lexi Rains, Kimberlea Miller, Mel Climer, and Jimmayshun Mundine to the Main Street Inc. Board of Directors, each to serve a two-year term commencing January 1, 2024.
- K. Receive a report, hold a discussion, and take action on a Professional Services Agreement with Huitt-Zollars Inc. for Sound Stage and Lighting Design and Structural Engineering Services related to Phase 2 of the Designing Downtown Denison, or D3, Project in the amount of \$109,500 and authorize the City Manager to execute all related documents.
- L. Receive a report, hold a discussion, and take action on awarding a bid and entering into a contract with Dyna-Mist Construction Company for the 2023 Texoma Health Foundation (THF) Park Mowing and Maintenance Program, and authorize the Interim City Manager to execute the same.
- M. Receive a report, hold a discussion, and take action on awarding a bid and entering into a contract with Brightview Landscape Services, Inc. for the 2023 Right of Way Mowing and Maintenance Program, and authorize the Interim City Manager to execute the same.
- N. Receive a report, hold a discussion, and take action on rejecting all bids received for the 2023 Mowing and Maintenance Program, and authorizing staff to readvertise and reopen the bidding for the 2023 Mowing and Maintenance.
- O. Receive a report, hold a discussion, and take action on scopes of work for a website redesign, updated mobile application, and new mass messaging platform and authorize the Interim City Manager to execute all related documents.

- P. Receive a report, hold a discussion and take action on the appointment of Robert Sylvester and Ernest Pickens, as new regular members, to the Planning and Zoning Commission, each to serve a two-year term effective January 1, 2024.

## **5. PUBLIC HEARINGS**

- A. Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance to rezone property legally described as a 3.513-acre tract being located partially in the I. G. Belcher Survey, Abstract No. 133, and partially in the William Oldham Survey, Abstract No. 919, Grayson County, Texas, according to the deed recorded in Volume 3183, Page 929, Deed Records of Grayson County, Texas; being commonly known as 2700 S. Fannin Avenue, GCAD Property ID No. 150060, from the Local Retail (LR) District partially within the Austin Avenue Overlay District to the Single Family-5 (SF-5) District partially within the Austin Avenue Overlay District, to allow for residential use. (Case No. 2023-105Z).
- B. Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance to rezone a 3.213-acre tract legally described as being a part of the M. C. Davis Survey, Abstract No. 336 and being all of the 2.33 acre tract of land conveyed by deed without warranty from the Union Pacific Railroad Company to the City of Denison, Texas on February 18, 1999 and recorded in Volume 2771, Page 355, and being all of the 0.88 acre tract of land conveyed to the City of Denison, Texas by Affidavit of Lost Deed on February 17, 2023 as recorded in Inst. No. 2023-4052; Grayson County, Texas; GCAD Property ID No.'s 438291 and 438292, from the Single Family 7.5 (7.5) Residential District within the Highway Oriented and Corridor District to the Commercial Zoning District within the Highway Oriented and Corridor District to allow for retail or commercial use. (Case No. 2023-109Z).

## **6. ITEMS FOR INDIVIDUAL CONSIDERATION**

- A. Receive a report, hold a discussion, and take action on awarding a bid and entering into a contract with SF Landscaping for the 2023 Utilities Mowing and Maintenance Program, and authorize the Interim City Manager to execute the same.
- B. Receive a report, hold a discussion and take action on awarding a request for proposal and entering into a contract with Denison Animal Welfare Group (DAWG) for animal shelter services and authorize the Interim City Manager to execute the same.
- C. Receive a report, hold a discussion and take action on an ordinance repealing and restating Chapter 30 of the Code of Ordinances, the same being the Historic Preservation Ordinance of the City of Denison.
- D. Receive a report, hold a discussion and take action on a resolution adopting Design Guidelines for the Historic Preservation District.

## **7. PROJECT UPDATES**

- A. Receive a report and hold a discussion regarding the Katy Trail Project.

## 8. EXECUTIVE SESSION

Pursuant to Chapter 551, *Texas Government Code*, the Council reserves the right to convene in Executive Session(s), from time to time as deemed necessary during this meeting to receive legal advice from its attorney on any posted agenda item as permitted by law or to discuss the following:

- A. Consult with attorney on a matter in which the attorney's duty to the governmental body under the Texas Disciplinary Rules of Professional Conduct conflicts with this chapter and/or consult with attorney about pending or contemplated litigation or contemplated settlement of the same. Section 551.071.**
  - 1. Confer with City Attorney regarding City of Denison vs. Sherman Pro Auto Glass, LLC dba Pro Auto Glass, et. al., 397th Judicial District, Grayson County, Texas, Cause No. CV-21-0166.
  - 2. Confer with City Attorney regarding Roque/Pantuso ETJ Release Petition.
  - 3. Confer with City attorney regarding First Amendment to the Preston Harbor Development Agreement between the City of Denison and Waterfall Development Partners, L.P., Preston Harbor, L.P., and Preston Harbor Homeplace, L.P.
  - 4. Confer with City Attorney regarding ordinance to amend Ordinance No. 4679 regarding Lake Texoma Municipal Utility District No. 1.
- B. Discuss the possible purchase, exchange, lease or sale value of real property (public discussion of such would not be in the best interests of the City's bargaining position). Section 551.072.
- C. Discuss negotiated gifts or donations to the City (public discussion at this stage would have a detrimental effect on the City's bargaining position). Section 551.073.
- D. Discuss the appointment, employment, evaluation, reassignment of duties, discipline, or dismissal of or to hear a complaint against a public officer or employee. Section 551.074.**
  - 1. Annual evaluation of Municipal Judge.
- E. Discuss the commercial or financial information received from an existing business or business prospect with which the City is negotiating for the location or retention of a facility, or for incentives the City is willing to extend, or financial information submitted by the same. Section 551.087.
- F. Discuss the deployment or specific occasions for implementation of security personnel or devices. Section 551.076.
- G. Deliberations regarding economic development negotiations pursuant to Section 551.087.



Following the closed Executive Session, the Council will reconvene in open and public session and take any such action as may be desirable or necessary as a result of the closed deliberations.

CERTIFICATION

I do hereby certify that a copy of this Notice of Meeting was posted on the front window of City Hall readily accessible to the general public at all times, and posted on the City of Denison website on the 15<sup>th</sup> day of December 2023, before 6:00 p.m.

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Christine Wallentine, City Clerk

In compliance with the Americans With Disabilities Act, the City of Denison will provide for reasonable accommodations for persons attending City Council meeting. To better serve you, requests should be received 48 hours prior to the meetings. Please contact the City Clerk's Office at 903-465-2720, Ext: 2437.



**CITY OF DENISON  
CITY COUNCIL MEETING  
MINUTES**

**Monday, December 4, 2023**

Announce the presence of a quorum.

Mayor Janet Gott called the meeting to order at 6:01 p.m. Council Members present were Mayor Pro Tem Robert Crawley, Brian Hander, Michael Courtright, James Thorne, Joshua Massey and Aaron Thomas. Staff present were City Manager, Bobby Atteberry, City Attorney, Julie Fort, Assistant City Manager, Renee Waggoner, City Clerk, Christine Wallentine and Deputy City Clerk, Karen Avery. Department Directors were also present.

1. INVOCATION, PLEDGE OF ALLEGIANCE AND TEXAS PLEDGE

Gene Amerson, Pastor of New Beginning Fellowship gave the invocation which was followed by the Pledge of Allegiance and Texas Pledge led by Police Chief, Mike Gudgel.

2. PROCLAMATIONS AND PRESENTATION

A. Denison Development Alliance Outgoing Board Member Recognition.

Mayor Gott presented outgoing Board Member, Brett Evans with a plaque recognizing his years of service as a Board Member and Board Chair for the Denison Development Alliance over the past six years. Mr. Evans has always brought insight and has always been willing and committed to the improvement of our community.

B. Employee of the Year Presentation.

Amy Lay, Director of Employee Services, introduced this award and provided some background on the criteria for the award. This award recognizes an employee who reflects the City of Denison's core values, STACI, which stands for service teamwork, accountability, commitment and integrity. To deserve consideration of the award the nominated employee must possess and demonstrate the following; to exemplify STACI; to provide exceptional effort during the past year on special projects or assignments; to have a track record of going above and beyond their job duties; to have a positive can-do attitude; and must be an employee that others look up to, regardless of what position they hold. Ms. Lay then introduced Interim City Manager, Bobby Atteberry, to present the award. Mr. Atteberry announced the award to Kirk Kern, Senior IT Support Technician. Mr. Kern started for the City in March of 1992 as a street laborer and also served as a sanitation truck worker, equipment operator, traffic sign technician, and then moving into the IT

Department. Mr. Atteberry included some comments from his coworkers which focused on his can-do attitude and friendly, professional and positive demeanor.

3. PUBLIC COMMENTS

Mayor Gott called for any public comments at this time and reminded those wanting to comment of the guidelines established by the City Council. Christine Wallentine, City Clerk, confirmed there were no Request to Speak Cards received by this point in the meeting. Therefore, no public comments were heard.

3. CONSENT AGENDA

- A. Receive a report, hold a discussion and take action on approving the Minutes from the Regular City Council Meeting held on November 20, 2023.
- B. Receive a report, hold a discussion, and take action on a Resolution requesting financial assistance from the Texas Water Development Board; authorizing the filing of an application for assistance; and making certain findings in connection therewith for Collections System Improvements.
- C. Receive a report, hold a discussion, and take action on a Resolution requesting financial assistance from the Texas Water Development Board; authorizing the filing of an application for assistance; and making certain findings in connection therewith for a Lead Service Line Inventory and Replacement Program.

Council Action

On motion by Mayor Pro Tem Crawley, seconded by Council Member Hander, the City Council unanimously approved, **Resolution No. 4148**, “A RESOLUTION REQUESTING FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD; AUTHORIZING THE FILING OF AN APPLICATION FOR ASSISTANCE; AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH IN AN AMOUNT NOT TO EXCEED \$28,200,000 TO PROVIDE FOR THE COSTS OF WASTEWATER COLLECTION SYSTEM IMPROVEMENTS”; **Resolution No. 4149**, “A RESOLUTION REQUESTING FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD; AUTHORIZING THE FILING OF AN APPLICATION FOR ASSISTANCE; AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH IN AN AMOUNT NOT TO EXCEED \$10,000,000 TO PROVIDE FOR THE COSTS OF LEAD SERVICE LINE INVENTORY & REPLACEMENT PROGRAM”; and the rest of the Consent Agenda as presented.

5. PUBLIC HEARINGS

- A. Receive a report, hold a discussion, conduct a public hearing and take action on an ordinance adopting updated Standard Construction Details, amending Chapter 22, “Subdivision Regulations”, Article IV, “Requirements for Public Improvements and Design”, Division 1, “Adequate Public Facilities Policy”, Section 22-74 “Conformance to Plans and Incorporation of Manuals.”

### Council Action

Fanchon Stearns, CIP/Engineering Manager, thanked the Council for considering this item before them this evening. If approved, this would be the second update to the Standard Construction Details this year. Staff plans to continue to update these once or twice a year as necessary. This update includes additional guidance and details for side load dumpster enclosure design. Public Works will soon have the front load and the side load dumpsters and trucks to serve them, and this will help engineers and builders design enclosures that are compatible with both. We have a handful of other updates that go along with this and all of those and the updated details will be available on the City's website this week.

Mayor Gott then asked if there was anyone present who wished to speak on this agenda item, to which there were none. With that, Mayor Gott closed the public hearing

There was no discussion or questions from Council.

On motion by Mayor Pro Tem Crawley, seconded by Council Member Courtright, the City Council unanimously approved Ordinance No. 5326, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, ADOPTING UPDATED STANDARD CONSTRUCTION DETAILS; AMENDING CHAPTER 22 "SUBDIVISION REGULATIONS", ARTICLE IV "REQUIREMENTS FOR PUBLIC IMPROVEMENTS AND DESIGN", DIVISION 1 "ADEQUATE PUBLIC FACILITIES POLICY", SECTION 22-74 "CONFORMANCE TO PLANS AND INCORPORATION OF MANUALS" BY PROVIDING FOR THE INCORPORATION OF THE CITY'S STANDARD CONSTRUCTION DETAILS AND PUBLIC WORKS DESIGN MANUAL; PROVIDING FOR A PENALTY; PROVIDING FOR SAVINGS, REPEALING, AND SEVERABILITY CLAUSES; PROVIDING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS AN OPEN MEETING IN COMPLIANCE WITH THE TEXAS OPEN MEETINGS ACT; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE."

### 6. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. Receive a report, hold a discussion and take action on awarding the proposal for the design build project at 321 W. Main Street and entering into a contract with Piazza Construction for preconstruction services and design.

### Council Action

Bobby Atteberry, Interim City Manager, reminded the Council this property at 321 W. Main was acquired through eminent domain a little over two years ago. City staff issued an RFQ/RFP on August 27, 2023 for the design build of a City facility to contain a visitor's center and public restrooms. Responses were due by 2:00 p.m. on September 12, 2023, to put this in the hands of a Construction Manager at Risk. During Phase One of the process, one of the proposers was eliminated by the selection committee, leaving two finalists, C1S Group, Inc. and Piazza Construction. The selection committee then conducted a site visit with both finalists on October 3<sup>rd</sup>, 2023 and provided each with the Design Criteria Package. The finalists were given one week to provide questions and then staff had one week to respond. Staff provided responses to the questions posed through a Second

Addendum, giving the proposers until 5:00 p.m. on October 30, 2023, to submit their proposals. Piazza Construction ended up with a higher overall score and came in at an overall lower price. Staff is ready to move forward with awarding the design build project to Piazza Construction and entering into a contract for preconstruction services and design. Staff recommends awarding the CMaR contract to Piazza Construction. Mr. Atteberry also stated we plan to build out the 2<sup>nd</sup> and 3<sup>rd</sup> floors of the building to allow for additional City offices.

There was no discussion or questions from Council.

On motion by Mayor Pro Tem Crawley, seconded by Council Member Thomas, the City Council unanimously approved awarding the proposal for the design build project at 321 W. Main Street and entering into a contract with Piazza Construction for preconstruction services and design.

- B. Receive a report, hold a discussion, and take action on approval of entering into a contract with SYB Construction Company, Inc. for emergency potable water pipeline replacement services for \$1,791,742.55 and authorize the Interim City Manager to execute all related documents.

#### Council Action

Ervin Pareira, Assistant Public Works Director, introduced this agenda item for consideration. This item is ratification of a contract with SYB Construction for an emergency potable water pipeline replacement on Chandler Avenue. It is important to know this project is already underway. The contractor is actively receiving and staging materials at this time and expect to break ground the next few weeks. Mr. Pareira provided a PowerPoint slide which illustrates the alignment of the current and future pipelines. The existing pipeline has been a problem for staff for quite a few years now and we have had multiple main breaks as you can tell if you drive down this portion of Chandler. Unfortunately, this past summer, we experienced an increase in that frequency to the point where we were having main breaks on consecutive days. Staff worked with Plummer and Associates to do a root cause analysis on why the increased frequency, and it was determined the pure age and condition of the existing pipeline was the root cause. The pipe is a 14-inch cast iron pipe and was installed pre-1950s, to the best we can estimate. So, it has served its time, and it has become very old and fragile at this point. Staff is really concerned that when high demand starts to kick up, we won't be able to properly pressurize this pipeline and feed our downstream customers without risking a catastrophic failure. The pipeline was actually identified in the 2019 potable water master plan as a short-term project to replace it. Given its age, and its strategic alignment within our distribution system, Teague Nall and Perkins recommended a 24-inch PVC line to replace this pipeline, which is exactly what we're going to install. So, we will be installing the 24-inch main and then we'll be doing an eight-inch parallel lateral service main. This will give us some flexibility in the distribution system because it really pressurizes the 24 inch more in the future, but not impacting the residents and businesses that are tapped off the eight inch. This is why we will also be installing or replacing all the existing fire hydrants with new ones. All the valving will be new, and they will perform pavement restoration services once the construction is completed. Staff estimates the duration of the project will be approximately three months.

There was no discussion or questions from Council.

On motion by Mayor Pro Tem Crawley, seconded by Council Member Thorne, the City Council unanimously approved entering into a contract with SYB Construction Company, Inc. for emergency potable water pipeline replacement services for \$1,791,742.55 and authorized the Interim City Manager to execute all related documents.

- C. Receive a report, hold a discussion and consider adoption of a resolution directing the publication of notice of intention to issue combination tax and revenue certificates of obligation for water and sewer system improvements and design for Loy Lake Dam upgrades.

### Council Action

Laurie Alsabbagh, Finance Director, reported she was here this evening to request approval of a resolution to publish a notice of intent to issue combination tax and revenue certificates of obligation. The principal amount is not to exceed \$57,500,000. The majority of this issuance, approximately \$55 to \$56 million dollars, is for needed water and sewer capital projects that were discussed during the budget process. This includes new and ongoing projects. A few of these are improvements to the northwest development area, the Rylant Water Treatment Plant, Lake Texoma Pump Station, Waterloo Lake sewer line, a radio trunking system and several smaller system improvements. The remaining funds, approximately \$1.6 million, will be used for design costs and initial improvements to Loy Lake Dam upgrades. Payments for that portion of the issuance will come from TIRZ No. 4 funding. Notices of intent for the issuance will be posted on the City's website and published on December 10<sup>th</sup> and December 17<sup>th</sup>. Approval of the ordinance to issue the certificates will come before Council on February 19, 2024 and funding is scheduled to occur on March 20, 2024.

There was no discussion or questions from Council.

On motion by Mayor Pro Tem Crawley, seconded by Council Member Thomas, the City Council unanimously approved Resolution No. 4150, "RESOLUTION DIRECTING THE PUBLICATION OF NOTICE OF INTENTION TO ISSUE COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION."

## 7. EXECUTIVE SESSION

The Council then adjourned into Executive Session at 6:22 p.m. pursuant the Chapter 551, Texas Government Code, in accordance with the Authority:

- A. **Consult with attorney on a matter in which the attorney's duty to the governmental body under the Texas Disciplinary Rules of Professional Conduct conflicts with this chapter and/or consult with attorney about pending or contemplated litigation or contemplated settlement of the same. Section 551.071.**

- 1. Confer with City attorney regarding First Amendment to the Preston Harbor Development Agreement between the City of Denison and Waterfall Development Partners, L.P., Preston Harbor, L.P., and Preston Harbor Homeplace, L.P.

2. Confer with City Attorney regarding Senate Bill 2038.
  3. Confer with City Attorney regarding McKeon's ETJ Release Petition.
- B. Discuss the possible purchase, exchange, lease, or sale value of real property (public discussion of such would not be in the best interests of the City's bargaining position). Section 551.072.
  - C. Discuss negotiated gifts or donations to the City (public discussion at this stage would have a detrimental effect on the City's bargaining position). Section 551.073.
  - D. Discuss the appointment, employment, evaluation, reassignment of duties, discipline, or dismissal of or to hear a complaint against a public officer or employee. Section 551.074.
  - E. Discuss the commercial or financial information received from an existing business or business prospect with which the City is negotiating for the location or retention of a facility, or for incentives the City is willing to extend, or financial information submitted by the same. Section 551.087.
  - F. Discuss the deployment or specific occasions for implementation of security personnel or devices. Section 551.076.
  - G. Deliberations regarding economic development negotiations pursuant to Section 551.087.

RECONVENE INTO REGULAR SESSION

The Council then reconvened into Regular Session at 7:24 p.m. and took the following action:

- A. **Consult with attorney on a matter in which the attorney's duty to the governmental body under the Texas Disciplinary Rules of Professional Conduct conflicts with this chapter and/or consult with attorney about pending or contemplated litigation or contemplated settlement of the same. Section 551.071.**
  1. Confer with City attorney regarding First Amendment to the Preston Harbor Development Agreement between the City of Denison and Waterfall Development Partners, L.P., Preston Harbor, L.P., and Preston Harbor Homeplace, L.P.

Council Action

On motion by Mayor Pro Tem Crawley, seconded by Council Member Hander, the City Council unanimously approved the First Amendment to the Preston Harbor 2023 Development Agreement between the City of Denison, Texas, and Waterfall Development Partners, LP, Preston Harbour, LP and Preston Harbor Homeplace LP, subject to the First Amendment becoming effective upon adoption of an ordinance amending Ordinance No. 4679, which adoption must be within 90 days from today, subject to Lake Texoma M.U.D. No. 1 joining as a party but no subdistricts created by division becoming a part, subject to final edits being drafted by the City Attorney, and subject to the Council ratifying the First Amendment.

2. Confer with City Attorney regarding Senate Bill 2038.

Council Action

No action taken.

3. Confer with City Attorney regarding McKeon's ETJ Release Petition.

Council Action

On motion by Mayor Pro Tem Crawley, seconded by Council Member Thomas, the City Council unanimously approved denying the McKeon Petition to remove property from the City's extraterritorial jurisdiction because it does not meet the technical requirements of Senate Bill 2038 and Senate Bill 2038 is an unconstitutional delegation of legislative authority and it conflicts with the City's grant of legislative discretion under Local Government Code Section 42.023. The City does not consent to removal of property from its ETJ.

- B. Discuss the possible purchase, exchange, lease, or sale value of real property (public discussion of such would not be in the best interests of the City's bargaining position). Section 551.072.
- C. Discuss negotiated gifts or donations to the City (public discussion at this stage would have a detrimental effect on the City's bargaining position). Section 551.073.
- D. Discuss the appointment, employment, evaluation, reassignment of duties, discipline, or dismissal of or to hear a complaint against a public officer or employee. Section 551.074.
- E. Discuss the commercial or financial information received from an existing business or business prospect with which the City is negotiating for the location or retention of a facility, or for incentives the City is willing to extend, or financial information submitted by the same. Section 551.087.
- F. Discuss the deployment or specific occasions for implementation of security personnel or devices. Section 551.076.
- G. Deliberations regarding economic development negotiations pursuant to Section 551.087.

There being no further business to come before the Council, the meeting was adjourned at 7:27 p.m.

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JANET GOTT, Mayor

ATTEST:

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Christine Wallentine, City Clerk



# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion and take action on the appointment of Ken Brawley to the Civil Service Commission.

## Staff Contact

Amy Lay, Director of Employee Services/Civil Service Director

[alay@cityofdenison.com](mailto:alay@cityofdenison.com)

903.464.4445 – Office | 903.647.0436 - Cell

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## Summary

- Commissioner Chris Gillespie's term expires December 31, 2023. He is ineligible to serve an additional term.
- Ken Brawley is willing and eligible to serve and has completed the volunteer application, attached.

## Staff Recommendation

Staff recommends appointment of Mr. Brawley to the Civil Service Commission with his term beginning January 1, 2024.

## Recommended Motion

I move to approve the appointment of Ken Brawley to fill the vacancy on the Civil Service Commission effective January 1, 2024.

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## Background Information and Analysis

The Civil Service Commission will have one vacancy to be filled at the end of the year as Chairman Chris Gillespie's term expires on December 31, 2023, and he is ineligible to serve again.

Mr. Ken Brawley is willing and eligible to serve as a Civil Service Commissioner. Mr. Brawley is well connected within our community, currently serving on the Greater Texoma Utility Authority Board of Directors. Mr. Brawley previously held positions as a City Council member from 2011-2017, on the TAPS Board of Directors, and the North Texas Regional Airport Zoning Commission. Mr. Brawley has completed the volunteer application, attached.

## Financial Considerations

None.

## Prior Board or Council Action

None.

## Alternatives

Council can deny the appointment, table the appointment, or appoint another resident to serve in this role.

# City Council Meeting Staff Report



December 18, 2023

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## Agenda Item

Receive a report, hold a discussion, and take action on authorizing the Interim City Manager to enter into a First Amendment to the Professional Services Agreement with MuniServices, LLC for sales tax compliance review services, the sales tax capture leakage analysis service, and local occupancy tax program audit and administration services.

## Staff Contact

Amber Pilcher, Finance Controller  
apilcher@cityofdenison.com  
903-465-2720 Ext. 2443

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## Summary

- The City and MuniServices, LLC executed the Professional Services Agreement for Sales Tax Compliance Review Services, the Sales/Use Tax Analysis & Reporting Service Package (STARS), the Sales Tax Capture Leakage Analysis Service (STCL), and Local Occupancy Tax Program Audit and Administration Services, effective February 21, 2012 for a period of one-year, with successive one-year automatic renewals.
- The City desires to cancel the Sales/Use Tax Analysis & Reporting Service Package (STARS); and
- The City seeks to amend the Agreement to remove the Sales/Use Tax Analysis & Reporting Service Package (STARS) from the Agreement and to modify the Fees for Local Occupancy Tax Program Audit and Administration Services MuniServices, LLC currently provides.

## Staff Recommendation

Staff recommends approval of the First Amendment to the Professional Services Agreement.

## Recommended Motion

“I move to approve the request authorizing the Interim City Manager to enter into a First Amendment to the Professional Services Agreement with MuniServices, LLC, removing the Sales/Use Tax Analysis & Reporting Service Package from the Agreement and to modify the Fees for Local Occupancy Tax Program Audit and Administration Services MuniServices, LLC currently provides, subject to final legal review and approval.”

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## Background Information and Analysis

The City of Denison previously utilized MuniServices, LLC for the Sales/Use Tax Analysis & Reporting Service Package, but no longer desires to do so. Staff utilizes a cost-free service to gather sales tax data.

**Financial Considerations**

There is a cost reduction by eliminating the Sales/Use Tax Analysis & Reporting Service Package. The remaining services are budgeted for in the FY 2024 approved budget.

**Prior Board or Council Action**

Council previously approved the agreement with MuniServices, LLC in 2012 for services.

**Alternatives**

Continue to utilize the Sales/Use Tax Analysis & Reporting Service Package.

**FIRST AMENDMENT TO  
THE PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE CITY OF DENISON AND  
MUNISERVICES, LLC**

This Amendment No. 1 is made effective as of February 21, 2023, by and between the City of Denison, a municipal corporation of the State of Texas (“City”), and MuniServices, LLC, a Delaware limited liability company (“MuniServices”), collectively the Parties.

**RECITALS**

**WHEREAS**, City and MuniServices executed the Professional Services Agreement (“Agreement”) for Sales Tax Compliance Review Services, the Sales/Use Tax Analysis & Reporting Service Package (STARS), the Sales Tax Capture Leakage Analysis Service (STCL), and Local Occupancy Tax Program Audit and Administration Services, effective February 21, 2012 for a period of one-year, with successive one-year automatic renewals; and

**WHEREAS**, the Parties desire to cancel the Sales/Use Tax Analysis & Reporting Service Package (STARS); and

**WHEREAS**, the Parties seek to amend the Agreement to remove the Sales/Use Tax Analysis & Reporting Service Package (STARS) from the Agreement and to modify the Fees for Local Occupancy Tax Program Audit and Administration Services.

**WHEREAS** the Parties further seek to modify certain terms of the Agreement to update the Notices provision and delete Attachment 3.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained here, the Parties agree as follows:

**AGREEMENT**

1. Attachment 1-2 (Sales/Use Tax Analysis & Reporting Service Package (STARS)) is deleted in its entirety.
2. Attachment 1-4 (Local Occupancy Tax Program Audit and Administration), Article 4 (Compensation), is deleted and replaced with the following:

*The Local Occupancy Tax Services shall be provided as follows:*

*Audit*

*The Audit Services are a flat fee of two thousand dollars (\$2,000) per lodging property audited with fifty percent (50%) due at the time of audit approval and fifty percent (50%) upon completion of the audit.*

*Administration*

*The Administration Services shall be provided for an annual fixed fee of one hundred five dollars (\$105) per lodging property.*

Travel and Out-Of-Pocket Expenses

*MuniServices shall be entitled to reimbursement of reasonable travel and other out-of-pocket expenses associated with the conduct of field audits, not-to-exceed \$1,500 per contract year without prior written approval of the City. Such reimbursement shall be billed annually.*

Additional Consulting

*City may request that MuniServices provide additional consulting services at any time during the term of this Agreement. If MuniServices and City agree on the scope of the additional consulting services requested, then MuniServices shall provide the additional consulting on a Time and Materials basis. Depending on the personnel assigned to perform the work, standard hourly rates range from \$75 per hour to \$300 per hour.*

*These additional consulting services will be invoiced at least monthly based on actual time and expenses incurred.*

Price Adjustment

*All fees and expenses associated with the Local Occupancy Tax Services of this Agreement are increased annually at the beginning of each Term Year of the Agreement by five percent (5%).*

*Notwithstanding any provision herein, the City may terminate this Agreement without penalty or further payment, should the City Council of the City fail to appropriate funds in the City budget for the Services for any year that this Agreement is in effect.*

3. Section 1 of the Agreement (Us) is amended to delete the address for notices and replace it with the following:

*MuniServices, LLC  
Attn: Contracts Department  
5860 Trinity Parkway, Suite 120  
Centreville, VA 20120  
Email: [contracts@avenuinsights.com](mailto:contracts@avenuinsights.com)*

*With a copy to:  
[brenda.anderson@avenuinsights.com](mailto:brenda.anderson@avenuinsights.com)*

4. Attachment 3 (MuniServices Helpful Contacts) is deleted in its entirety.

5. Other Terms

*Except as modified by this Amendment, including those provided in Exhibit A, attached hereto and incorporated herein for all purposes, all other terms and conditions of the Agreement remain unchanged.*

**IN WITNESS WHEREOF**, the Parties hereto as of the date first above written have duly executed this Agreement.

**MuniServices, LLC**

**City of Denison**  
a municipal corporation

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit A**  
**Additional Terms added to Article II of**  
**Attachment 2 “General Provisions”**

14. **Statutorily Required Provisions.**

- a. **Verification Regarding Energy Company Boycotts.** To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002, Texas Government Code, (as added by Senate Bill 13, 87th Texas Legislature, Regular Session) as amended, MuniServices hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, do not boycott energy companies and, will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “boycott energy companies” shall have the meaning assigned to the term “boycott energy company” in Section 809.001, Texas Government Code. MuniServices understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the MuniServices and exists to make a profit.
- b. **Verification Regarding Discrimination Against Firearm Entity or Trade Association.** To the extent this Agreement constitutes a contract for the purchase of goods or services having a value of at least \$100,000 that is paid wholly or partly from public funds for which a written verification is required under Section 2274.002, Texas Government Code, (as added by Senate Bill 19, 87th Texas Legislature, Regular Session), as amended, MuniServices hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any,
1. do not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and
  2. will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “discriminate against a firearm entity or firearm trade association” shall have the meaning assigned to such term in Section 2274.001(3), Texas Government Code (as added by SB 19). MuniServices understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the MuniServices and exists to make a profit

- c. **Certifications Regarding Terrorist Organizations and Boycott of Israel.** To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Sections 2252.151-.154 Texas Government Code, MuniServices hereby certifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, is not a company identified on the Texas Comptroller’s list of companies

known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State under federal law.

To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Sections 2271.001-002 Texas Government Code, MuniServices and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, further certifies and verifies that it does not boycott Israel, and agrees that it will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term “boycott” shall mean and include terminating business activities or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory. (Tex. Gov’t Code §§ 2270.001-.002, 808.001-.006, .051-.057, .101-.102)

The foregoing verification is made solely to comply with Chapter 2271, Texas Government Code, as amended, to the extent the applicable provision in Chapter 2271.001, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “boycott Israel” shall have the meaning assigned to such term in Section 808.001(1), Texas Government Code. MuniServices understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the MuniServices and exists to make a profit.



# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion and take action on the reappointment of Dorothy Wilson as a member of the Community Development Steering Committee.

## Staff Contact

Christine Wallentine, City Clerk/Assistant to the City Manager  
cwallentine@cityofdenison.com  
(903) 465-2720, Ext. 2437

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## Summary

- The Community Development Steering Committee was created by Ordinance No. 3423 on November 1, 1993, and amended by Ordinance No. 4781 on April 6, 2015.
- The function of the Community Development Steering Committee is as an advisory committee to assist the City Council in the formation, implementation, and assessment of the Community Development Block Grant Program for the City of Denison.
- Terms of office are for two years, with a maximum term of office of no more than three consecutive terms. Ms. Wilson currently serves on the Steering Committee and is willing and eligible to serve another two-year term.

## Staff Recommendation

Staff recommends the reappointment of Dorothy Wilson.

## Recommended Motion

"I move to reappoint Dorothy Wilson as a member of the Community Development Steering Committee to serve a two-year term effective January 1, 2024 through December 31, 2025. "

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## Background Information and Analysis

The Community Development Steering Committee was created by Ordinance No. 3423 on November 1, 1993, and amended by Ordinance No. 4781 on April 6, 2015. The Members are appointed by the City Manager and confirmed by the City Council.

The function of the Community Development Steering Committee is as an advisory committee to assist the City Council in the formation, implementation, and assessment of the Community Development Block Grant Program for the City of Denison. The Committee conducts public hearings to receive input from the community on the expenditure of the funds. The Committee meets at least quarterly, to assess the progress of the program.

Terms of office are for two years, with a maximum term of office of no more than three consecutive terms. Ms. Wilson currently serves on the Steering Committee and is willing and eligible to serve another two-year term.

## Financial Considerations

None.

**Prior Board or Council Action**

Ms. Wilson was originally appointed to serve on this committee in 2021.

**Alternatives**

The City Council may table, deny or make another recommendation to fill this position as to this agenda item.

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion, and take action on an Ordinance amending Chapter 26, "Utilities" of the City's Code of Ordinances by adding Article IX "Liquid Waste" to regulate the operation of liquid waste generators and liquid waste transporters.

## Staff Contact

Fanchon Stearns, CIP/Engineering Manager  
fstearns@cityofdenison.com  
903-465-2720 x 2440

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## Summary

- The current Code of Ordinances does not cover liquid waste transport. The proposed ordinance creates a Liquid Waste Program, including transport requirements and updated generation requirements.
- The proposed Liquid Waste Ordinance includes all rules and regulations enforced by local and federal government to ensure the health and safety of the community.
- The permit application is intended for liquid waste companies seeking authorization and a permit issued by the City of Denison to transport liquid waste in the city.

## Staff Recommendation

Staff recommends approval the Ordinance amending Chapter 26, Article II Sewer Use, Wastewater and Stormwater Disposal.

## Recommended Motion

"I move to approve Ordinance amending Chapter 26, "Utilities" of the City's Code of Ordinances by adding Article IX, "Liquid Waste" to regulate the operation of liquid waste generators and liquid waste transporters, subject to final legal review."

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## Background Information and Analysis

The item in consideration is an addition of a Liquid Waste Ordinance and permit application for liquid waste transporters. In the program, liquid waste is defined as water-borne solids and liquids containing dissolved or suspended waste material including but not limited to septage and wastes from grease traps and grit traps. If approved, Public Works staff will issue Liquid Waste Transport Permits to waste haulers that apply for and pay the annual fee for vehicles used for liquid waste transportation. The ordinance is meant to provide rules and regulations on liquid waste generators and transporters. Liquid waste transporters would be required to state the types of waste they transport and where they deliver waste after it has been collected. A City permit will require numbering transport vehicles, obtaining required insurance, and keeping records regarding waste transmit and disposal. Updated requirements for generators, including restaurants with grease interceptors, carwashes with grit interceptors, and others will better protect storm water and create a program for compliance support.

## Financial Considerations

None.

**Prior Board or Council Action**

None.

**Alternatives**

Council may deny or table the item.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 26 “UTILITIES” BY ADDING ARTICLE IX “LIQUID WASTE” TO REGULATE THE OPERATION OF LIQUID WASTE GENERATORS AND LIQUID WASTE TRANSPORTERS; PROVIDING FOR REPEALING, SAVINGS, AND SEVERABILITY CLAUSES; PROVIDING FOR A PENALTY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**WHEREAS**, the City of Denison, Texas (the “**City**”) is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, the City Council of the City of Denison (the “**City Council**”) adopted Chapter 26 “Utilities” of its Code of Ordinances, which governs utility regulations, including water, sewer and waste, in the City; and

**WHEREAS**, the City Council now wishes to make amendments to this chapter of the code to add regulations in the operation of liquid waste generators and liquid waste transporters to enable the City to comply with applicable state and federal laws, and to better align health and safety standards of the City; and

**WHEREAS**, the City Council does hereby find that the amendments to Chapter 26 hereby accomplishes such objectives.

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

**SECTION 1: INCORPORATION OF PREMISES.** The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**SECTION 2: AMENDMENT.** Chapter 26, “Utilities” is hereby amended to add Article IX “Liquid Waste” as provided in **Exhibit A**, attached hereto and incorporated herein.

**SECTION 3. SAVINGS/REPEALING CLAUSE.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 4. SEVERABILITY.** Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Denison hereby declares that it would have passed this Ordinance, and each section,

subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences clauses and phrases be declared unconstitutional or invalid.

**SECTION 5. PENALTY.** Any person, firm, entity or corporation who violates any provision of this Ordinance, as may be amended, shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding Two Thousand and No/100 Dollars (\$2,000.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Denison from filing suit to enjoin the violation. Denison retains all legal rights and remedies available to it pursuant to local, state, and federal law.

**SECTION 6. EFFECTIVE DATE.** This Ordinance shall become effective immediately upon adoption.

**SECTION 7. OPEN MEETING.** That it is hereby found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

**AND IT IS SO ORDERED.**

On motion by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the above and foregoing ordinance was passed and approved on this the 18<sup>th</sup> day of December 2023, by the following vote:

Ayes:  
Abstentions:  
Nays:

At regular meeting December 18, 2023.

\_\_\_\_\_  
JANET GOTT, MAYOR

ATTEST:

\_\_\_\_\_  
Christine Wallentine, City Clerk

## **EXHIBIT A**

### **ARTICLE IX. LIQUID WASTE**

#### ***DIVISION I. GENERALLY***

##### **Sec. 26-822. Purpose and policy.**

- (1) This article sets forth uniform requirements for liquid waste generators and liquid waste transporters operating in the City of Denison, Texas and enables the city to comply with all applicable State and Federal laws and regulations, including the Clean Water Act (33 United States Code § 1251 et seq.)
- (2) The objectives of this article are:
  - (a) To aid in the prevention of sanitary sewer overflows resulting from blockages and obstructions due to the accumulation of fats, oils, and greases from commercial and industrial facilities;
  - (b) To promote the proper maintenance of grease interceptors and grit traps; and
  - (c) To ensure the proper handling, disposal, transport and tracking of trap waste, septic, and other liquid waste.

##### **Sec. 26-823. Applicability and prohibitions.**

- (1) This article shall apply to all users of the publicly owned treatment works (“POTW”), as defined in section 26-26 of this chapter.
- (2) Grease traps or grease interceptors shall not be required for residential users.
- (3) Facilities generating fats, oils, or grease as a result of food manufacturing, processing, preparation, or food service shall install, use, and maintain appropriate grease traps as required in section 26-825 of this chapter. These facilities include but are not limited to restaurants, food manufacturers, food processors, hospitals, hotels, motels, schools, nursing homes, and any other facility preparing, serving, or otherwise making any foodstuff available for consumption.
- (4) It shall be unlawful for any person or user to, intentionally or unintentionally, allow the discharge of any pollutant or liquid waste, including but not limited to fats, oils, and grease into the POTW in concentrations greater than those established in article II, chapter 26, of the City of Denison Code of Ordinances.
- (5) It shall be unlawful for any person or user to, intentionally or unintentionally, discharge any pollutant or liquid waste into any natural waterway, surface drainage within the city, any area under jurisdiction of the city, the POTW, wastewater system tributary thereto, which may cause endangerment to the health or welfare of the community or endangerment to the environmental or the POTW as defined in ~~26-46~~ 26 of this chapter.
- (6) It shall be unlawful to discharge trucked or hauled pollutants, except as deemed suitable and at discharge points designated by the city manager.
- (7) It shall be unlawful for a person to create a public nuisance as defined in section 26-824 of this article.

**Sec. 26-824. Definitions.**

- The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section.

*Approved* means accepted as satisfactory under the terms of this article and given formal and official sanction by the City of Denison. *Car wash* means establishments primarily engaged in cleaning, washing, and/or waxing automotive vehicles, such as passenger cars, trucks, vans, and trailers and are categorized by North American Industry Classification System number 811192 and by Standard Industrial Classification number 7542.

*Chemical oxygen demand (COD)* means the value of the test for chemical oxygen demand, as analyzed in accordance with 40 CFR § 136.3.

*City manager* means the Chief Executive Officer of the City of Denison, or his/her authorized assistant city manager, deputy, agent or representative.

*City* means the City of Denison, Texas.

*Department* means the Texas Department of State Health Services or its authorized agents or employees.

*Director* means the Director of Public Works of the City of Denison, which may include a person appointed by the director or his/her authorized deputy, agent or representative.

*Disposal* means the discharge, deposit, release, injection, dumping, spilling, leaking, or placing of any liquid waste into or on any land or water so that such waste or any constituent thereof may enter the environment, be emitted into the air or discharged to any sewers or waters, including ground waters.

*Disposal site* means a permitted site or part of a site at which liquid waste is processed, treated, and/or intentionally placed into or on any land and at which the waste will remain after site closure.

*Fat, oil, and grease ("FOG")* means organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules sometimes referred to herein as "grease" or "greases". These substances are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time.

*Food service facility* means every food preparation and food service establishment including, but not limited to bakeries, bars, butcher shops, cafes, clubhouses, delicatessens, ice cream parlors, hospitals, hotels, restaurants, schools, or similar places where meat, poultry, seafood, dairy products, or fried foods are prepared, served, or offered for sale, but shall not apply to any single-family residence or dwelling not used for the commercial preparation and sale of food items.

*Generator* means any person who causes, creates, generates, or otherwise produces liquid waste, or a person who for any reason has liquid waste removed from his/her property by a transporter of liquid waste.

*Grease interceptor (or "grease trap")* means a device designed to use differences in specific gravities to separate and retain light density liquids, waterborne fats, oils, and greases prior to the



wastewater entering the sanitary sewer collection system. These devices also serve to collect settleable solids, generated by and from food preparation activities.

*Grease interceptor waste* means any organic, inorganic, greasy or fatty liquid, semi-liquid, and/or solid wastes collected by and removed from a grease trap.

*Grit trap/oil separator* means a watertight receptacle designed and constructed to intercept and prevent the passage of petroleum-based oil, grease wastes and solids into the sanitary sewer system to which the receptacle is directly or indirectly connected.

*Grit trap waste* means oil and grease waste, inorganic solids generated by a commercial facility that are collected by and removed from a grit trap.

*Hazardous waste* means any liquid, semi-liquid or solid waste (or combination of wastes), which because of its quantity, concentration, physical, chemical, or infectious characteristics may:

- (a) Have any of the following characteristics: toxic, corrosive, an irritant, a strong sensitizer, flammable or combustible, explosive or otherwise capable of causing substantial personal injury or illness;
- (b) Pose a substantial hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise improperly managed, and is identified or listed as a hazardous waste as defined by the Texas Solid Waste Chapter 361, H & S Disposal Act, U.S. Environmental Protection Agency (EPA) pursuant to the Federal "Solid Waste Disposal Act", as it may be amended in the future, or the Director.

*Liquid waste disposer or disposer* means a person who receives and processes or disposes of liquid waste from a producer. The terms processing and disposal are as defined in the Texas Solid Waste Disposal Act.

*Liquid waste transporter or transporter* means any person who is registered with and authorized by TCEQ to transport sewage sludge, water treatment sludge, domestic septage, chemical toilet waste, grit trap waste, or grease trap waste in accordance with 30 Texas Administrative Code, Chapter 312, Subchapter G,

*Liquid waste* means water-borne solids and liquids containing dissolved or suspended waste material including but not limited to septage and wastes from grease traps and grit traps.

*Manifest* means the written multi-part documentation required to be in the possession of the transporter enabling disposal of hauled grit trap waste, grease trap waste, and septage at a permitted or registered disposal site.

*Manifest system* means a system consisting of a five-part trip ticket used to control the generation, transportation, and disposal of liquid waste.

*Permit holder* means a person issued a liquid waste transport permit by the City of Denison, Texas.

*Public nuisance* means the discharge or exposure of grease, sewage, or other organic waste in such a way as to be a potential instrument or medium in disease transmission to a person or between persons.

*Regulatory authority* means the Grayson County Health Department. Where inspections or enforcement activities are herein provided, such activities may be conducted by the regulatory authority or the City of Denison.

*Septage* means liquid waste and sludge containing sufficient liquid content, which is removed from a portable toilet, chemical toilet, septic tank, or cesspool. Septage does not include non-domestic wastes from commercial or industrial facilities.

*Spill* means any unplanned discharge of liquid waste.

*TCEQ* means the Texas Commission on Environmental Quality, and its predecessor and successor agencies.

*Trip ticket* means the shipping document originated and signed by the transporter that contains the information required by the approving authority.

*Vehicle* means a mobile device in which or by which liquid waste may be transported upon a public street or highway.

*Washwater* means the water-borne solids, liquids, gaseous substances or other residue and debris resulting from a washing or cleaning process. Washwater shall not be discharged to the storm sewer and may require pretreatment before being discharged to the sanitary sewer.

*Wastewater system* means all treatment plants, mains, conveyances, pumps, interceptors, lift stations, connections, meters, sludge storage facilities, appurtenances, and other facilities of the city employed in the collection, treatment, and disposal of wastewater; or the publicly owned treatment works of the city and of a governmental entity receiving or treating wastewater of the city under a contract with the city.

## ***DIVISION 2. LIQUID WASTE GENERATORS***

### **Sec. 26-825. Installations.**

#### **(1) *New facilities.***

- (a) Food processing facilities or food service facilities which are newly proposed or constructed, or existing facilities which will be expanded or renovated to include a food service facility, where such facility did not previously exist, shall be required to design, install, operate, and maintain a grease trap in accordance with locally adopted plumbing codes or other applicable ordinances. Grease traps shall be installed and inspected prior to issuance of a certificate of occupancy.
- (b) Facilities which perform washing, cleaning, or servicing of automobiles, trucks, buses, or similar equipment which are newly proposed or constructed, or existing facilities which will be expanded or renovated, with floor drains in areas of operation, shall be required to design, install, operate, and maintain a grit trap/oil

separator in accordance with locally adopted plumbing codes or other applicable ordinances and guidelines as required by the city manager. Grit traps/oil separators shall be installed and inspected prior to issuance of certificate of occupancy.

(2) *Existing facilities.*

- (a) Existing grease traps or grit traps/oil separators must be operated and maintained in accordance with the manufacturer's recommendations and in accordance with these standards referenced herein, unless specified in writing and approved by the POTW. Other commercial users may be required by the city manager to install an approved grease trap, grit trap/oil separator when the concentration of oil, grease waste or suspended solids is greater than concentrations as established herein, article IX, chapter 26 of the City of Denison Code of Ordinances or when discharges may cause blockages in the wastewater collection system.
  - (b) Existing food processing or food service facilities that change in ownership, or existing facilities which will be expanded or renovated to include a food service facility, where such facility did not previously exist or where there is an inadequately sized grease interceptor, shall be required to design, install, operate, and maintain a grease interceptor in accordance with locally adopted plumbing codes, or other applicable ordinances. Grease interceptors shall be installed and inspected prior to the issuance of a certificate of occupancy and a health permit.
  - (c) Existing facilities which perform washing, cleaning, or servicing of automobiles, trucks, buses, or similar equipment with floor drains in the areas of operation that change in ownership or are expanded or renovated to include floor drains in areas of operation shall be required to design, install, operate and maintain a grit trap/oil separator in accordance with locally adopted plumbing codes, or other applicable ordinances. Grit traps/oil separators shall be installed and inspected prior to the issuance of a certificate of occupancy.
- (3) A generator shall install a sample port to allow access to sample the waste stream as close as possible to the connection with the city sanitary sewer main within the bounds of the facility property. The port shall be installed according to the specifications of the city manager. The port shall be installed and maintained at the user's expense. The port shall be installed perpendicular to the effluent flow to allow visual observation and sampling.
- (4) Grease interceptors and grit traps/oil separators shall be installed pursuant to a single certificate of occupancy. No person or persons shall allow the use of a single interceptor or trap by more than one business as defined by a certificate of occupancy without prior written approval.
- (5) Grease interceptors must be sized according to current International Plumbing Code, but never less than 250 gallons, and shall be upgraded to a more appropriate size if sewer blockages, leaks, overflows, dangers to public health or environmental health, or other public nuisances occur.
- (6) Deviations in size of grease interceptors may be made with approval by the director.
- (7) Grease traps of any size or specification may be subject to a sampling schedule.

**Sec. 26-826. Responsibilities.**

- (1) A generator of liquid waste shall have all liquid waste material picked up from his/her premises by a liquid waste transporter who holds a valid permit from the Regulatory Authority and the City, in accordance with section 26-827 of this article. The liquid waste

shall be transported to a disposal site approved by the Regulatory Authority and/or the City during the permitting process.

- (2) Cleaning schedule.
  - (a) Grease interceptors shall be cleaned as often as necessary to ensure that sediment and floating materials do not accumulate to impair the efficiency of the grease interceptor; that the discharge is in compliance with local wastewater discharge limits; and, to ensure that no visible grease is observed in the discharge.
  - (b) Grease interceptors shall be completely evacuated at a minimum of every ninety (90) days, or more frequently when:
    - i. Twenty-five (25) percent or more of the wetted height of the grease trap or grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils or greases;
    - ii. The discharge exceeds biochemical oxygen demand (“BOD”), chemical oxygen demand (“COD”), total suspended solids (“TSS”), FOG, pH, or other pollutant levels established by the city manager; or,
- (3) Grit traps/oil separators shall be completely evacuated based on one (1) of the two (2) following schedules:
  - (a) At a minimum of every one hundred eighty (180) days, or
  - (b) At a frequency determined by the owner/operator if all of the following best management practices are employed:
    - i. At a minimum of once per week, all facilities with a grit trap must routinely check and perform preventive maintenance as required on all connections, valves, hoses, chemical storage containers, drains, and other equipment necessary to prevent an accidental release or slug discharge of chemicals.
    - ii. At a minimum of once per month, all facilities with a grit trap must routinely check the level of sediment in each grit trap in order to determine a maintenance schedule that will facilitate consistent compliance with all discharge limits and requirements.
    - iii. All self-service and coin-operated car wash facilities must post and maintain signs, in an area that is clearly visible to the public, directing customers not to dispose of oils or chemical wastes at the facility.
    - iv. All facilities must document the best management practices, including routine checks, preventive maintenance and repair logs, and maintain grit trap maintenance records for a minimum of three years.
    - v. If at any time, the above practices are not being employed or the required documentation is not available for review, the owner/operator will be required to perform maintenance on the grit trap(s) immediately and once every one hundred eighty (180) days thereafter.
- (4) Any person who owns or operates a grease interceptor may submit to the city manager a request in writing for an exception to the required pumping frequency of the grease interceptor. The city manager may grant an extension for required cleaning frequency on a case-by-case basis when:

- (a) The grease interceptor owner/operator has demonstrated the specific interceptor will produce an effluent with no visible grease, and based on defensible analytical results, can demonstrate consistent compliance with established local discharge limits such as BOD, TSS, FOG, or other parameters as determined by the POTW; and
  - (b) Less than twenty-five (25) percent of the wetted height of the grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils or greases.
- (5) The city manager may also require traps to be serviced on a single-event basis or scheduled basis if deemed necessary for the proper operation of the grease interceptor or grit trap/oil separator.
- (6) In the event that the establishment ceases operation, the establishment is required to pump the interceptor or trap before abandoning the property. If the owner of the business fails to empty the interceptor or trap, it shall become the responsibility of the property owner.
- (7) A generator of liquid waste shall not have hazardous waste or liquid waste in combination with hazardous waste removed from his premises by a liquid waste hauler operating under a regulatory authority permit.
- (8) A generator shall verify the accuracy of the trip ticket from the transporter and then legibly complete and sign the trip ticket, to certify the statements on the trip ticket, when a load is picked up by the transporter. The generator shall keep a copy of all trip tickets for a period of three years at the site of generation, unless otherwise approved. The city manager may inspect and copy these records at any time.
- (9) A generator shall:
  - (a) Provide equipment and facilities of a type and capacity approved by the city; Minimum capacity shall not be less than 500 gallons on all newly installed grease interceptors;
  - (b) Locate the interceptor or trap in a manner that provides ready and easy accessibility for cleaning and inspection;
  - (c) Maintain the trap in effective operating condition;
  - (d) Not install or utilize any system, process or pretreatment involving the use of enzymes, bacteria, or other additives, nor alter the design or function of the grease interceptor or grit trap/oil separator unless approved in writing by the city manager; and
  - (e) Supervise proper cleaning and complete removal of the contents of the trap.
- (10) A generator shall maintain the grease interceptor or grit trap/oil separator and its surrounding areas in sanitary conditions, free of litter and odors.
- (11) A generator shall immediately report spills and accidents involving liquid waste to the city manager.
- (12) A generator shall clean up all spills and abate all unsanitary conditions immediately, and have material used for abatement, such as absorbent materials, disposed of by approved means and in a timely manner.
- (13) A generator of washwater or other liquid waste shall:
  - (a) Contain, collect and dispose of liquid waste by approved means;

- (b) Protect the storm sewer system and the environment from discharges of liquid waste or other contaminants;
  - (c) Use approved methods for on-site or mobile treatment of liquid waste; and
  - (d) Accurately measure, by approved means, the volume of liquid waste collected and disposed of by the transporter.
- (13) The city may place facilities with grease or grit traps and interceptors on a sampling schedule at the cost of the owner or operator, to determine compliance with technically based local limits and other pollutants of concern.
- (14) ; Should any sampling and/or analysis be required by city staff pursuant to any provision in this Article provided for generators, then the published rate for "sampling/analysis charges" that is contained in the annual City of Denison Schedule of Fees is applicable and will be charged and shall be paid by the generator.

### ***DIVISION 3. LIQUID WASTE TRANSPORTERS***

#### **Sec. 26-827. Permit required.**

- (1) A person commits an offense if they operate or cause to be operated a vehicle for the purpose of transporting liquid waste without a valid liquid waste transport permit issued under this article. A separate permit is required for each vehicle operated.
- (2) The applicant must be the person who will own, control, or operate the liquid waste transport business and must submit a complete application to the city for review. Transport or other permitted handling may not be done until an approved permit is issued.
- (3) Any person transporting liquid waste within the city must comply with all applicable city ordinances and state and federal laws.
- (4) Each permit applicant must specify which disposal site or sites are proposed to be used.

#### **Sec. 26-828. Fees and display of permit.**

- (1) A liquid waste transport permit may not be issued until the appropriate fee is paid. The permit fee for each vehicle operated by the applicant shall be established by the city's comprehensive fee schedule. Permit(s) must be renewed annually.
- (2) Any person willfully or negligently violating the permit conditions is subject to a fine as established in section 26-833 "Penalties" of this article. Each day that a violation is permitted to exist shall constitute a separate offense.
- (3) In cases of a transporter acting without a permit, all fines are doubled.
- (4) Permits will be numbered consecutively. Before operating any vehicle to transport liquid waste, permit holders must display on each side of the vehicle, in a color contrasting with the background and in letters at least three inches high, the company name and the following: DEN\_\_\_\_\_. The blank space must contain the permit number. Whenever a liquid waste transport permit for a vehicle is revoked or otherwise becomes invalid, the permit holder shall immediately remove the permit number from the vehicle.

**Sec. 26-829. Liquid waste vehicles; impoundment**

- (1) Liquid waste transporters shall:
  - (a) Maintain hoses, tanks, and valves on a vehicle in good repair and free from leaks;
  - (b) Provide a safety plug or cap for each tank valve;
  - (c) Use a vehicle with a single tank capacity of at least five hundred (500) gallons to transport septic tank, grease trap, or sand trap liquid waste, except when operating a vehicle for portable toilet cleaning; and
  - (d) Ensure vehicle exterior(s) are clean and free of odor at the beginning of each workday.
- (2) Any vehicle that is being operated in violation of this article may be impounded and may authorize the holding of the vehicle until the violation is corrected. The vehicle owner or operator shall pay all towing, storage, and other fees associated with the impoundment of the vehicle. The city may also revoke the liquid waste transport permit for improperly operated vehicles. If a vehicle is impounded or if a permit is revoked, an appeal may be filed by the transporter.

**Sec. 26-830. Manifest requirements.**

- (1) Persons who generate, collect, and transport grease interceptor and grit trap/oil separator waste shall maintain a record of each individual collection and deposit. Such records shall be in the form of a manifest. The manifest is to be provided by the transporter. The manifest shall include:
  - (a) Name, address, telephone, and TCEQ registration number of transporter;
  - (b) Name, signature, address, and telephone of the person who generated the waste and the date collected;
  - (c) Type and amount(s) of waste collected or transported;
  - (d) Name and signature(s) of responsible person(s) collecting, transporting, and depositing the waste;
  - (e) Date and place where the waste was deposited;
  - (f) Identification (permit or site registration number, location, and operator) of the facility where the waste was deposited;
  - (g) Name and signature of the facility on-site representative acknowledging receipt of the waste;
  - (h) The volume of the waste received; and
  - (i) A consecutive numerical tracking number to assist transporters, waste generators, and regulating authorities in tracking the volume of grease transported.
- (2) Manifests shall be divided into five (5) parts and records shall be maintained as follows.
  - (a) One part of the manifest shall have the generator and transporter information completed and is given to the generator at the time of waste pickup.
  - (b) The remaining four (4) parts of the manifest shall have all required information completely filled out and signed by the appropriate party before distribution of the

manifest. One part of the manifest shall go to the receiving facility. One part shall go to the transporter, who shall retain a copy of all manifests showing the collection and disposition of waste. One part of the manifest shall be returned by the transporter to the person who generated the wastes within fifteen (15) days after the waste is received at the disposal or processing facility. One part of the manifest shall go to the director which contains the original manifest form with all required signatures no later than the 10<sup>th</sup> day of the month following the month in which the trip ticket books were completed.

- (3) Copies of manifests returned to the waste generator shall be retained for three (3) years and be readily available for review.

Below is a sample trip ticket.





**Sec. 26-831. Responsibilities.**

- (1) Each grease interceptor or grit trap/oil separator that is pumped shall be fully evacuated unless the trap volume is greater than the tank capacity on the vacuum truck in which case the transporter shall arrange for additional transportation capacity so that the trap is fully evacuated within a twenty-four-hour period, in accordance with 30 Texas Administrative Code, Chapter 312, Section 312.143.
- (2) Prior to accepting a load of liquid waste for transportation, the transporter shall determine the nature of the material to be transported and that the equipment is sufficient to properly handle the material without spillage, leaks, or release of toxic or harmful gases, fumes, liquids, or other substances. Upon delivery of the waste to the disposer, the transporter shall inform the disposer of the nature of the waste.
- (3) Provisions for grease receptacles provided by the hauler must comply with general health and safety practices and all stormwater regulations.
- (4) Transporters may not move any hazardous waste material in any vehicle permitted by the city for transporting liquid waste.
- (5) A disposal site permitted or approved by the State of Texas must be used when disposing of waste.
- (6) Transporters must not store waste for more than four days in a closed, mobile container (vehicle holding tank).
- (7) A manifest system, consisting of a five-part trip ticket, is to be used to control the transportation and disposal of all applicable liquid waste generated in the city and must be used and maintained by the transporter.

***DIVISION 4. ABATEMENT OF VIOLATIONS***

**Sec. 26-832. Enforcement actions.**

- (1) All enforcement actions outlined in Chapter 26 and in the City of Denison's Approved Pretreatment Program Enforcement Response Plan shall be applicable to liquid waste generators and liquid waste transporters, including but not limited to the following:
- (2) *Notice of violation.* When the city manager finds that a generator or transporter has violated, or continues to violate, any provision of this article, a wastewater discharge permit, wastewater transport permit, or order issued hereunder, or any other pretreatment standard or requirement, the city manager may serve upon that generator or transporter a written notice of violation. Within the timeframe specified in this notice, which is usually but not always ten (10) days, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the city manager. Submission of this plan in no way relieves the generator or transporter of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city manager to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.
- (3) *Administrative orders.*
  - (a) *Compliance orders.* When the city manager finds that a generator or transporter has violated, or continues to violate, any provision of this chapter, a wastewater

discharge permit, wastewater transport permit, or order issued hereunder, or any other pretreatment standard or requirement, the city manager may issue an order to the generator or transporter responsible for the discharge directing that the generator or transporter come into compliance within a specified time. If the generator or transporter does not come into compliance within the time provided, sewer service and/or water service may be discontinued, or a permit issued pursuant to this chapter may be revoked. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the generator or transporter of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the generator or transporter.

- (b) *Cease and desist orders.* When the city manager finds that a generator or transporter has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the generator's or transporter's past violations are likely to recur, the city manager may issue an order to the generator or transporter directing it to cease and desist all such violations and:
  - i. Immediately comply with all requirements; and
  - ii. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.
- (4) *Service of notice or order.* Any notice or order issued under this article shall be in writing and served in person or by registered or certified mail on the generator or transporter of the liquid waste or other persons determined to be responsible for such violation. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the generator or transporter.
- (5) *Emergency suspension of service.*
  - (a) *Suspension.* The city manager or director may, without prior notice, suspend water service, sanitary sewer service and/or storm sewer access to a user or to a person discharging to the sanitary sewer or storm sewer when such suspension is necessary in the opinion of the city manager to stop an actual or threatened discharge which:
    - i. Presents or may present imminent substantial danger to the environment or to the health or welfare of persons;
    - ii. Presents or may present imminent substantial danger to the POTW, storm sewer or waters of the state; or
    - iii. Will cause pass through or interference of the POTW.
  - (b) *Notice of suspension.* As soon as is practicable after the suspension of service, the city manager shall notify the user or the person discharging to the wastewater or storm sewer of the suspension and order such person to cease the discharge immediately.
  - (c) *Reinstating service.* The city manager shall reinstate suspended services to the wastewater user, transporter or to the person discharging to the storm sewer:

- i. Upon proof by such person that the non-complying offense has been eliminated;
  - ii. Upon payment by such person of its outstanding water, sewer and stormwater utility charges;
  - iii. Upon payment by such person of all costs incurred by the city in responding to the discharge or threatened discharge; and
  - iv. Upon payment by such person of all costs incurred by the city in reconnecting service.
- (d) *Written statement.* Within five (5) days of the day of suspension of services, the wastewater user, transporter or the person discharging to the storm sewer shall submit to the city manager a detailed written statement describing the cause and the measures taken to prevent any future occurrence.
- (6) *Other steps.* If a person fails to comply with a notice or order issued under this section, the city manager shall take such steps as it deems necessary to prevent or minimize damage to the storm sewer, POTW or waters of the state, or to minimize danger to persons. Such steps may include immediate severance of a person's sanitary sewer connection.

**Sec. 26-833. Penalties.**

- (1) A person who violates any provision of this article shall, upon conviction by the municipal court, be punished as provided in the "general provisions" chapter of this Code.
- (2) The city attorney is authorized to commence an action for appropriate legal or equitable relief in a court of competent jurisdiction. Such relief may include, without limitation:
  - (a) An injunction to prevent a violation of this article;
  - (b) Recovery for damages to the POTW or storm sewer resulting from a violation of this article;
  - (c) Recovery for expenses incurred by the city in responding to a violation of this article; and
  - (d) A daily civil fine of up to the maximum provided by Texas Local Government Code 54.017(b) for a violation of sections 26-822 through 26-832; and all other damages, costs and remedies to which the city may be entitled.

**Sec. 26-834. Appeal.**

- (1) If the director denies the issuance or renewal of a liquid waste transport permit or suspends or revokes a liquid waste transport permit, or any other permit relating to wastewater discussed in this chapter issued by the city, the director shall send to the applicant or permit holder, by certified mail, return receipt requested, written notice of the action and of the right to an appeal. The applicant or permit holder may appeal the decision of the director to the city manager. Such appeal shall be taken by filing with the city manager, within fourteen (14) days after notice of the action complained of has been delivered in person or mailed to such person's address given in the application, a written statement setting forth fully the grounds for the appeal. The filing of a request for an appeal hearing with the city manager stays an action of the director revoking a permit until the city manager makes a final decision. The decision of the city manager on such appeal shall be final and conclusive.

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion, and take action on reappointing Tracey Bullard, Paisley Conrad, Brandon Cates, and Lee Thornton to the Sister Cities Board of Directors.

## Staff Contact

Rachel Reinert, Tourism Manager  
rreinert@cityofdenison.com  
(903) 647-7976

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## Summary

- City Council approved moving the Denison Sister Cities Inc. Non Profit under City management on June 27, 2018, where it was originally started in 1992.
- The Board of Directors is currently planning an exchange program between Denison High School students and students from Denison's sister city, Congac, France for summer of 2024.
- The nominated board members include Tracey Bullard, Paisley Conrad, Brandon Cates, and Lee Thornton. All members are up for reappointment and have previously served on the board.

## Staff Recommendation

Staff recommends approval of the reappointments.

## Recommended Motion

"I move to approve the reappointment of Tracey Bullard, Paisley Conrad, Brandon Cates, and Lee Thornton to the Sister Cities Board of Directors."

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## Background Information and Analysis

Our Denison Sister Cities, Inc. Youth Ambassador Exchange Program offers opportunities for Denison High School students to appreciate and understand the culture of our sister city through an abroad/home stay experience. Denison Sister Cities, Inc. sponsors this program for Denison youth as an investment in the future.

## Prior Board or Council Action

This Item has not been previously presented.

## Alternatives

The City Council may not approve the appointments.

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion and take action on the reappointment of Michael Roberts, Zac Duce, and Laura Longmire and appointment of Amanda Lanum to the Conventions and Visitors Bureau Advisory Board.

## Staff Contact

Rachel Reinert, Tourism Manager  
rreinert@cityofdenison.com  
(903) 647-7976

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## Summary

- Membership of the Conventions and Visitors Bureau Advisory Board consists of nine members, with seven positions coming from specific designated stakeholder groups in the tourism industry and two positions being at-large.
- Michael Roberts will be filling the position of Place 7 on the board, Sport Tourism Representative.
- Laura Longmire will be filling the position of Place 9, an At-Large Position on the board.
- Zac Duce will be filling the position of Place 4, the Denison Chamber of Commerce Board Representative.
- Amanda Lanum works at the Eisenhower Birthplace State Historic Site and will be filling Place 5, Denison History Representative.

## Staff Recommendation

Staff recommends approval of the appointments.

## Recommended Motion

“I move to approve the reappointment of Michael Roberts, Zac Duce, and Laura Longmire as board members to the Conventions and Visitors Bureau Advisory Board.”

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## Background Information and Analysis

The Denison Conventions and Visitors Bureau Advisory Board was created by Ordinance No. 4967 of the City Council on October 1, 2018. The Conventions and Visitors Bureau Advisory Board is comprised of nine members. Seven of those positions reflect specific tourism related stakeholders, including a representative from a local hotel, restaurant, Downtown Denison, Inc, the Denison Chamber of Commerce, Denison History, Lake Texoma, and Sports Tourism. Two of the positions are general at-large. The members are appointed by the City Council.

The function of the Conventions and Visitors Bureau Advisory Board is to encourage tourism in the Denison community, to raise the public visibility of local activity which may attract visitors to the city, and to promote and enhance tourism in the convention and hotel industry.

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Michael Roberts will be filling Place 7, Sports Tourism Representative. Michael owns The Horse's Axe business in downtown.

Zac Duce will be filling the position of Place 4, the Denison Chamber of Commerce Board Representative.

Laura Longmire will be filling the position of Place 9, an At-Large Position. Laura is the president of the Perrin Air Force Base Museum.

Amanda Lanum will be filling the position of Place 5, Denison History Representative, and works for the Eisenhower Birthplace State Historic Site.

**Prior Board or Council Action**

This Item has not been previously presented.

**Alternatives**

The City Council may not approve the appointments.

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion and take action on the reappointment of current members Derrick Roberts, Lexi Rains, Kimberlea Miller, Mel Climer, Jimmayshun Mundine, and Kathy Pryor to the Main Street Advisory Board each to serve a two-year term, commencing January 1, 2024.

## Staff Contact

Donna Dow, Main Street Director

[ddow@cityofdenison.com](mailto:ddow@cityofdenison.com)

903-464-4452

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## Summary

- Board Members' terms are expiring, and all are eligible for reappointment and need to be appointed to the Main Street Advisory Board. The Main Street Advisory Board and Main Street Inc. Board of Directors mirror one another.
- Current members Derrick Roberts, Lexi Rains, Kimberlea Miller, Mel Climer, Jimmayshun Mundine, and Kathy Pryor are eligible for reappointment and have completed an application to serve.

## Staff Recommendation

Staff recommends approval of the item based on the dedicated service of the applicants.

## Recommended Motion

"I move to approve the reappointment of current members Derrick Roberts, Lexi Rains, Kimberlea Miller, Mel Climer, Jimmayshun Mundine, and Kathy Pryor to the Main Street Advisory Board each to serve a two-year term, commencing on January 1, 2024."

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## Background Information and Analysis

The Main Street Advisory Board was created by Resolution Number 3118 of the Denison City Council, on March 7, 1988, as amended by Resolution No. 3998 of the Denison City Council, January 21, 2020, and Ordinance No. 3668 dated September 16, 1996. The Advisory Board consists of ten (10) members at large, with one position designated as "at large – reserved" to be held by the President of DDI, whomever he or she may be, or his/her designee. The Members are appointed by the City Council. The function of the Advisory Board is to encourage participation in all aspects of the Main Street Program, and to advise and support the Main Street Project Manager. Each term of office is a two-year term, with no more than three consecutive full terms.

Members Derrick Roberts, Lexi Rains, Kimberlea Miller, Mel Climer, Jimmayshun Mundine, and Kathy Pryor have terms that are expiring and are eligible and willing to serve another term. There are no known or obvious reasons that this item should not be approved. Each of the applicants have demonstrated outstanding community service in one capacity or another to our Downtown. Most serve on Main Street committees. The applicants have volunteered their service, and it is felt they make up an outstanding mix of male/female ration, age range diversity, backgrounds, skill sets, occupations, etc. However, one thing they have in common is a commitment to our Downtown.



**Financial Considerations**

The item has no financial considerations.

**Prior Board or Council Action**

The Main Street Advisory Board agreed to support these volunteer applications at its November 2023 Board Meeting.

**Alternatives**

Alternate volunteers could be appointed to these boards.

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion and take action on the reappointment of Linda Anderson and Rhonda Borgne as members to the Historic Preservation Board each to serve a two-year term, commencing January 1, 2024.

## Staff Contact

Donna Dow, Main Street Director

[ddow@cityofdenison.com](mailto:ddow@cityofdenison.com)

903-464-4452

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## Summary

- The Denison Historic Preservation Board was created under Chapter 2, Article II, Section 2-115 of the Denison Code of Ordinances.
- The Board is comprised of five total members. Two (2) members shall be business or property owners from the Historic District and three (3) at-large members.
- The function of the Historic Preservation Board is to preserve the downtown historic district. Each member shall serve a two-year term of office, with no more than three consecutive full terms.
- Both Linda Anderson and Rhonda Borgne are currently serving on the board and are eligible for reappointment and willing to serve.

## Staff Recommendation

Staff recommends approval of the item based on the dedicated service of the applicants.

## Recommended Motion

“I move to reappoint Linda Anderson and Rhonda Borgne as members to the Historic Preservation Board each to serve a two-year term, commencing January 1, 2024.”

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## Background Information and Analysis

The Denison Historic Preservation Board was created under Chapter 2, Article II, Section 2-115 of the Denison Code of Ordinances. The Board is comprised of five total members. Two (2) members shall be business or property owners from the Historic District and three (3) at-large members. The Members are appointed by the City Council. The function of the Historic Preservation Board is to preserve the downtown historic district. Each member shall serve a two-year term of office, with no more than three consecutive full terms.

Linda Anderson and Rhonda Borgne each have terms expiring on December 31, 2023. Both are eligible and willing to serve another two-year term. There are no known or obvious reasons that this item should not be approved. Each of the applicants have demonstrated outstanding service.

## Financial Considerations

The item has no financial considerations.

**Prior Board or Council Action**

The two members were previously appointed to the Historic Preservation Board and are serving a current term expiring on December 31, 2023.

**Alternatives**

Alternate volunteers could be appointed to these boards.

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion and take action on the reappointment of Derrick Roberts, Lexi Rains, Kimberlea Miller, Mel Climer, and Jimmayshun Mundine to the Main Street Inc. Board of Directors, each to serve a two-year term commencing January 1, 2024.

## Staff Contact

Donna Dow, Main Street Director

[ddow@cityofdenison.com](mailto:ddow@cityofdenison.com)

903-464-4452

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## Summary

- The Denison Main Street, Inc. Board of Directors was created by minute order of June 18, 2021, of the Denison City Council and Bylaws of the same date.
- The Board shall have nine (9) members at large. The Board Members are appointed by the City Council.
- Derrick Roberts, Lexi Rains, Kimberlea Miller, Mel Climer, and Jimmayshun Mundine have terms expiring on December 31, 2023, and are each willing and eligible to serve another two-year term.

## Staff Recommendation

Staff recommends approval of the item based on the dedicated service of the applicants.

## Recommended Motion

“I move to approve the reappointment of Derrick Roberts, Lexi Rains, Kimberlea Miller, Mel Climer, and Jimmayshun Mundine to the Main Street Inc. Board of Directors.”

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## Background Information and Analysis

The Denison Main Street, Inc. Board of Directors was created by minute order of June 18, 2021, of the Denison City Council and Bylaws of the same date. The Board shall have nine (9) members at large. The Board Members are appointed by the City Council. The function of the Board of Directors is exclusively for charitable, educational and/or scientific purposes under Section C(3) of the Internal Revenue Code. Each member shall serve two-year terms of office with no more than three consecutive terms.

Derrick Roberts, Lexi Rains, Kimberlea Miller, Mel Climer, and Jimmayshun Mundine have terms expiring on December 31, 2023, and are each willing and eligible to serve another two-year term. There are no known or obvious reasons that this item should not be approved. Each of the applicants have demonstrated outstanding community service in one capacity or another to our Downtown. Most serve on Main Street committees. The applicants have volunteered their service, and it is felt they make up an outstanding mix of male/female ration, age range diversity, backgrounds, skill sets, occupations, etc. However, one thing they have in common is a commitment to our Downtown.

## Financial Considerations

The item has no financial considerations.

**Prior Board or Council Action**

The Main Street Inc. Board agreed to support these volunteers applications at its November 2023 Board Meeting.

**Alternatives**

Alternate volunteers could be appointed to these boards.

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion, and take action on a Professional Services Agreement with Huitt-Zollars Inc. for Sound Stage and Lighting Design and Structural Engineering Services related to Phase 2 of the Designing Downtown Denison, or D<sup>3</sup>, Project in the amount of \$109,500 and authorize the City Manager to execute all related documents.

## Staff Contact

Ronnie Bates, Director of Public Works

[rbates@cityofdenison.com](mailto:rbates@cityofdenison.com)

903-465-2720 x 2441

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## Summary

- The City engaged Huitt-Zollars Inc. for engineering services of Phase 2 of the Designing Downtown Denison, or D<sup>3</sup>, project, in November 2022.
- This agreement will add design and structural engineering services for the Sound and Lights systems at Heritage Park and subsurface structure located at 331 W Main St.

## Staff Recommendation

Staff recommends approval of the item.

## Recommended Motion

“I move to approve the Professional Services Agreement with Huitt-Zollars Inc. for Sound Stage and Lighting Design and Structural Engineering Services related to Phase 2 of the Designing Downtown Denison, or D<sup>3</sup>, Project in the amount of \$109,500 and authorize the City Manager to execute all related documents.”

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## Background Information and Analysis

Huitt-Zollars Inc. was contracted for design services of Phase 2 of the Designing Downtown Denison, or D<sup>3</sup>, last year. During the course of the project, some additional needs have been identified. Under this agreement, Huitt-Zollars engineers will prepare structural engineering plans and details to fill a portion of the basement of the building at 331 W. Main Street that is within the street right-of-way and provide stage lighting and sound system design Heritage Park . Scope of services are as follows:

- 331 W. Main
  - Project Management
  - Coordination with City, Owner, Piazza and Chris Lambka and Associates
  - Prepare structural plans, details and specifications
  - Prepare limited construction administration services, limited to two on-site visits during construction
  - Prepare 3D imaging surveying
  - Provide architectural waterproofing remedial design
  - Provide perforate drainage system including a sump pump with back up battery in the basement

- Heritage Park Stage Lighting and Sound System
  - Project Management
  - Coordination with City and Chris Lambka and Associates
  - Research sound and lighting equipment and provide recommendations
  - Provide electrical designs to accommodate the selected system
  - Provide structure details for sound and lighting equipment
  - Architectural coordination and modifications as necessary

**Financial Considerations**

The project design will be paid for with TIRZ No. 3 Funds.

**Prior Board or Council Action**

The Council approved the original design contract with Huitt-Zollars on November 7, 2022.

**Alternatives**

The Council may modify, table, or deny the item.



December 5, 2023

Mr. Ronnie Bates  
Director of Public Works  
City of Denison  
300 W. Main Street  
Denison, Texas 75020

RE: Engineering Design Services  
Chop House Basement

Dear Mr. Bates:

Huitt-Zollars, Inc. is pleased to provide additional engineering services for the City of Denison’s Main Street Phase 2 project. The purpose of the additional engineering services is to prepare structure plans and details to fill portion of the basement of the 34 Chop House & Doc’s Lounge located at 331 W. Main Street that is within the street right-of-way and to provide stage lighting and sound system at Heritage Park . Scope of services are as follows:

**Chop House**

- Project Management
- Coordination with City, Owner, Piazza and Chris Lambka and Associates
- Prepare structural plans, details and specifications
- Prepare limited construction administration services, limited to two on-site visits during construction
- Prepare 3D imaging surveying
- Provide architectural waterproofing remedial design
- Provide perforate drainage system including a sump pump with back up battery in the basement

**Heritage Park Stage Lighting and Sound System**

- Project Management
- Coordination with City and Chris Lambka and Associates
- Research sound and lighting equipment and provide recommendations
- Provide electrical designs to accommodate the selected system
- Provide structure details for sound and lighting equipment
- Architectural coordination and modifications as necessary

The proposed scope of service and fee will conform to the terms and conditions as outlined in the Agreement for Professional Services dated on November 8, 2022. Our proposed fees are as follows:

Chop House Structure	\$ 76,600 Lump Sum
Stage Sound and Lighting	\$ 32,900 Lump Sum
Total	\$ 109,500 Lump Sum





Should you have any questions please feel free to contact me.

Sincerely,

Huitt-Zollars, Inc.

A handwritten signature in blue ink, appearing to read 'John Ho', written over a light blue horizontal line.

John Ho, P.E.  
Vice President

Accepted By  
City of Denison

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Date: 

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# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion, and take action on awarding a bid and entering into a contract with Dyna-Mist Construction Company for the 2023 Texoma Health Foundation (THF) Park Mowing and Maintenance Program, and authorize the Interim City Manager to execute the same.

## Staff Contact

Chip Egger, Parks Administrative Superintendent  
[gegger@cityofdenison.com](mailto:gegger@cityofdenison.com)  
903-465-2720 Ext. 2097

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## Summary

- Staff initiated a request for proposals and invited bids for the 2023 THF Park Mowing and Maintenance Program on October 23, 2023.
- The program's scope covers comprehensive turf, irrigation, and landscaping maintenance for THF Park.
- The City received bids from two contractors including Dyna-Mist Construction.
- Dyna-Mist Construction has been responsible for maintaining the turf, irrigation, and landscape at THF Park since its completion.
- Staff assessed and awarded Dyna-Mist Construction Company a higher overall score.
- Dyna-Mist Construction submitted a total bid of \$ 305,108.00, which is manageable within the current approved budget.

## Staff Recommendation

Staff recommends entering into an agreement with Dyna-Mist Construction Company.

## Recommended Motion

"I move to approve awarding a bid and entering into a contract with Dyna-Mist Construction Company for the 2023 THF Park Mowing and Maintenance Program and authorize the Interim City Manager to execute the same."

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## Background Information and Analysis

The staff released a request for proposals and solicited bids for the 2023 THF Park Mowing and Maintenance Program starting on October 23, 2023. The bid acceptance period closed on November 6, 2023 at 1:30 P.M. All bids were promptly opened after the closing period, resulting in the submission of two qualified bids. A pre-bid meeting on November 3, 2023, was attended by three potential contractors, two of whom submitted bids. The bids underwent scoring by staff, with a weighting of 50% for Lump Sum Cost and Unit Pricing, 25% for Bidder's Qualifications, and 25% for Bidder's Work Plan. The other company proposed a base service cost of \$290,224.79 with a 35% markup for applicable materials. In contrast, Dyna-Mist's bid for base services was \$305,108.00 with a 15% markup for applicable materials. Although the other company's base pricing was slightly lower, their percentage markup for materials was substantially higher and many individual unit prices were considerably elevated. Additionally, Dyna-Mist scored higher in Qualifications and Work Plan receiving the higher overall score.

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**Financial Considerations**

The bid received by Dyna-Mist Construction Company in the amount of \$305,108.00 which is within budget.

**Prior Board or Council Action**

None.

**Alternatives**

Council can reject the bid from Dyna-Mist Construction and instruct staff to re-advise on either choosing an alternate bidder or have staff create an alternative program and go back out for bids

**TEXOMA HEALTH FOUNDATION PARK  
MOWING AND MAINTENANCE PROGRAM AGREEMENT**

THIS MOWING AND MAINTENANCE PROGRAM AGREEMENT (“Agreement”) is entered into by and between the CITY OF DENISON, a Texas home rule municipal corporation (the “City”), and Dyna-Mist Construction Co., a Texas corporation (“Contractor”), (the City and Contractor shall be collectively referred to herein as the “Parties”).

In consideration of the mutual promises and covenants herein and the payment to be made from City to Contractor, Contractor agrees to perform all work as set forth in the City’s Bid/Proposal for 2023 Texoma Health Foundation Park (“THF Park”) Mowing and Maintenance Program, in accordance with the Contract Documents listed below, but generally described as mowing and landscape services throughout the THF Park and surrounding rights of way, including, but not limited to, mowing, edging, weed control, irrigation maintenance, pest control, fertilization, aerification, top dressing and debris removal and disposal (the “Services”).

The “Contract Documents” consist of the following items, which items, Contractor acknowledges have previously been provided to or created by Contractor and which items are incorporated into this Agreement by reference as though fully set out in this Agreement:

- A. This Agreement;
- B. City’s Invitation to Bid including all attachments, specifications and all addenda issued prior to execution of this Agreement;
- C. Contractor’s Executed Bid Proposal in response to City’s Invitation to Bid;
- D. Bidder’s Affidavit of Non-Collusion;
- E. Conflict of Interest Questionnaire Coversheet;
- F. Conflict of Interest Questionnaire;
- G. All modifications to Contract Documents issued after execution of this Agreement and accepted by the City and Contractor in writing; and
- H. All required Insurance Certificates, and affidavits.

In addition to the above Contract Documents, Contractor shall obtain performance and payment bonds satisfactory to the City, executed by a Surety Company authorized to conduct business in the State of Texas in an amount equal to 100% of the contract amount of \$305,108.00.

In case of any conflict between the terms of this Assignment and the terms of the Contract Documents, the terms of this Agreement shall control.

**ARTICLE I**  
**TERM OF AGREEMENT**

This Agreement shall begin on December 19, 2023 (the “Effective Date”) and expire on December 18, 2024, (the “Initial Term”) unless terminated earlier pursuant to the terms of this Agreement.

At the end of the Initial Term, the City shall have the sole right and option to renew for four (4) one (1) year terms (each a “Renewal Term” and collectively, the “Term”) upon thirty (30) days’ written notice to the Contractor prior to the expiration of the Initial Term or then-current Renewal Term, as the case may be.

**ARTICLE II**  
**CONTRACTOR’S DUTIES AND RESPONSIBILITIES**

1. Contractor shall coordinate all Services with the City’s designated representatives, which shall be the City Manager or their designee.
2. Contractor shall provide a schedule for maintenance activities to the City each month in order that the City can fully inspect the work in progress, spot potential problems, look for discrepancies and assist the Contractor to make certain that THF Park receives the required attention.
3. Contractor shall secure, at its own expense, all materials, supplies, machinery, equipment, tools, superintendence, labor, personnel, insurance, and other accessories and services necessary to provide the Services in accordance with the Contract Documents. Additionally, Contractor undertakes to properly maintain all equipment so that Services are performed timely and to a professional standard.
4. Contractor shall conform with Section 13-101 of the City of Denison’s Code of Ordinances (the “Code of Ordinances”) in performing the Services under this Agreement between the hours of 7:00 a.m. and 7:00 p.m.
5. Contractor shall not make or cause to be made any alterations, additions, or improvements to City property without the prior written consent of the City. All alterations, additions, and improvements to City property made with the written consent of the City shall, upon completion and acceptance by the City, become the property of the City. Contractor may be required to remove, at its expense, any alterations, additions, or improvements not meeting specifications as approved by the City.
6. Contractor shall ensure that their employees maintain a courteous and respectful attitude toward the public at all times. At no time may they solicit, request, or receive gratuities of any kind. Contractor must direct their employees to avoid loud and/or profane language at all times during the performance of duties. Any employee of Contractor who engages in misconduct or is incompetent or negligent in the proper performance of duties or is disorderly, dishonest, intoxicated, or discourteous must be removed from service under this Agreement by Contractor.
7. Contractor shall ensure that their employees adhere to strict safety policies and procedures as stated in the Contract Documents.
8. Contractor shall be liable and accountable for any and all damages resulting from Services performed by the Contractor. The Contractor shall be fully responsible for the protection of all persons, including members of the public, Contractor’s employees, employees of the City, and employees of other contractors or subcontractors; and all public and private

property including structures and utilities above and below the ground. The Contractor shall give reasonable notice to the City when such properties are liable to injury or damage through the performance of the Services and shall make all necessary arrangements with the City, or other property owners as the case may be, relative to the removal, replacement or protection of such property or utilities.

9. Contractor agrees that, in performance of the Services under this Agreement, Contractor will qualify under and comply with any and all applicable federal, state, and local laws and regulations now in effect, or hereafter enacted during the term of this Agreement, which are applicable to Contractor, its employees, agents or subcontractors, if any, with respect to the work and services described herein.

### **ARTICLE III** **CITY'S DUTIES AND RESPONSIBILITIES**

1. City shall allow reasonable access to the City owned properties or right-of-way that are subject to the performance of Services under this Agreement.
2. City shall routinely make inspections to determine compliance with this Agreement.
3. City shall timely pay all invoices for Services as provided in Article IV, subject to additions and deductions provided for in the Contract Documents.

### **ARTICLE IV** **PAYMENT FOR SERVICES**

In accordance with the bid award, the Contract Documents and this Agreement, the City agrees to pay Contractor up to \$305,108.00 for the performance of the Services under this Agreement. Contractor shall send detailed invoices by the fifteenth (15<sup>th</sup>) of each month for the prior month's completed work. The City will have thirty (30) days from receipt of the invoice, and confirm the Services have been completed, to pay. Payment shall be conditioned upon satisfactory completion of all Services as determined by the City and as set forth in this Agreement. In no event shall the Contractor receive funds if Services are not provided. If, in the opinion of the City, the Contractor has not or is not satisfactorily performing the Services covered under the terms of this Agreement, the City may, at its option:

- a. Withhold payment;
- b. Terminate the Agreement as set forth in Article V below.
- c. May hire another Contractor to cure any defects in performance or complete all Services covered by the Contract Documents for the remaining term of this Agreement.
- d. In any event, Contractor shall be liable to City for any costs incurred in excess of the amounts in the Contract Documents.

### **ARTICLE V** **TERMINATION AND BREACH**

1. Termination for Convenience. Either party may terminate this Agreement without cause upon thirty (30) days' written notice.
2. Termination for Cause. In the event of a breach of the terms and conditions of this Agreement by either party hereunder, the non-breaching party may elect to terminate this Agreement upon providing the defaulting party with a written notice of such default and allowing the breaching party a period of forty-eight (48) hours from and after the date of such notice to cure such breach. In the event said breach is not cured within the time period set forth herein, either party shall have the right to terminate this Agreement (for-cause).
3. Non-appropriation of Funds. If for any reason, at any time during any term of this Agreement, the Denison City Council fails to appropriate funds sufficient for the City to fulfill its obligations under this Agreement, the City may terminate this Agreement to be effective on the later of (i) thirty (30) days following delivery by the City to the Contractor of written notice of the City's intention to terminate or (ii) the last date for which funding has been appropriated by the City Council for the purposes set forth in this Agreement.

## **ARTICLE VI** **LIABILITY AND INDEMNIFICATION**

**THE CONTRACTOR AGREES TO DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS REPRESENTATIVES, OFFICERS, AGENTS, AND EMPLOYEES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LAWSUITS, ACTIONS, COSTS, AND EXPENSES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, THOSE FOR PROPERTY DAMAGE OR LOSS AND/OR PERSONAL INJURY, INCLUDING, BUT NOT LIMITED TO, DEATH, THAT MAY RELATE TO, ARISE OUT OF, OR BE OCCASIONED BY (I) CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR (II) ANY ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, ASSOCIATES, EMPLOYEES, CONTRACTORS OR SUBCONTRACTORS IN THE PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT.**

**IF ANY ACTION OR PROCEEDING SHALL BE BROUGHT BY OR AGAINST THE CITY IN CONNECTION WITH ANY SUCH LIABILITY OR CLAIM, CONTRACTOR, ON NOTICE FROM CITY, SHALL DEFEND SUCH ACTION OR PROCEEDING, AT CONTRACTOR'S EXPENSE, BY OR THROUGH ATTORNEYS REASONABLY SATISFACTORY TO CITY.**

**IN THE EVENT THAT ANY CITY-OWNED PROPERTY, SUCH AS UTILITIES, UTILITY INFRASTRUCTURE IMPROVEMENTS, EQUIPMENT, TURF, ETC., ARE DAMAGED OR DESTROYED DURING PERFORMANCE OF THE SERVICES UNDER THIS AGREEMENT DUE TO NEGLIGENCE OR ACTS OF OMISSIONS OF THE CONTRACTOR, THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR ALL REPAIRS OR REPLACEMENTS. IN THE EVENT OF DAMAGE DUE TO ACTS OF THE CONTRACTOR, THE CONTRACTOR SHALL REPLACE OR REPAIR THE DAMAGE AT NO COST TO THE CITY. THE CITY SHALL DETERMINE WHETHER ANY DAMAGE HAS BEEN DONE, THE AMOUNT OF THE DAMAGE, THE REASONABLE COSTS OF REPAIRING THE DAMAGE, AND WHETHER THE**

**CONTRACTOR IS RESPONSIBLE. THE CITY SHALL BE THE SOLE JUDGE OF THE DAMAGE TO CITY OWNED PROPERTIES, IN WHICH JUDGMENT SHALL BE EXERCISED REASONABLY. ANY DAMAGE BY THE CONTRACTOR SHALL BE REPAIRED OR REPLACED BY THE CONTRACTOR TO THE REASONABLE SATISFACTION OF THE CITY WITHIN THIRTY (30) DAYS OF RECEIPT OF WRITTEN NOTIFICATION FROM THE CITY.**

**CONTRACTOR COVENANTS AND AGREES THAT CITY SHALL IN NO WAY NOR UNDER ANY CIRCUMSTANCES BE RESPONSIBLE FOR ANY PROPERTY BELONGING TO CONTRACTOR, ITS MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS, INVITEES, LICENSEES, OR TRESPASSERS, WHICH MAY BE STOLEN, DESTROYED, OR IN ANY WAY DAMAGED, AND CONTRACTOR HEREBY INDEMNIFIES AND HOLDS HARMLESS CITY FROM AND AGAINST ANY AND ALL SUCH CLAIMS. THE CITY DOES NOT GUARANTEE POLICE PROTECTION AND WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE SUSTAINED BY CONTRACTOR, ITS MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS, INVITEES, LICENSEES, OR TRESPASSERS ON ANY OF THE CITY PROPERTIES.**

#### **ARTICLE VII** **INSURANCE**

Prior to the commencement of any work under this Agreement, Contractor shall purchase and maintain throughout the term of the Agreement, with an insurance company licensed to transact business in the state of Texas, an "occurrence basis" insurance policy or policies indemnifying, defending and saving harmless City from all damages which may be occasioned to any person, firm, or corporation, whether damages are by reason of any willful or negligent act or acts on part of Contractor, its agents or employees, with limits no less than:

- a. Commercial Liability Insurance: One Million and no/100 Dollars (\$1,000,000.00) combined single limit per occurrence or its equivalent with a Two Million and no/100 Dollars (\$2,000,000.00) aggregate for bodily injury, personal injury, and property damage.
- b. Vehicle Liability: Two Million and no/100 Dollars (\$2,000,000.00) combined single limit per accident for bodily injury and property damage.
- c. Worker's Compensation/Industrial Insurance: Limits as required by the State of Texas.

The general liability provisions in automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- (i) City, its officers, officials, employees, and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied, or used by Contractor; or automobiles owned, leased, hired, or borrowed by Contractor.
- (ii) Contractor's insurance coverage shall be primary insurance as City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be in excess of City's insurance and shall not contribute with it.



- (iii) Any failure to comply with reporting provisions of the policy shall not affect coverage provided to City, its officers, officials, employees, or volunteers.
- (iv) Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (v) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, nor reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to City.

**ARTICLE VIII**  
**MISCELLANEOUS PROVISIONS**

1. Immunity. The Parties agree that the City has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.

2. Assignment/Non-Transferable. The Parties agree that neither this Agreement nor the work to be performed or goods/services provided hereunder will be assigned or transferred without the prior written consent of the City.

3. Successors and Assigns. The Parties, and their partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

4. Execution and Consideration. This Agreement is executed by the Parties hereto without coercion or duress for any substantial consideration, the sufficiency of which is forever confessed.

5. Notices. Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the Party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such Party via facsimile or a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the Parties shall be as follows:

To City:

City of Denison  
Attn: City Manager  
300 W. Main Street  
Denison, TX 75020

With a copy to:

Messer Fort, P.L.L.C.  
Attn: Ms. Julie Fort  
6371 Preston Rd., Ste. 200  
Frisco, Texas 75034  
TEL: (972) 668-6400

To Contractor:

Dyna-Mist Construction Co.  
Attn: Randy Plumlee  
2808 Capital St.  
Wylie, TX 75098

6. Cumulative Remedies. All rights and remedies of the Parties under this Agreement shall be cumulative, and none shall exclude any other right or remedy provided by law, or by any other provisions of the Agreement. All such rights and remedies may be exercised and enforced concurrently and whenever, and as often, as occasion for their exercise arises.

7. Waiver of Breach. A waiver by either Party of a breach of the Agreement by the other Party does not constitute a continuing waiver or a waiver of any subsequent breach of the Agreement.

8. Parties Bound. The Agreement shall be binding upon, and inure to the benefit of, the Parties to the Agreement and their respective heirs, executors, administrators, legal representatives, successors, and assigns when permitted by this Agreement.

9. No Third-Party Beneficiaries. Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the Parties do not intend to create any third-party beneficiaries by entering into this Agreement.

10. Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the matters contained herein and may not be modified, amended, or terminated except upon the provisions hereof or by the mutual written agreement of the Parties hereto. The subject matter of this Agreement is for landscape maintenance only and not any other matters that may exist between the Parties past, present, or future.

11. Independent Contractor. In the performance of services pursuant to this Agreement, Contractor shall be an independent contractor and not an officer, agent, servant, or employee of City. Contractor shall have exclusive control over the details of the service and work performed and over all persons performing such service and work. Contractor shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any. Neither Contractor nor its officers, agents, employees, or subcontractors shall obtain any right to retirement benefits, Workers' Compensation benefits, or any other benefits which accrue to City employees and Contractor expressly waives and claim it may have or acquire to such benefits.

12. Public Information. Contractor understands and acknowledges that City is a public entity under the laws of the State of Texas and, as such, all documents held by City are subject to disclosure under Chapter 552 of the Texas Government Code. Contractor shall clearly indicate to City what information it deems proprietary. If City is required to disclose any documents that may reveal any of Contractor's Proprietary Information to third parties under the Texas Government Code, or by any other legal process, law, rule, or judicial order by a court of competent jurisdiction, City will notify Contractor prior to disclosure of such documents, and give Contractor the opportunity to submit reasons for objections to disclosure. Contractor acknowledges that the Texas Attorney General or a court will make a determination as to the public nature of any Proprietary Information.

13. Venue. This Agreement shall be construed in accordance with the laws of the State of Texas and shall be performable in Grayson County, Texas.

14. Consideration. This Agreement is executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

15. Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original if properly executed.

16. Authority to Execute. The individuals executing this Agreement on behalf of the respective Parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the Party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the Party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

17. Force Majeure. Neither Contractor nor the City shall be required to perform any term, condition, or covenant in the Agreement so long as performance is delayed or prevented by force majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riots, floods, and any other cause not reasonably within the control of the Party and which by the exercise of due diligence the Party is unable, wholly or in part, to prevent or overcome. Failure of a Party to timely perform an obligation hereunder shall only be excused as an event of force majeure described in this paragraph if a Party who cannot perform sends written notice to the other Party within thirty (30) days of the start of the event of force majeure: (a) stating the obligations that the Party cannot perform due to the event of force majeure; (b) describing in detail the event of force majeure that is preventing performance; and (c) providing a date by which such Party reasonably expects to be able to perform and the length of the force majeure event.

18. Verification Regarding Energy Company Boycotts. To the extent this Agreement constitutes a contract for good or services for which a written verification is required Section 2274.002, Texas Government Code, (as added by Senate Bill 13, 87th Texas Legislature, Regular Session) as amended, Contractor hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, do not boycott energy companies and, will not boycott energy

companies during the term of this Agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “boycott energy companies” shall have the meaning assigned to the term “boycott energy company” in Section 809.001, Texas Government Code. Contractor understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Contractor and exists to make a profit

19. Verification Regarding Discrimination Against Firearm Entity or Trade Associations. To the extent this Agreement constitutes a contract for the purchase of goods or services having a value of at least \$100,000 that is paid wholly or partly from public funds for which a written verification is required under Section 2274.002, Texas Government Code, (as added by Senate Bill 19, 87th Texas Legislature, Regular Session), as amended, Contractor hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any,

1. do not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and
2. will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “discriminate against a firearm entity or firearm trade association” shall have the meaning assigned to such term in Section 2274.001(3), Texas Government Code (as added by SB 19). Contractor understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Contractor and exists to make a profit.

20. Certifications Regarding Terrorist Organizations and Boycott of Israel. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Sections 2252.151-.154 Texas Government Code, Contractor hereby certifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, is not a company identified on the Texas Comptroller’s list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State under federal law.

To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Sections 2271.001-002 Texas Government Code, Contractor and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, further certifies and verifies that it does not boycott Israel and agrees that it will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term “boycott” shall mean and include terminating business activities or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory. (Tex. Gov’t Code §§ 2270.001-.002, 808.001-.006, .051-.057, .101-.102)

The foregoing verification is made solely to comply with Chapter 2271, Texas Government Code, as amended, to the extent the applicable provision in Chapter 2271.001, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “boycott Israel” shall have the meaning assigned to such term in Section 808.001(1), Texas Government Code. Contractor understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Contractor and exists to make a profit.

21. Form 1295 Certificate. Contractor represents that it has complied with Texas Government Code, Section 2252.908 and in connection therewith, Contractor has completed a Texas Ethics Commission Form 1295 Certificate generated by the Texas Ethics Commission’s electronic filing system in accordance 2023 THF Park Mowing and Maintenance Program Agreement

with the rules promulgated by the Texas Ethics Commission. Contractor further agrees to print the completed certificate and execute the completed certificate in such form as is required by Texas Government Code, Section 2252.908 and the rules of the Texas Ethics Commission and provide to the City, at the time of delivery of an executed counterpart of this Agreement, a duly executed completed Form 1295 Certificate. The Parties agree that, except for the information identifying the City and the contract identification number, the City is not responsible for the information contained in the Form 1295 completed by Contractor. The information contained in the Form 1295 completed by Contractor has been provided solely by Contractor, and the City has not verified such information.

22. Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by the Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any Party shall not apply. Headings in this Agreement are for the convenience of the Parties and are not intended to be used in construing this document.

23. Savings/Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

24. Representations. Each signatory represents this Agreement has been read by the Party for which this Agreement is executed and that such Party has had an opportunity to confer with its legal counsel.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement to be effective as of the date of the last of the Parties to sign.

**CITY OF DENISON**

By: \_\_\_\_\_  
Bobby Atteberry, Interim City Manager  
Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Christine Wallentine, City Clerk

**CONTRACTOR:**

DYNA-MIST CONSTRUCTION CO.

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

2023 THF Park Mowing and Maintenance Program Agreement

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion, and take action on awarding a bid and entering into a contract with Brightview Landscape Services, Inc. for the 2023 Right of Way Mowing and Maintenance Program, and authorize the Interim City Manager to execute the same.

## Staff Contact

Chip Egger, Parks Administrative Superintendent  
[gegger@cityofdenison.com](mailto:gegger@cityofdenison.com)  
903-465-2720 Ext. 2097

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## Summary

- Staff initiated a request for proposals and invited bids for the 2023 Right of Way Mowing and Maintenance Program on October 23, 2023.
- The program's scope of work covers comprehensive mowing, weed eating, edging, debris removal and landscaping maintenance for designated rights of way.
- The City received bids from three contractors including Brightview Landscape Services, Inc.
- Staff assessed and awarded Brightview Landscape Services, Inc. a higher overall score.
- Brightview Landscape Services, Inc. submitted a total bid of \$ 100,829.76, which is manageable within the current approved budget.

## Staff Recommendation

Staff recommends entering into an agreement with Brightview Landscape Services, Inc.

## Recommended Motion

"I move to approve awarding a bid and entering into a contract with Brightview Landscape Services, Inc. for the 2023 Right of Way Mowing and Maintenance Program and authorize the Interim City Manager to execute the same."

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## Financial Considerations

The bid received by Brightview Landscape Services, Inc. in the amount of \$100,829.76 which is within budget.

## Prior Board or Council Action

None.

## Alternatives

Council can reject the bid from Brightview Landscape Services, Inc. and instruct staff to re-advise on either choosing an alternate bidder or have staff create an alternative program and go back out for bids.

## **RIGHT OF WAY MOWING AND MAINTENANCE PROGRAM AGREEMENT**

THIS MOWING AND MAINTENANCE PROGRAM AGREEMENT (“Agreement”) is entered into by and between the CITY OF DENISON, a Texas home rule municipal corporation (the “City”), and Brightview Landscape Services, Inc. (“Contractor”), (the City and Contractor shall be collectively referred to herein as the “Parties”).

In consideration of the mutual promises and covenants herein and the payment to be made from City to Contractor, Contractor agrees to perform all work as set forth in the City’s Bid/Proposal for 2023 Right of Way Mowing and Maintenance Program, in accordance with the Contract Documents listed below, but generally described as mowing and landscape services throughout City owned, or managed rights of way, including, but not limited to, mowing, edging, litter, and debris removal and disposal (the “Services”).

The “Contract Documents” consist of the following items, which items, Contractor acknowledges have previously been provided to or created by Contractor and which items are incorporated into this Agreement by reference as though fully set out in this Agreement:

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- G. All modifications to Contract Documents issued after execution of this Agreement and accepted by the City and Contractor in writing; and
- H. All required Insurance Certificates, and affidavits.

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In case of any conflict between the terms of this Assignment and the terms of the Contract Documents, the terms of this Agreement shall control.

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**ARTICLE II**  
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2. Contractor shall provide a schedule for maintenance activities to the City each month in order that the City can fully inspect the work in progress, spot potential problems, look for discrepancies and assist the Contractor to make certain that sites receive the required attention.
3. Contractor shall secure, at its own expense, all materials, supplies, machinery, equipment, tools, superintendence, labor, personnel, insurance, and other accessories and services necessary to provide the Services in accordance with the Contract Documents. Additionally, Contractor undertakes to properly maintain all equipment so that Services are performed timely and to a professional standard.
4. Contractor shall conform with Section 13-101 of the City of Denison's Code of Ordinances (the "Code of Ordinances") in performing the Services under this Agreement between the hours of 7:00 a.m. and 7:00 p.m.
5. Contractor shall not make or cause to be made any alterations, additions, or improvements to City property without the prior written consent of the City. All alterations, additions, and improvements to City property made with the written consent of the City shall, upon completion and acceptance by the City, become the property of the City. Contractor may be required to remove, at its expense, any alterations, additions, or improvements not meeting specifications as approved by the City.
6. Contractor shall ensure that their employees maintain a courteous and respectful attitude toward the public at all times. At no time may they solicit, request, or receive gratuities of any kind. Contractor must direct their employees to avoid loud and/or profane language at all times during the performance of duties. Any employee of Contractor who engages in misconduct or is incompetent or negligent in the proper performance of duties or is disorderly, dishonest, intoxicated, or discourteous must be removed from service under this Agreement by Contractor.
7. Contractor shall ensure that their employees adhere to strict safety policies and procedures that may be required for roadside mowing and maintenance specific to each site and as stated in the Contract Documents.
8. Contractor shall be liable and accountable for any and all damages resulting from Services performed by the Contractor. The Contractor shall be fully responsible for the protection of all persons, including members of the public, Contractor's employees, employees of the City, and employees of other contractors or subcontractors; and all public and private property including structures and utilities above and below the ground. The Contractor shall give reasonable notice to the City when such properties are liable to injury or damage through the performance of the Services and shall make all necessary arrangements with



the City, or other property owners as the case may be, relative to the removal, replacement or protection of such property or utilities.

9. Contractor agrees that, in performance of the Services under this Agreement, Contractor will qualify under and comply with any and all applicable federal, state, and local laws and regulations now in effect, or hereafter enacted during the term of this Agreement, which are applicable to Contractor, its employees, agents or subcontractors, if any, with respect to the work and services described herein.

### **ARTICLE III** **CITY'S DUTIES AND RESPONSIBILITIES**

1. City shall allow reasonable access to the City owned, or managed properties and right-of-way that are subject to the performance of Services under this Agreement.
2. City shall routinely make inspections to determine compliance with this Agreement.
3. City shall timely pay all invoices for Services as provided in Article IV, subject to additions and deductions provided for in the Contract Documents.

### **ARTICLE IV** **PAYMENT FOR SERVICES**

In accordance with the bid award, the Contract Documents and this Agreement, the City agrees to pay Contractor up to \$100,829.76 for the performance of the Services under this Agreement. Contractor shall send detailed invoices including the date sites were serviced at the conclusion of each mowing cycle. (Mowing cycles begin Friday and conclude on Thursday). The City will have three (3) days from receipt of an invoice to confirm the Services have been completed. Payment shall be conditioned upon satisfactory completion of all Services as determined by the City and as set forth in this Agreement. The City will have thirty (30) days from the receipt of an invoice to process and pay each invoice. In no event shall the Contractor receive funds if Services are not provided. If, in the opinion of the City, the Contractor has not or is not satisfactorily performing the Services covered under the terms of this Agreement, the City may, at its option:

- a. Withhold payment;
- b. Terminate the Agreement as set forth in Article V below.
- c. May hire another Contractor to cure any defects in performance or complete all Services covered by the Contract Documents for the remaining term of this Agreement.
- d. In any event, Contractor shall be liable to City for any costs incurred in excess of the amounts in the Contract Documents.

### **ARTICLE V** **TERMINATION AND BREACH**

1. Termination for Convenience. Either party may terminate this Agreement without cause upon thirty (30) days' written notice.

2. Termination for Cause. In the event of a breach of the terms and conditions of this Agreement by either party hereunder, the non-breaching party may elect to terminate this Agreement upon providing the defaulting party with a written notice of such default and allowing the breaching party a period of forty-eight (48) hours from and after the date of such notice to cure such breach. In the event said breach is not cured within the time period set forth herein, either party shall have the right to terminate this Agreement (for-cause).
  
3. Non-appropriation of Funds. If for any reason, at any time during any term of this Agreement, the Denison City Council fails to appropriate funds sufficient for the City to fulfill its obligations under this Agreement, the City may terminate this Agreement to be effective on the later of (i) thirty (30) days following delivery by the City to the Contractor of written notice of the City's intention to terminate or (ii) the last date for which funding has been appropriated by the City Council for the purposes set forth in this Agreement.

## **ARTICLE VI** **LIABILITY AND INDEMNIFICATION**

**THE CONTRACTOR AGREES TO DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS REPRESENTATIVES, OFFICERS, AGENTS, AND EMPLOYEES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LAWSUITS, ACTIONS, COSTS, AND EXPENSES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, THOSE FOR PROPERTY DAMAGE OR LOSS AND/OR PERSONAL INJURY, INCLUDING, BUT NOT LIMITED TO, DEATH, THAT MAY RELATE TO, ARISE OUT OF, OR BE OCCASIONED BY (I) CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR (II) ANY ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, ASSOCIATES, EMPLOYEES, CONTRACTORS OR SUBCONTRACTORS IN THE PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT.**

**IF ANY ACTION OR PROCEEDING SHALL BE BROUGHT BY OR AGAINST THE CITY IN CONNECTION WITH ANY SUCH LIABILITY OR CLAIM, CONTRACTOR, ON NOTICE FROM CITY, SHALL DEFEND SUCH ACTION OR PROCEEDING, AT CONTRACTOR'S EXPENSE, BY OR THROUGH ATTORNEYS REASONABLY SATISFACTORY TO CITY.**

**IN THE EVENT THAT ANY CITY-OWNED PROPERTY, SUCH AS UTILITIES, UTILITY INFRASTRUCTURE IMPROVEMENTS, EQUIPMENT, TURF, ETC., ARE DAMAGED OR DESTROYED DURING PERFORMANCE OF THE SERVICES UNDER THIS AGREEMENT DUE TO NEGLIGENCE OR ACTS OF OMISSIONS OF THE CONTRACTOR, THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR ALL REPAIRS OR REPLACEMENTS. IN THE EVENT OF DAMAGE DUE TO ACTS OF THE CONTRACTOR, THE CONTRACTOR SHALL REPLACE OR REPAIR THE DAMAGE AT NO COST TO THE CITY. THE CITY SHALL DETERMINE WHETHER ANY DAMAGE HAS BEEN DONE, THE AMOUNT OF THE DAMAGE, THE REASONABLE COSTS OF REPAIRING THE DAMAGE, AND WHETHER THE CONTRACTOR IS RESPONSIBLE. THE CITY SHALL BE THE SOLE JUDGE OF THE DAMAGE TO CITY OWNED PROPERTIES, IN WHICH JUDGMENT SHALL BE EXERCISED REASONABLY. ANY DAMAGE BY THE CONTRACTOR SHALL BE**

**REPAIRED OR REPLACED BY THE CONTRACTOR TO THE REASONABLE SATISFACTION OF THE CITY WITHIN THIRTY (30) DAYS OF RECEIPT OF WRITTEN NOTIFICATION FROM THE CITY.**

**CONTRACTOR COVENANTS AND AGREES THAT CITY SHALL IN NO WAY NOR UNDER ANY CIRCUMSTANCES BE RESPONSIBLE FOR ANY PROPERTY BELONGING TO CONTRACTOR, ITS MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS, INVITEES, LICENSEES, OR TRESPASSERS, WHICH MAY BE STOLEN, DESTROYED, OR IN ANY WAY DAMAGED, AND CONTRACTOR HEREBY INDEMNIFIES AND HOLDS HARMLESS CITY FROM AND AGAINST ANY AND ALL SUCH CLAIMS. THE CITY DOES NOT GUARANTEE POLICE PROTECTION AND WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE SUSTAINED BY CONTRACTOR, ITS MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS, INVITEES, LICENSEES, OR TRESPASSERS ON ANY OF THE CITY PROPERTIES.**

### **ARTICLE VII** **INSURANCE**

Prior to the commencement of any work under this Agreement, Contractor shall purchase and maintain throughout the term of the Agreement, with an insurance company licensed to transact business in the state of Texas, an "occurrence basis" insurance policy or policies indemnifying, defending and saving harmless City from all damages which may be occasioned to any person, firm, or corporation, whether damages are by reason of any willful or negligent act or acts on part of Contractor, its agents or employees, with limits no less than:

- a. Commercial Liability Insurance: One Million and no/100 Dollars (\$1,000,000.00) combined single limit per occurrence or its equivalent with a Two Million and no/100 Dollars (\$2,000,000.00) aggregate for bodily injury, personal injury, and property damage.
- b. Vehicle Liability: Two Million and no/100 Dollars (\$2,000,000.00) combined single limit per accident for bodily injury and property damage.
- c. Worker's Compensation/Industrial Insurance: Limits as required by the State of Texas.

The general liability provisions in automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- (i) City, its officers, officials, employees, and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied, or used by Contractor; or automobiles owned, leased, hired, or borrowed by Contractor.
- (ii) Contractor's insurance coverage shall be primary insurance as City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be in excess of City's insurance and shall not contribute with it.
- (iii) Any failure to comply with reporting provisions of the policy shall not affect coverage provided to City, its officers, officials, employees, or volunteers.

- (iv) Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (v) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, nor reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to City.

**ARTICLE VIII**  
**MISCELLANEOUS PROVISIONS**

1. Immunity. The Parties agree that the City has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.

2. Assignment/Non-Transferable. The Parties agree that neither this Agreement nor the work to be performed or goods/services provided hereunder will be assigned or transferred without the prior written consent of the City.

3. Successors and Assigns. The Parties, and their partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

4. Execution and Consideration. This Agreement is executed by the Parties hereto without coercion or duress for any substantial consideration, the sufficiency of which is forever confessed.

5. Notices. Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the Party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such Party via facsimile or a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the Parties shall be as follows:

To City:

City of Denison  
Attn: City Manager  
300 W. Main Street  
Denison, TX 75020

With a copy to:

Messer Fort, P.L.L.C.  
Attn: Ms. Julie Fort  
6371 Preston Rd., Ste. 200  
Frisco, Texas 75034  
TEL: (972) 668-6400

To Contractor:

Brightview Landscape Services, Inc  
1464 West 1<sup>st</sup> St  
Prosper, TX 75078

6. Cumulative Remedies. All rights and remedies of the Parties under this Agreement shall be cumulative, and none shall exclude any other right or remedy provided by law, or by any other provisions of the Agreement. All such rights and remedies may be exercised and enforced concurrently and whenever, and as often, as occasion for their exercise arises.

7. Waiver of Breach. A waiver by either Party of a breach of the Agreement by the other Party does not constitute a continuing waiver or a waiver of any subsequent breach of the Agreement.

8. Parties Bound. The Agreement shall be binding upon, and inure to the benefit of, the Parties to the Agreement and their respective heirs, executors, administrators, legal representatives, successors, and assigns when permitted by this Agreement.

9. No Third-Party Beneficiaries. Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the Parties do not intend to create any third-party beneficiaries by entering into this Agreement.

10. Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the matters contained herein and may not be modified, amended, or terminated except upon the provisions hereof or by the mutual written agreement of the Parties hereto. The subject matter of this Agreement is for landscape maintenance only and not any other matters that may exist between the Parties past, present, or future.

11. Independent Contractor. In the performance of services pursuant to this Agreement, Contractor shall be an independent contractor and not an officer, agent, servant, or employee of City. Contractor shall have exclusive control over the details of the service and work performed and over all persons performing such service and work. Contractor shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any. Neither Contractor nor its officers, agents, employees, or subcontractors shall obtain any right to retirement benefits, Workers' Compensation benefits, or any other benefits which accrue to City employees and Contractor expressly waives and claim it may have or acquire to such benefits.

12. Public Information. Contractor understands and acknowledges that City is a public entity under the laws of the State of Texas and, as such, all documents held by City are subject to disclosure under Chapter 552 of the Texas Government Code. Contractor shall clearly indicate to City what information it deems proprietary. If City is required to disclose any documents that may reveal any of Contractor's Proprietary Information to third parties under the Texas Government Code, or by any other legal process, law, rule, or judicial order by a court of competent jurisdiction, City will notify Contractor prior to disclosure of such documents, and give Contractor the opportunity to submit reasons for objections to disclosure. Contractor acknowledges that the Texas Attorney General or a court will make a determination as to the public nature of any Proprietary Information.

13. Venue. This Agreement shall be construed in accordance with the laws of the State of Texas and shall be performable in Grayson County, Texas.

14. Consideration. This Agreement is executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

15. Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original if properly executed.

16. Authority to Execute. The individuals executing this Agreement on behalf of the respective Parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the Party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the Party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

17. Force Majeure. Neither Contractor nor the City shall be required to perform any term, condition, or covenant in the Agreement so long as performance is delayed or prevented by force majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riots, floods, and any other cause not reasonably within the control of the Party and which by the exercise of due diligence the Party is unable, wholly or in part, to prevent or overcome. Failure of a Party to timely perform an obligation hereunder shall only be excused as an event of force majeure described in this paragraph if a Party who cannot perform sends written notice to the other Party within thirty (30) days of the start of the event of force majeure: (a) stating the obligations that the Party cannot perform due to the event of force majeure; (b) describing in detail the event of force majeure that is preventing performance; and (c) providing a date by which such Party reasonably expects to be able to perform and the length of the force majeure event.

18. Verification Regarding Energy Company Boycotts. To the extent this Agreement constitutes a contract for good or services for which a written verification is required Section 2274.002, Texas Government Code, (as added by Senate Bill 13, 87th Texas Legislature, Regular Session) as amended, Contractor hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, do not boycott energy companies and, will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, "boycott energy companies" shall have the meaning assigned to the term "boycott energy company" in Section 809.001, Texas Government Code. Contractor understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Contractor and exists to make a profit

19. Verification Regarding Discrimination Against Firearm Entity or Trade Associations. To the extent this Agreement constitutes a contract for the purchase of goods or services having a value of at least \$100,000 that is paid wholly or partly from public funds for which a written verification is required under Section 2274.002, Texas Government Code, (as added by Senate Bill 19, 87th Texas Legislature,



Regular Session), as amended, Contractor hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any,

1. do not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and
2. will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “discriminate against a firearm entity or firearm trade association” shall have the meaning assigned to such term in Section 2274.001(3), Texas Government Code (as added by SB 19). Contractor understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Contractor and exists to make a profit.

20. Certifications Regarding Terrorist Organizations and Boycott of Israel. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Sections 2252.151-.154 Texas Government Code, Contractor hereby certifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, is not a company identified on the Texas Comptroller’s list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State under federal law.

To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Sections 2271.001-002 Texas Government Code, Contractor and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, further certifies and verifies that it does not boycott Israel and agrees that it will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term “boycott” shall mean and include terminating business activities or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory. (Tex. Gov’t Code §§ 2270.001-.002, 808.001-.006, .051-.057, .101-.102)

The foregoing verification is made solely to comply with Chapter 2271, Texas Government Code, as amended, to the extent the applicable provision in Chapter 2271.001, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “boycott Israel” shall have the meaning assigned to such term in Section 808.001(1), Texas Government Code. Contractor understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Contractor and exists to make a profit.

21. Form 1295 Certificate. Contractor represents that it has complied with Texas Government Code, Section 2252.908 and in connection therewith, Contractor has completed a Texas Ethics Commission Form 1295 Certificate generated by the Texas Ethics Commission’s electronic filing system in accordance with the rules promulgated by the Texas Ethics Commission. Contractor further agrees to print the completed certificate and execute the completed certificate in such form as is required by Texas Government Code, Section 2252.908 and the rules of the Texas Ethics Commission and provide to the City, at the time of delivery of an executed counterpart of this Agreement, a duly executed completed Form 1295 Certificate. The Parties agree that, except for the information identifying the City and the contract identification number, the City is not responsible for the information contained in the Form 1295 completed by Contractor. The information contained in the Form 1295 completed by Contractor has been provided solely by Contractor, and the City has not verified such information.

22. Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by the Parties hereto. The language of all parts of this Agreement shall be construed as a

whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any Party shall not apply. Headings in this Agreement are for the convenience of the Parties and are not intended to be used in construing this document.

23. Savings/Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

24. Representations. Each signatory represents this Agreement has been read by the Party for which this Agreement is executed and that such Party has had an opportunity to confer with its legal counsel.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement to be effective as of the date of the last of the Parties to sign.

**CITY OF DENISON**

By: \_\_\_\_\_  
Bobby Atteberry, Interim City Manager  
Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Christine Wallentine, City Clerk

**CONTRACTOR:**

Brightview Landscape Services, Inc.  
1464 West 1<sup>st</sup> St.  
Prosper, TX 75078

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_



# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion, and take action on rejecting all bids received for the 2023 Mowing and Maintenance Program, and authorizing staff to readvertise and reopen the bidding for the 2023 Mowing and Maintenance.

## Staff Contact

Chip Egger, Parks Administrative Superintendent  
[gegger@cityofdenison.com](mailto:gegger@cityofdenison.com)  
903-465-2720 Ext. 2097

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## Summary

- Staff initiated a request for proposals and invited bids for the 2023 Mowing and Maintenance Program on October 23, 2023.
- The program's scope of work covers comprehensive mowing, weed eating, edging, and debris removal for designated areas. Also covers mowing and debris removal for designated cemeteries.
- Bids were opened on November 6, 2023.
- The City received bids from two contractors including one for \$503,990.22 and one for \$398,402.90.
- Neither of these amounts is manageable within the current approved budget.

## Staff Recommendation

Staff recommends rejecting all bids and readvertising and reopening the bidding.

## Recommended Motion

"I move to reject all bids for the 2023 Mowing and Maintenance Program and authorize staff to readvertise and reopen the bidding for the 2023 Mowing and Maintenance."

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## Financial Considerations

The bids received in the amounts of \$503,990.22 and \$398,402.390 are not within budget.

## Prior Board or Council Action

None.

## Alternatives

None.

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion, and take action on scopes of work for a website redesign, updated mobile application, and new mass messaging platform and authorize the Interim City Manager to execute all related documents.

## Staff Contact

Emily Agans, Communication and Media Manager  
eagans@cityofdenison.com  
903-647-1132

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## Summary

- Staff have recognized the need to update the city website and related communication tools. The goal is to improve efficiency, transparency, professionalism, and communication with residents and visitors.
- This project includes an updated website design (last redesign in 2018) with enhanced features such a chat box and an intranet for city employees. It also includes an updated mobile device application and a new mass messaging notification system.
- CivicPlus is offering a promotion for discounted bundling of services if purchased by end of year.

## Staff Recommendation

Staff recommends approval of the scopes of work for a website redesign, updated mobile application, and new mass messaging platform.

## Recommended Motion

“I move to approve the scopes of work for a website redesign, updated mobile application, and new mass messaging platform and authorize the Interim City Manager to execute all related documents.”

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## Background Information and Analysis

This item includes a website redesign, updated mobile application, and new mass messaging platform, all of which will be implemented by CivicPlus. Staff recognized a need to improve efficiency, transparency, professionalism, and communication with residents and visitors regarding the city website. The website redesign will be a one year project involving various city departments that will improve the overall visual appeal of the city website, improve the user experience, and integrate with other existing city solutions including the agenda management software. The updated mobile application will improve the user experience and integrate with other existing city solutions including Cityworks, the redesigned city website and new mass messaging solution. It will also include enhancements that will benefit both residents and visitors to the city. The new mass messaging system will assist staff in communicating more efficiently with residents regarding various topics (projects affecting their neighborhood, upcoming

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events, water outage, etc.). Residents and visitors will have the ability to sign up for this service and opt out at any time. Training for staff is included in the scopes of work for each individual project.

**Financial Considerations**

These projects will use existing FY23 funds through various contributing departments.

**Prior Board or Council Action**

None.

**Alternatives**

The Council may deny or table the item.



**CivicPlus**

302 South 4th St. Suite 500  
Manhattan, KS 66502  
US

**Quote #:**  
**Date:**  
**Expires On:**

Statement of Work  
Q-56526-1  
11/2/2023 12:50 PM  
12/31/2023

**Client:**  
Denison TX - CivicEngage

**Bill To:**  
Denison TX - CivicEngage

SALESPERSON	Phone	EMAIL	DELIVERY METHOD	PAYMENT METHOD
Jacob Bertram		bertram@civicplus.com		Net 30

QTY	PRODUCT NAME	DESCRIPTION	PRODUCT TYPE
100.00	Online Form Conversion - 1 PDF / DOC Page - CivicEngage	Content Migration : PDF to Forms Center (Per page of form)	One-time
1.00	Annual - CivicEngage Central	Annual - CivicEngage Central	Renewable
1.00	Hosting & Security Annual Fee - CivicEngage Central	Hosting & Security Annual Fee - CivicEngage Central	Renewable
1.00	SSL Management – CP Provided Only	SSL Management – CP Provided Only 1 per domain (Annually Renews)	Renewable
1.00	DNS and Domain Hosting Setup (http://URL)	DNS and Domain Hosting Setup (http://URL)	One-time
1.00	DNS and Domain Hosting Annual Fee (http://URL)	DNS and Domain Hosting Annual Fee (http://URL)	Renewable
1.00	Ultimate Implementation - CivicEngage Central	Ultimate Implementation - CivicEngage Central	One-time
1.00	48 Month Redesign Ultimate Annual - CivicEngage Central	48 Month Redesign Ultimate Annual - CivicEngage Central	Renewable
200.00	Content Development - 1 Page - CivicEngage	Content Development - 1 Page - CivicEngage	One-time
6.00	New Customer System Training (3h, virtual) - Web Central	CivicEngage System Training - Virtual, Up to 3 Hours, up to 12 Attendees	One-time
1.00	Agendas & Minutes Migration - PDF - 100 Meetings - CivicEngage	Content Migration : Agendas & Minutes - Per 100 Meetings (Approx. 1 year)	One-time
1.00	Alignment Virtual Consulting	Up to 2 days virtual consult. Recommended group 8 or less.	One-time

QTY	PRODUCT NAME	DESCRIPTION	PRODUCT TYPE
1.00	CivicEngage Year 1 Annual Fee Discount	Year 1 Annual Fee Discount	Renewable
1.00	CivicPlus Chatbot Subscription	Powered by AI technology, the Frase Answer Engine for Local Government uses website content to answer citizen questions. This solution includes dashboard analytics and language translation.	Renewable
1.00	CivicEngage Custom IdP Integration Package	Custom IdP Integration Package	Renewable
1.00	CivicEngage Custom IdP Integration Annual Fee	Custom IdP Integration Annual Fee	Renewable
1.00	CivicEngage Custom IdP Integration Implementation Fee	Custom IdP Integration Implementation Fee	One-time

List Price - Year 1 Total	USD 53,261.00
Total Investment - Initial Term	USD 26,541.99
Annual Recurring Services - Year 2	USD 13,541.99

Initial Term & Renewal Date	12 Months
Initial Term Invoice Schedule	100% Invoiced upon Signature Date

Renewal Procedure	Automatic 1 year renewal term, unless 60 days notice provided prior to renewal date
Renewal Invoice Schedule	Annually on date of signing
Annual Uplift	3% starting in Year 3

This Statement of Work ("SOW") shall be subject to the terms and conditions of the CivicPlus Master Services Agreement and the applicable Solution and Services terms and conditions located at <https://www.civicplus.help/hc/en-us/p/legal-stuff> (collectively, the "Binding Terms"), By signing this SOW, Client expressly agrees to the terms and conditions of the Binding Terms throughout the term of this SOW.

**Acceptance**

The undersigned has read and agrees to the following Binding Terms, which are incorporated into this SOW, and have caused this SOW to be executed as of the date signed by the Customer which will be the Effective Date:

For CivicPlus Billing Information, please visit <https://www.civicplus.com/verify/>

Authorized Client Signature

CivicPlus

By:

By:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Date:

Organization Legal Name:

\_\_\_\_\_  
Billing Contact:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Billing Phone Number:

\_\_\_\_\_  
Billing Email:

\_\_\_\_\_  
Billing Address:

\_\_\_\_\_  
Mailing Address: (If different from above)

\_\_\_\_\_  
PO Number: (Info needed on Invoice (PO or Job#) if required)



**CivicPlus**

302 South 4th St. Suite 500  
Manhattan, KS 66502  
US

**Quote #:**  
**Date:**  
**Expires On:**

Statement of Work  
Q-57374-1  
11/16/2023 2:02 PM  
1/15/2024

**Client:**  
Denison TX - SCF

**Bill To:**  
Denison TX - SCF

SALESPERSON	Phone	EMAIL	DELIVERY METHOD	PAYMENT METHOD
Jacob Bertram		bertram@civicplus.com		Net 30

QTY	PRODUCT NAME	DESCRIPTION	PRODUCT TYPE
1.00	SeeClickFix Connector for Cityworks AMS (SR + WO)	: SeeClickFix-hosted integration with Cityworks AMS (online or on-premise), for service requests and/or work orders. Requires Cityworks version 15+, and license for Citizen Engagement API.	Renewable
1.00	SeeClickFix Year 1 Annual Fee Discount	Year 1 Annual Fee Discount	Renewable
1.00	SeeClickFix Pro	Unlimited gov user licenses for the SeeClickFix CRM/311 system that includes request management, constituent management & profile, work order management, and a multi-channel communications inbox.	Renewable
1.00	SeeClickFix Year 1 Annual Fee Discount	Year 1 Annual Fee Discount	Renewable
1.00	Marketplace App Annual	Marketplace App Annual	Renewable
1.00	SeeClickFix Year 1 Annual Fee Discount	Year 1 Annual Fee Discount	Renewable

List Price - Year 1 Total	USD 40,708.93
Total Investment - Initial Term	USD 12,498.12
Annual Recurring Services - Year 2	USD 24,996.25

Initial Term & Renewal Date	12 Months
Initial Term Invoice Schedule	100% Invoiced upon Signature Date

Renewal Procedure	Automatic 1 year renewal term, unless 60 days notice provided prior to renewal date
Renewal Invoice Schedule	Annually on date of signing
Annual Uplift	5% starting in Year 3

This Statement of Work ("SOW") shall be subject to the terms and conditions of the CivicPlus Master Services Agreement and the applicable Solution and Services terms and conditions located at <https://www.civicplus.help/hc/en-us/p/legal-stuff> (collectively, the "Binding Terms"), By signing this SOW, Client expressly agrees to the terms and conditions of the Binding Terms throughout the term of this SOW.



**Acceptance**

The undersigned has read and agrees to the following Binding Terms, which are incorporated into this SOW, and have caused this SOW to be executed as of the date signed by the Customer which will be the Effective Date:

For CivicPlus Billing Information, please visit <https://www.civicplus.com/verify/>

Authorized Client Signature

CivicPlus

By:

By:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Date:

Organization Legal Name:

\_\_\_\_\_  
Billing Contact:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Billing Phone Number:

\_\_\_\_\_  
Billing Email:

\_\_\_\_\_  
Billing Address:

\_\_\_\_\_  
Mailing Address: (If different from above)

\_\_\_\_\_  
PO Number: (Info needed on Invoice (PO or Job#) if required)



**CivicPlus**

302 South 4th St. Suite 500  
Manhattan, KS 66502  
US

**Quote #:**  
**Date:**  
**Expires On:**

Statement of Work  
Q-57401-1  
11/16/2023 11:31 PM  
12/31/2023

**Client:**  
Denison TX - CivicReady

**Bill To:**  
Denison TX - CivicReady

SALESPERSON	Phone	EMAIL	DELIVERY METHOD	PAYMENT METHOD
Jacob Bertram		bertram@civicplus.com		Net 30

QTY	PRODUCT NAME	DESCRIPTION	PRODUCT TYPE
1.00	Communicator Unlimited SMS	Emergency and Mass Notification platform with multi-channel alerting, geo-targeting, polling, mobile apps. Unlimited SMS for all communications. Voice minutes must be added on.	Renewable
1.00	Mass Notification Year 1 Annual Fee Discount	Year 1 Annual Fee Discount.	Renewable
1.00	Mass Notification Standard Implementation	CivicReady Standard Implementation	One-time
1.00	Mass Notification Virtual Training	1 hour of virtual training	One-time

List Price -- Year 1 Total	USD 9,555.00
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Total Investment - Prorated Year 1	USD 5,103.75
Annual Recurring Services (Subject to Uplift)	USD 8,250.00

Total Days of Quote:366

Initial Term Invoice Schedule	100% Invoiced upon Signature Date
Annual Uplift	As agreed to in the Agreement

The Annual Recurring Services subscription fee for the Products (as described above) included in this SOW are prorated and co-termed to align with the Client's current CivicReady billing schedule and the Annual Recurring Services amount will subsequently be added to Client's Term and regularly scheduled annual invoices under the terms of the Agreement.

This Statement of Work ("SOW") shall be subject to the terms and conditions of Master Services Agreement signed by and between the Parties and the applicable Solutions and Services Terms and Conditions located at: <https://www.civicplus.help/hc/en-us/sections/11726451593367-Solutions-and-Services-Terms-and-Conditions> (collective, the

"Agreement"). By signing this SOW, Client expressly agrees to the terms and conditions of the Agreement, as though set forth herein.

**Acceptance**

The undersigned has read and agrees to the following Binding Terms, which are incorporated into this SOW, and have caused this SOW to be executed as of the date signed by the Customer which will be the Effective Date:

For CivicPlus Billing Information, please visit <https://www.civicplus.com/verify/>

Authorized Client Signature

CivicPlus

By:

By:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Date:

Organization Legal Name:

\_\_\_\_\_  
Billing Contact:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Billing Phone Number:

\_\_\_\_\_  
Billing Email:

\_\_\_\_\_  
Billing Address:

\_\_\_\_\_  
Mailing Address: (If different from above)

\_\_\_\_\_  
PO Number: (Info needed on Invoice (PO or Job#) if required)

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion and take action on the appointment of Robert Sylvester and Ernest Pickens, as new regular members, to the Planning and Zoning Commission, each to serve a two-year term effective January 1, 2024.

## Staff Contact

Felecia Winfrey, Development Coordinator

Planning Department

[fwinfrey@cityofdenison.com](mailto:fwinfrey@cityofdenison.com)

903-465-2720 Ext. 2519

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## Summary

- The Planning and Zoning Commission is governed by Chapter 2, Article II, Division 3 of the Denison Code of Ordinances.
- The Planning and Zoning Commission is made up of five regular members and four alternate members, who serve in the absence of one or more of the regular members. Its members are appointed by the City Council.
- Robert Sylvester has agreed to and meets the eligibility requirements to serve on the City of Denison Planning and Zoning Commission. Mr. Sylvester is currently serving as an alternate member on the Planning & Zoning Commission and is in good standing.
- Ernest Pickens has agreed to and meets the eligibility requirements to serve on the City of Denison Planning and Zoning Commission. Mr. Pickens is a retired Telecom Executive and property developer.

## Staff Recommendation

Staff recommends the appointment of Robert Syvester and Ernest Pickens as new regular members to the Planning and Zoning Commission for a two-year term.

## Recommended Motion

“I move to appoint Robert Sylvester and Ernest Pickens as new regular members to the Planning and Zoning Commission, each to serve a two-year term effective January 1, 2024.”

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## Background Information and Analysis

The Planning and Zoning Commission is governed by Chapter 2, Article II, Division 3 of the Denison Code of Ordinances. The Planning and Zoning Commission is made up of five regular members and four alternate members, who serve in the absence of one or more of the regular members. Its members are appointed by the City Council.

The Planning and Zoning Commission performs all functions necessary to carry out the intent of V.T.C.A., Local Government Code §§ 211.001-211.013 relative to the preparation, adoption and amendment of a comprehensive zoning ordinance for the City, including the conduct of public hearings related thereto. The Planning and Zoning Commission performs all functions related to the review and approval of subdivision plats which may be assigned to it by the statutes of the state and ordinances or charter of the City. The Planning and Zoning Commission also recommends and advises the City Council

on matters involving the physical improvement of the City. Terms of office are two years, with no more than three consecutive full terms.

Robert Sylvester has served as an alternate member of the Planning & Zoning Commission since he began serving as an alternate member on June 20<sup>th</sup>, 2023. He has previously served as a member of the Planning & Zoning Commission. During his service on the Commission the US Highway 75 Corridor zoning requirements were addressed. Mr. Sylvester is retired from 35 years of banking. He is a graduate of the Denison Leadership and Denison Leadership Graduate Programs, and previous board member and chair of the Denison Development Alliance. His former credentials include being a licensed realtor and registered mortgage lender. Mr. Sylvester has a desire to serve the Denison Community. The appointment of Mr. Sylvester will fill the regular member position left vacant when Susan Arthur resigned in October 2023. He will term out at the end of 2025.

Ernest Pickens owned and operated a local real estate business in the City of Denison. He has experience in leadership, public speaking, negotiating, engineering, marketing and driving collaboration. With over 25+ years as an executive in a Fortune 500 company, he has gained extensive knowledge and experience working with governments, agencies, municipalities and companies to establish communities in several countries. He has participated on standards bodies for the standardization and regulation of electrical and telecommunications standards globally. Mr. Picken's experience in Commercial and Residential real estate development and land use can serve the Denison Community. The appointment of Mr. Pickens will fill the regular member position left vacant when Mary Karam's term expires on December 31<sup>st</sup>, 2023. He will term out at the end of 2025.

#### **Financial Considerations**

N/A

#### **Prior Board or Council Action**

The Council's most recent appointment to the Planning and Zoning Commission was the appointment of Robert Sylvester as an alternate member on June 20<sup>th</sup>, 2023.

#### **Alternatives**

Council may deny, modify, or table the item.

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance to rezone property legally described as a 3.513-acre tract being located partially in the I. G. Belcher Survey, Abstract No. 133, and partially in the William Oldham Survey, Abstract No. 919, Grayson County, Texas, according to the deed recorded in Volume 3183, Page 929, Deed Records of Grayson County, Texas; being commonly known as 2700 S. Fannin Avenue, GCAD Property ID No. 150060, from the Local Retail (LR) District partially within the Austin Avenue Overlay District to the Single Family-5 (SF-5) District partially within the Austin Avenue Overlay District, to allow for residential use. (Case No. 2023-105Z).

## Staff Contact

Dianne York, Planner  
dyork@cityofdenison.com  
903-465-2720

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## Summary

- The applicant is requesting a rezone of the subject property from the Local Retail (LR) Zoning District to the SF-5, Single Family Residential Zoning District.
- The property has been developed in a residential manner.

## Staff Recommendation

Staff recommends approval of this request.

## Recommended Motion

"I move to approve changing the zoning of the subject property from the Local Retail Zoning District to the SF-5, Single Family Residential Zoning District."

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## Background Information and Analysis

The applicant has requested a rezone from the Local Retail Zoning District (LR) to the SF-5, Single Family Residential Zoning District for property located at 2700 S. Fannin. The property has been developed in a residential manner with the existing structure being constructed in 1910 per the applicant. Upon zoning approval, the applicant will move forward with a plat to subdivide the property allowing for the potential construction of two additional residential structures.

According to Ordinance Section 28.10, City staff and the City Council shall consider the following factors when reviewing rezone requests:

1. *Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the city as a whole;*

The proposed use is compatible with the area located around the property.

2. *Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;*

N/A

3. *The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances that may make a substantial part of such vacant land unavailable for development;*

Rezoning of this property will not impact the availability of similar land for development.

4. *The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change;*

The overall area has been developed in a residential manner.

5. *How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved;*

N/A

6. *Whether the zoning petition is consistent with the current land use plan; and*

The portion of the property that fronts on S. Fannin Avenue complies with the Future Land Use Plan.

7. *Any other factors that will substantially affect the public health, safety, morals, or general welfare.*

Other factors which may substantially affect general welfare have been addressed above.

### **Financial Considerations**

N/A

### **Prior Board or Council Action**

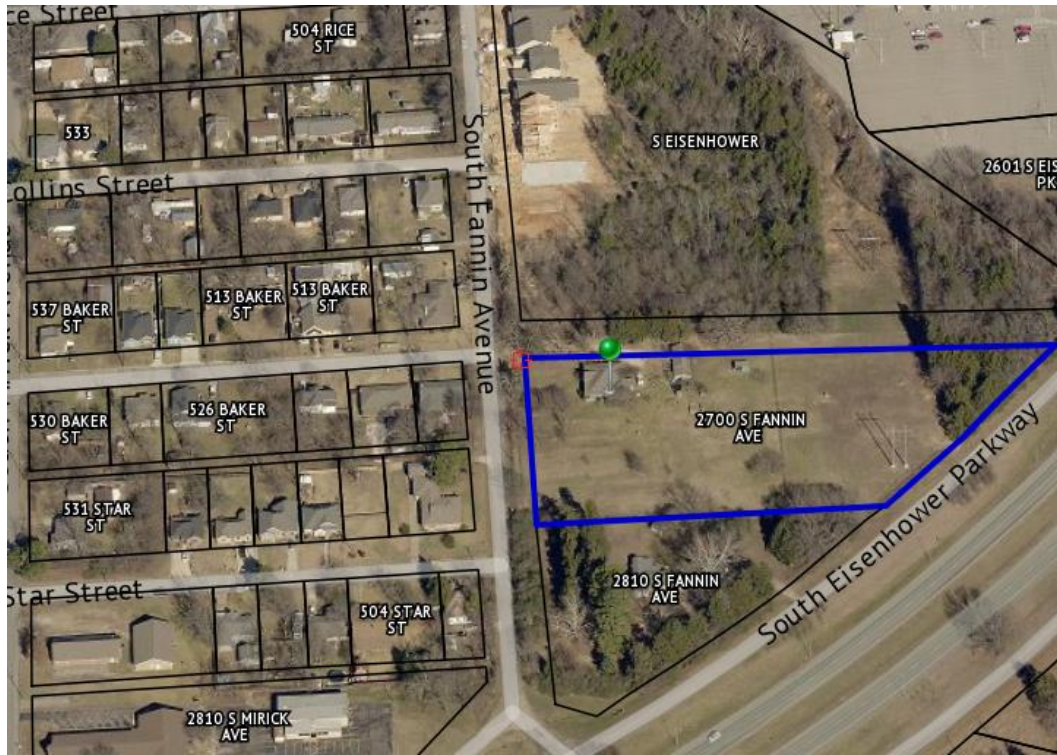
- The Planning and Zoning Commission recommended approval of the request at their meeting held on December 12<sup>th</sup>, 2023.

### **Alternatives**

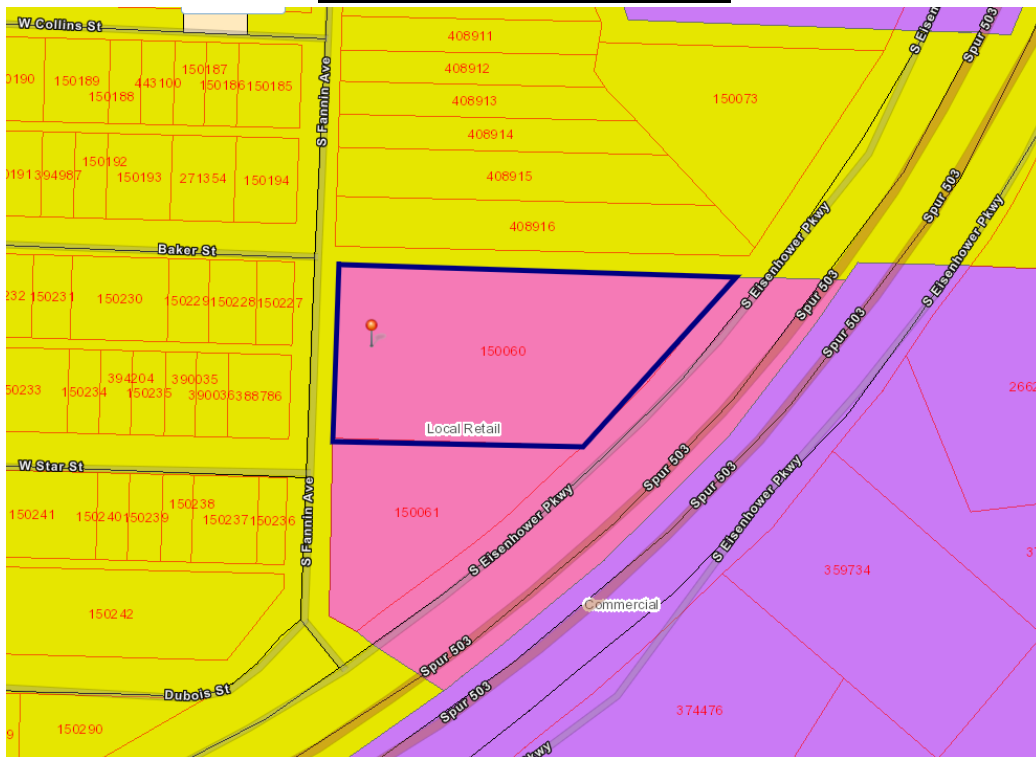
- The City Council may table, deny or approve with conditions.



### Aerial of Subject Area



### Zoning Aerial of Subject Area

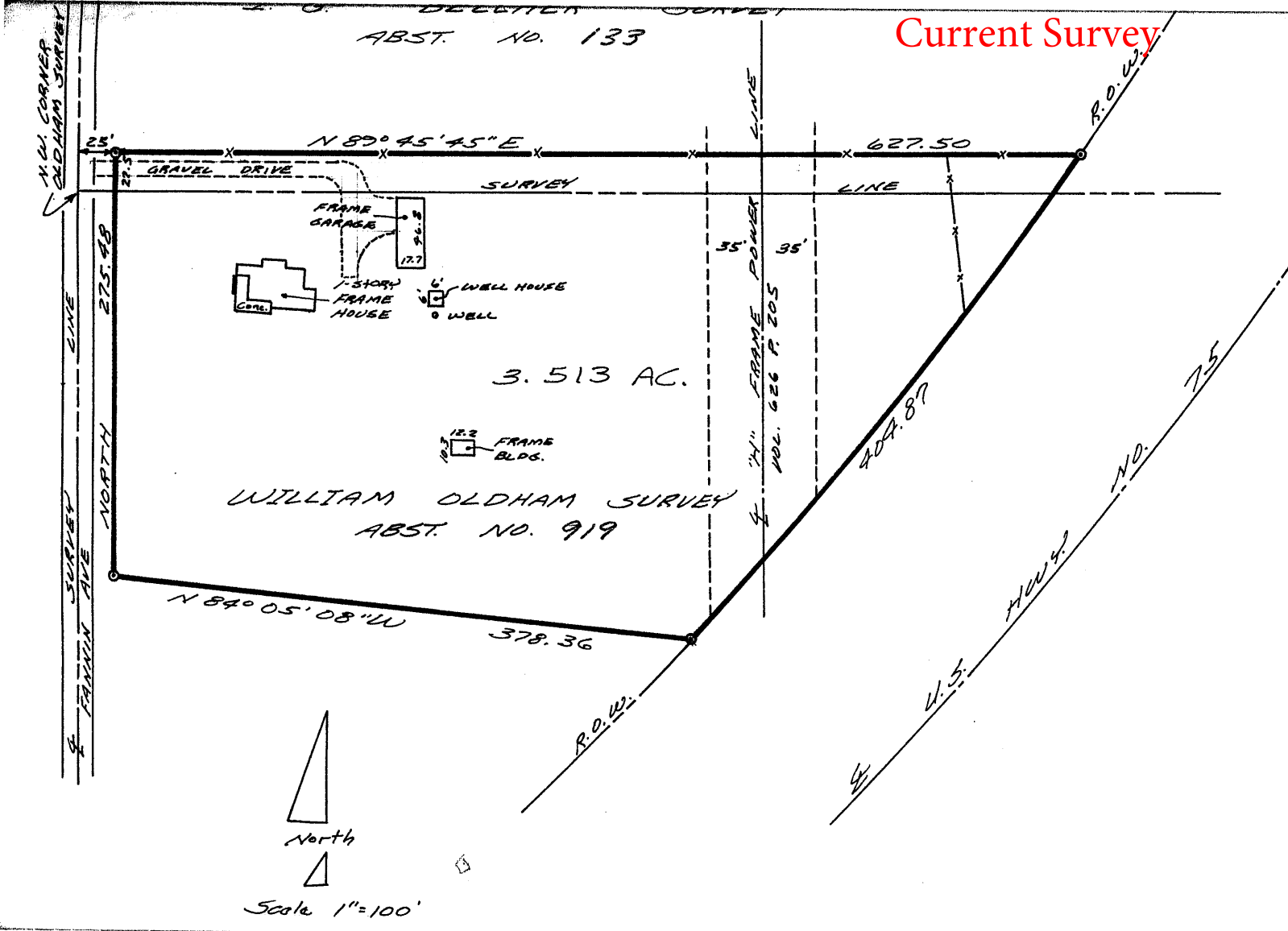


## Project Narrative

The city imposed the zoning of Local Retail when they adopted a zoning ordinance; we presume because there is nearby local retail. However, the home on this property was built in 1910 and has always been residential property. No one has ever requested the property to be zoned for retail, the city set the zoning as such.

We request the zoning to be changed to the nearby residential zoning category of SF-5 so we can apply that zoning to the home that has been there since 1910. We intend to replat our 3.513 ac tract into three residential lots via Minor Plat after zoning is granted. One lot will stay with the current home on this property and two residential lots will be created to be marketed to the public for sale.

We have not included a site plan because we will not be developing the future lots ourselves. The potential landowners of those lots will apply for permitting at the time of their development.



FIELD NOTES

Situated in the County of Grayson, State of Texas, being part of the I. G. Belcher Survey, Abstract No. 133, and the William Oldham Survey, Abstract No. 919, and also being part of a 14.584 acre tract of land conveyed by Thomas H. Hairsine et ux to Mrs. Lily M. Hairsine and Miss Lily F. Hairsine by deed dated August 4, 1940, recorded in Volume 415, Page 540, Deed Records, Grayson County, Texas, and described by metes and bounds as follows, to-wit:

BEGINNING at a steel rod in the East line of Fannin Avenue at its intersection with the North line of said 14.584 acre tract, said point also being North a distance of 27.5 ft., and North 89 deg. 45 min. 45 sec. East 25.0 ft. from the Northwest corner of the William Oldham Survey;

THENCE North 89 deg. 45 min. 45 sec. East with an old fence maintaining the North line of said 14.584 acre tract, a distance of 627.50 ft. to a steel rod in the West right-of-way line of U. S. Highway 75;

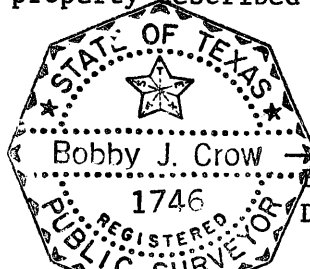
THENCE in a Southwesterly direction with the West right-of-way line of said highway with a curve to the right having a radius of 2715.0 ft. (chord bears South 38 deg. 22 min. 50 sec. West 404.49 ft.) a distance of 404.87 ft. to a steel rod maintaining the Northeast corner of a 0.87 acre tract of land conveyed out of said 14.584 acre tract to Thomas H. Hairsine by deed recorded in Volume 589, Page 337 of said Deed Records;

THENCE North 84 deg. 05 min. 08 sec. West with the North line of said 0.87 acre tract a distance of 378.36 ft. to a steel rod in the East line of Fannin Avenue;

THENCE North with the East line of Fannin Avenue a distance of 275.48 ft. to the place of beginning and containing 3.513 acres of land.

I, Bobby J. Crow, Registered Public Surveyor, hereby certify that a survey was made on the ground on the property legally described hereon and is correct, and that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or right-of-way, except as shown on the plat herewith, and that the plat herewith is a true, correct and accurate representation of the property described hereinabove.

**SUTTON & CROW**  
 SURVEYING & ENGINEERING SERVICES  
 115 E. LAMAR  
 SHERMAN, TEXAS 75090  
 PHONE 892-2447



*Bobby J. Crow*  
 Bobby J. Crow, R.P.S.  
 December 15, 1976

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY, BY CHANGING THE ZONING CLASSIFICATION ON A CERTAIN 3.513 ACRE TRACT OF LAND LEGALLY DESCRIBED AS BEING LOCATED PARTIALLY IN THE I.G. BELCHER SURVEY, ABSTRACT NO. 133, AND PARTIALLY IN THE WILLIAM OLDHAM SURVEY, ABSTRACT NO. 919, GRAYSON COUNTY, TEXAS, ACCORDING TO THE DEED RECORDED IN VOLUME 3183, PAGE 929, DEED RECORDS OF GRAYSON COUNTY, TEXAS, COMMONLY REFERRED TO AS 2700 S FANNIN AVENUE, DENISON, TX, AND MORE PARTICULARLY DESCRIBED AND DEPICTED IN EXHIBIT “A”, FROM ITS ZONING CLASSIFICATION OF LOCAL RETAIL DISTRICT PARTIALLY WITHIN THE AUSTIN AVENUE OVERLAY DISTRICT TO SINGLE FAMILY-5 DISTRICT PARTIALLY WITHIN THE AUSTIN AVENUE OVERLAY DISTRICT; PROVIDING THAT SUCH TRACT OF LAND SHALL BE USED IN ACCORDANCE WITH THE REQUIREMENTS OF THE COMPREHENSIVE ZONING ORDINANCE AND ALL OTHER APPLICABLE ORDINANCES OF THE CITY; PROVIDING THAT THE ZONING MAP SHALL REFLECT THE SINGLE FAMILY-5 DISTRICT PARTIALLY WITHIN THE AUSTIN AVENUE OVERLAY DISTRICT FOR THE PROPERTY; PROVIDING A PENALTY; PROVIDING REPEALING, SEVERABILITY, AND SAVINGS CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Denison, Texas (hereinafter referred to as “City”) is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, the City Council of the City (the “City Council”) adopted Chapter 28 of its Code of Ordinances, the same being the Comprehensive Zoning Ordinance of the City, which governs the use and development of land in the City (the “Zoning Ordinance”); and

**WHEREAS**, Karel H. Price (the “Owner”) owns a certain 3.513 acre tract of land legally described as being located partially in the I.G. Belcher Survey, Abstract No. 133, and partially in the William Oldham Survey, Abstract No. 919, Grayson County, Texas, according to the deed recorded in Volume 3183, Page 929, Deed Records of Grayson County, Texas, as described and depicted in **Exhibit “A,”** which is attached and incorporated as if fully set forth herein (the “Property”), and has made an application under the provisions of the Zoning Ordinance for a zoning change on the Property from the current zoning district classification of Local Retail District partially within the Austin Avenue Overlay District to Single Family-5 District partially within the Austin Avenue Overlay District; and

**WHEREAS**, Owner has designated Valley Hart to act in the capacity of Owner as agent for submittal, processing, representation, and/or presentation of the application, and as the principal contact person for responding to all requests for information; and

**WHEREAS**, after public notices were given in compliance with State law and public hearings were conducted, and after considering the information submitted at those public hearings and all other relevant information and materials, the Planning and Zoning Commission of the City has recommended to the City Council the adoption of the amendments to the Zoning Ordinance as set forth in this Ordinance; and

**WHEREAS**, after complying with all legal notices, requirements, and conditions, a public hearing was held before the City Council at which the City Council considered the requested zoning change, the recommendation of the Planning and Zoning Commission, and among other things, the character of the land and its suitability for particular uses, and compatibility with surrounding uses, with a view of encouraging the most appropriate use of land in the City, and the City Council does hereby find that the rezoning approved hereby accomplishes such objectives.

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

**SECTION 1. Findings Incorporated.** The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein, and found to be true.

**SECTION 2. Findings.** After due deliberation and consideration of the recommendation of the Planning and Zoning Commission and the information and other materials received at the public hearing, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City, and of the public health, safety, and welfare.

**SECTION 3. Zoning Amendments.** Chapter 28 of the Code of Ordinances of the City, the same being the City's Comprehensive Zoning Ordinance, is hereby amended in the following particulars, and all other articles, chapters, sections, paragraphs, sentences, phrases, and words not expressly amended hereby are hereby ratified and affirmed.

The zoning district classification on the Property is hereby changed from Local Retail District partially within the Austin Avenue Overlay District to Single Family-5 District partially within the Austin Avenue Overlay District. The Property shall be subject to all applicable City ordinances and regulations governing a Single Family-5 District partially within the Austin Avenue Overlay District.

**SECTION 4. Zoning Map.** The Zoning Map of the City, adopted by Section 28.3 of the Code of Ordinances, and on file in the office of the Planning Director is hereby amended to reflect the foregoing zoning use changes herein made.

**SECTION 5. Severability.** Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is

expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

**SECTION 6. Savings/Repealing Clause.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 7. Penalty.** Any person, firm, entity or corporation who violates any provision of this Ordinance or the Zoning Ordinance, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding Two Thousand and No/100 Dollars (\$2,000.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

**SECTION 8. Publication and Effective Date.** This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

**SECTION 9. Open Meeting.** That it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Article 551.041, Texas Government Code.

**AND IT IS SO ORDERED.**

On motion by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, the above and foregoing Ordinance was passed and approved by the following vote:

Ayes:

Abstentions:

Nays:

At regular meeting December 18, 2023.

\_\_\_\_\_  
JANET GOTT, MAYOR

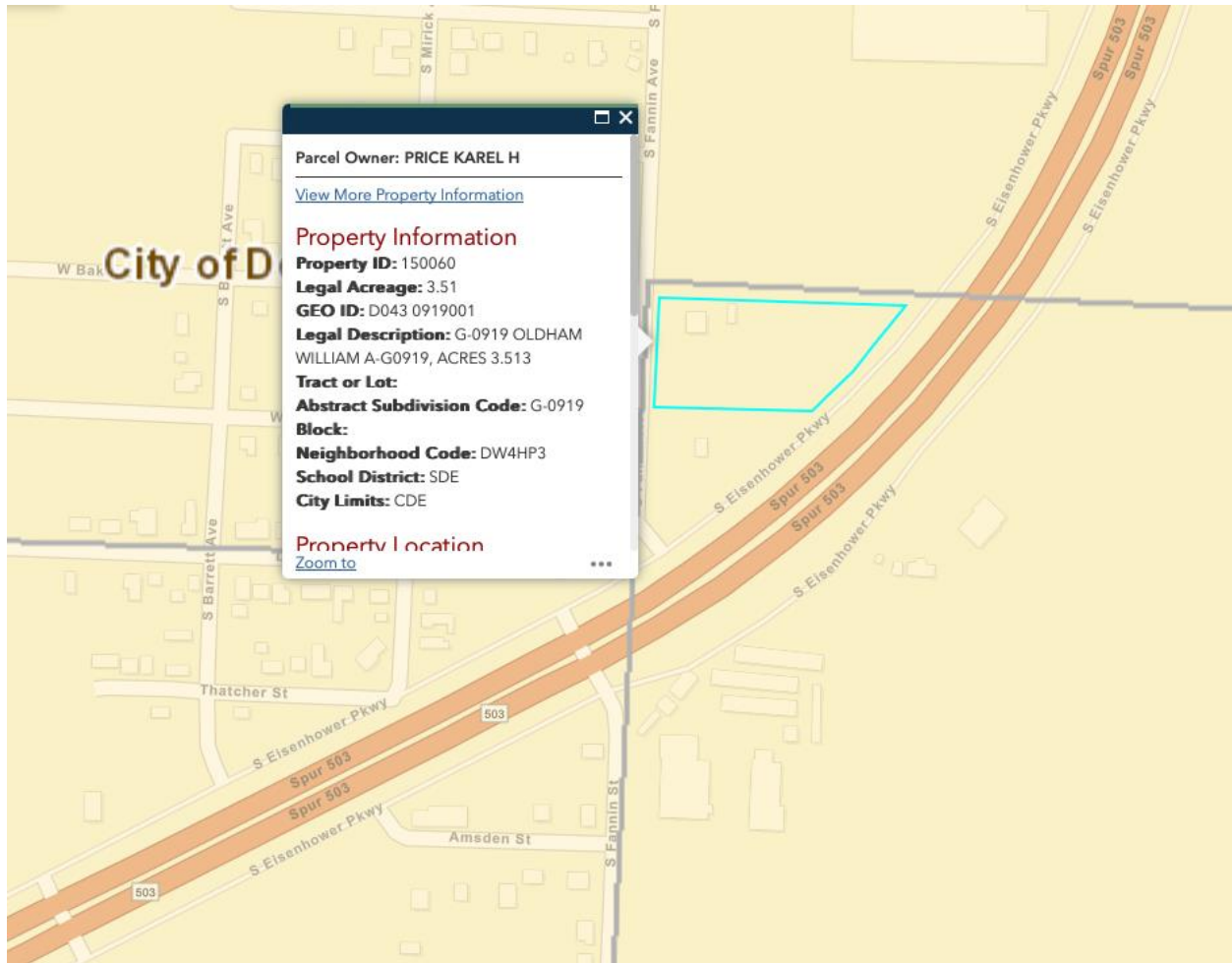
ATTEST:

\_\_\_\_\_  
Christine Wallentine, City Clerk



**EXHIBIT "A"**  
**LEGAL DESCRIPTION AND DEPICTION**

**BEING A CERTAIN 3.513 ACRE TRACT OF LAND LEGALLY DESCRIBED AS BEING LOCATED PARTIALLY IN THE I.G. BELCHER SURVEY, ABSTRACT NO. 133, AND PARTIALLY IN THE WILLIAM OLDHAM SURVEY, ABSTRACT NO. 919, GRAYSON COUNTY, TEXAS, ACCORDING TO THE DEED RECORDED IN VOLUME 3183, PAGE 929, DEED RECORDS OF GRAYSON COUNTY, TEXAS, COMMONLY REFERRED TO AS 2700 S FANNIN AVENUE, DENISON, TEXAS.**



# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance to rezone a 3.213-acre tract legally described as being a part of the M. C. Davis Survey, Abstract No. 336 and being all of the 2.33 acre tract of land conveyed by deed without warranty from the Union Pacific Railroad Company to the City of Denison, Texas on February 18, 1999 and recorded in Volume 2771, Page 355, and being all of the 0.88 acre tract of land conveyed to the City of Denison, Texas by Affidavit of Lost Deed on February 17, 2023 as recorded in Inst. No. 2023-4052; Grayson County, Texas; GCAD Property ID No.'s 438291 and 438292, from the Single Family 7.5 (7.5) Residential District within the Highway Oriented and Corridor District to the Commercial Zoning District within the Highway Oriented and Corridor District to allow for retail or commercial use. (Case No. 2023-109Z).

## Staff Contact

Dianne York, Planner  
dyork@cityofdenison.com  
903-465-2720

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## Summary

- Applicant wishes to rezone the subject property from the SF-7.5, Single Family Residential Zoning District to the Commercial Zoning District to allow for commercial or retail uses.
- The property falls within the Highway Oriented and Corridor District (HO).
- The request complies with the Future Land Use Plan.

## Staff Recommendation

Staff recommends approval of this request.

## Recommended Motion

"I move to approve changing the zoning of the subject property from the SF-7.5, Single Family Residential Zoning District to the Commercial Zoning District."

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## Background Information and Analysis

The Business and Industrial Corporation of Denison, Inc. dba Denison Development Alliance at the request of the City of Denison, is seeking approval to rezone the subject property from the SF-7.5, Single Family Residential Zoning District to the Commercial Zoning District to allow for the potential development of commercial or retail space. The property falls within the Highway Oriented and Corridor District and given the frontage on FM 120 (W. Morton Street) and the proximity to other restaurant and retail uses, this property is an ideal location for additional retail/commercial space. This request complies with the Comprehensive Plan as this area is depicted as "Mixed Commercial" with an overlay designated as "Revitalization Area" per the Future Land Use Plan.

Any future development must adhere to the development standards listed within Chapter 28 of the City of Denison Code of Ordinances.



According to Ordinance Section 28.10, City staff and the City Council shall consider the following factors when reviewing rezone requests:

1. *Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the city as a whole;*

The proposed use is compatible with the area located around the property.

2. *Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;*

N/A

3. *The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances that may make a substantial part of such vacant land unavailable for development;*

Rezoning of this property will not impact the availability of similar land for development.

4. *The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change;*

Adjacent property has been developed in a commercial manner.

5. *How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved;*

N/A

6. *Whether the zoning petition is consistent with the current land use plan; and*

The Future Land Use Plan depicts this area to be development in a “Mixed Commercial” manner with an overlay designated as “Revitalization Area”. The request complies with the Comprehensive Plan.

7. *Any other factors that will substantially affect the public health, safety, morals, or general welfare.*

Other factors which may substantially affect general welfare have been addressed above.

### **Financial Considerations**

N/A

### **Prior Board or Council Action**



## **Project Narrative**

The intent for the property is to become a retail or commercial development. The Subject Property is located within the Highway Oriented and Corridor District and could be a desirable location for retail or commercial development. The Future Land Use Plan calls for this area to be developed in a Mixed Commercial manner.

Bearing Base: Grid North, NAD83 Texas State Plane  
 Coordinate System, North Central Zone, as derived  
 by survey—grade Global Positioning System.

**M.C. Davis Survey**  
**Abstract No. 336**  
**City of Denison**  
**Grayson County, Texas**

**F.M. HWY. 120**

**Morton Street**

**York Avenue**  
 a public street - asphalt paving

**3.213 Acres**

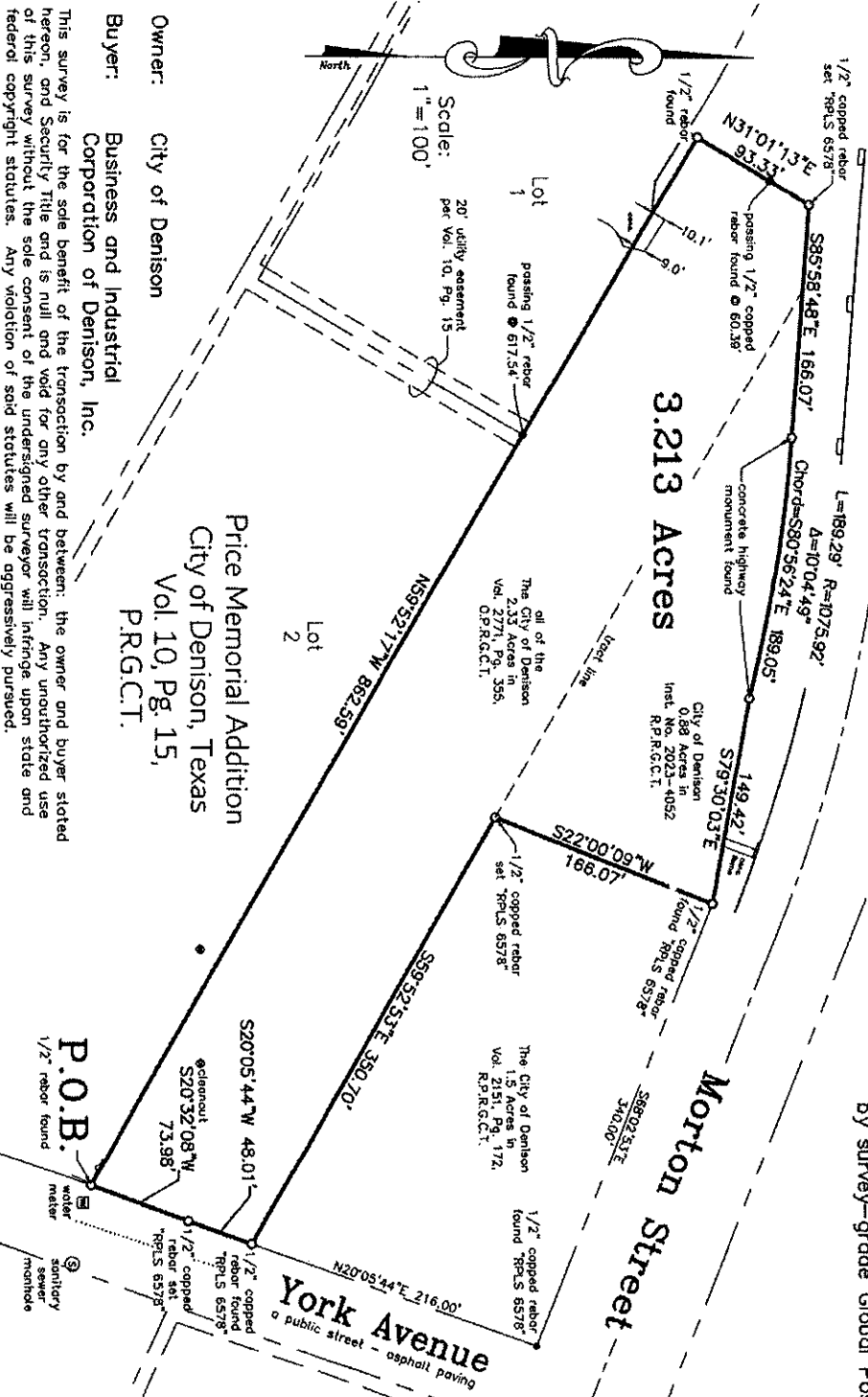
**Price Memorial Addition**  
**City of Denison, Texas**  
**Vol. 10, Pg. 15,**  
**P.R.G.C.T.**

**Owner:** City of Denison  
**Buyer:** Business and Industrial Corporation of Denison, Inc.

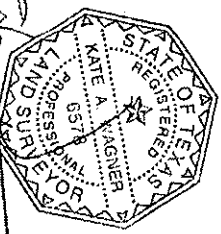
**Job No. BGD241023**

**Helvey-Wagner Surveying, Inc.**  
 2222 W. Main St., Denison, Texas 75020  
 Phone (903) 463-6191  
 Email: kate@helveywagnersurveying.net  
 TBPELS Firm Registration No. 10088100

The subject property shown hereon does not lie within the limits of any designated 100-year Flood Hazard Areas, as shown on the "FEMA" Flood Insurance Rate Map for Grayson County, Texas, Map No. 48181C0165 F, Revised Date: September 29, 2010.



I, Kate A. Wagner, Registered Professional Land Surveyor, do hereby certify that a survey was performed on the ground of the property shown hereinabove and that this survey complies with the current Texas Society of Professional Surveyors Manual of Practice for a Category 1A, Condition 3, TSPS Land Title Survey and is a true and correct representation of the property shown hereon to the best of my knowledge and belief. See Field Notes attached herewith.



Kate A. Wagner, R. P. L. S. No. 6578  
 Copyright Date: October 16, 2023

# Helvey-Wagner Surveying, Inc.

222 West Main Street · Denison, Texas 75020  
Ph: (903) 463-6191 · Email: kate@helveywagnersurveying.net  
Texas Board of Engineers and Land Surveyors Firm Registration No. 10088100  
Billy F. Helvey, RPLS No. 4488 – Kate A. Wagner, RPLS No. 6578

## FIELD NOTES 3.213 ACRES

**SITUATED** in the City of Denison, County of Grayson, State of Texas, being a part of the M.C. Davis Survey, Abstract No. 336 and being all of the 2.33 acre tract of land conveyed by Deed Without Warranty from Union Pacific Railroad Company to the City of Denison, Texas on February 18, 1999 and recorded in Volume 2771, Page 355, Official Public Records, Grayson County, Texas and being all of the 0.88 acre tract of land conveyed to the City of Denison, Texas by Affidavit of Lost Deed on February 17, 2023 as recorded in Inst. No. 2023-4052, Real Property Records, Grayson County, Texas and being more particularly described by metes and bounds as follows to-wit:

**BEGINNING** at a 1/2 inch rebar found in the West right-of-way line of York Avenue, a public street, at the Northeast corner of Lot 1, Price Memorial Addition to the City of Denison, Texas as per plat of record in Volume 10, Page 15, Plat Records, Grayson County, Texas and the Southeast corner of both said City of Denison 2.33 ac. and the herein described tract;

**THENCE** North 59 deg. 52 min. 17 sec. West, with the South line of said City of Denison 2.33 ac. and the North line of said Lot 2, passing the Northwest corner thereof and the Northeast corner of Lot 1, said Price Memorial Addition at 617.54 ft., continuing on now with the North line of said Lot 1 for a **TOTAL** distance of 862.59 ft. to a 1/2 inch rebar found at the most Northern Northwest corner of said Lot 1 and the Southwest corner of both said City of Denison 2.33 ac. and the herein described tract;

**THENCE** North 31 deg. 01 min. 13 sec. East, with the West line of said City of Denison 2.33 ac., a distance of 93.33 ft. to a 1/2 inch capped rebar set, stamped "RPLS 6578" at the Northwest corner of both said City of Denison 2.33 ac. and the herein described tract, lying in the South right-of-way line of F.M. Highway No. 120;

**THENCE** South 85 deg. 58 min. 48 sec. East, with the South right-of-way line of said F.M. Highway No. 120 and the North line of both said City of Denison 2.33 ac. and 0.88 ac., a distance of 166.07 ft. to a concrete highway monument found at the beginning of a curve;

**THENCE** Southeasterly, continuing with the South right-of-way line of said F.M. Highway No. 120 and with the North line of said City of Denison 0.88 ac., with a curve to the left, having a radius of 1,075.92 ft., a central angle of 10 deg. 04 min. 49 sec. (chord bears: South 80 deg. 56 min. 24 sec. East, 189.05 ft.) and an arc length of 189.29 ft. to a concrete highway monument found at the end of said curve;

**THENCE** South 79 deg. 30 min. 03 sec. East, continuing with the South right-of-way line of said F.M. Highway No. 120 and the North line of said City of Denison 0.88 ac., a distance of 149.42 ft. to a 1/2 inch capped rebar found at the Northwest corner of the 1.5 acre tract of land conveyed to the City of Denison in Volume 2151, Page 172, said Real Property Records, and the Northeast corner of said City of Denison 0.88 ac., at the most Northerly Northeast corner of the herein described tract;

**THENCE** South 22 deg. 00 min. 09 sec. West, with the West line of said City of Denison 1.5 ac. and the East line of said City of Denison 0.88 ac., a distance of 166.07 ft. to a 1/2 inch capped rebar set, stamped "RPLS 6578" in the North line of said City of Denison 2.33 ac., at the Southwest corner of said City of Denison 1.5 ac. and the Southeast corner of said City of Denison 0.88 ac., at an Ell corner of the herein described tract;

**THENCE** South 59 deg. 52 min. 53 sec. East, with the South line of said City of Denison 1.5 ac. and the North line of said City of Denison 2.33 ac., a distance of 350.70 ft. to a 1/2 inch capped rebar found, stamped "RPLS 6578:" in the West line of said York Avenue, at the Southeast corner of said City of Denison 1.5 ac. and the Northeast corner of said City of Denison 2.33 ac., at the most Easterly Northeast corner of the herein described tract, **FROM** which a 1/2 inch capped rebar found, stamped "RPLS 6578" at the Northeast corner of said City of Denison 1.5 ac. bears North 20 deg. 05 min. 44 sec. East, 216.00 ft.;

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY, BY CHANGING THE ZONING CLASSIFICATION ON A CERTAIN 3.213 ACRE TRACT LEGALLY DESCRIBED AS BEING A PART OF THE M. C. DAVIS SURVEY, ABSTRACT NO. 336 AND BEING ALL OF THE 2.33 ACRE TRACT OF LAND CONVEYED BY DEED WITHOUT WARRANTY FROM UNION PACIFIC RAILROAD COMPANY TO THE CITY OF DENISON, TEXAS ON FEBRUARY 18, 1999 AND RECORDED IN VOLUME 2771, PAGE 355, AND BEING ALL OF THE 0.88 ACRE TRACT OF LAND CONVEYED TO THE CITY OF DENISON, TEXAS BY AFFIDAVIT OF LOST DEED ON FEBRUARY 17, 2023 AS RECORDED IN INST. NO. 2023-4052, DEED RECORDS OF GRAYSON COUNTY, TEXAS, AND MORE PARTICULARLY DESCRIBED AND DEPICTED IN EXHIBIT “A”, FROM ITS ZONING CLASSIFICATION OF SINGLE FAMILY-5 DISTRICT WITHIN THE HIGHWAY OVERLAY DISTRICT TO COMMERCIAL DISTRICT WITHIN THE HIGHWAY OVERLAY DISTRICT; PROVIDING THAT SUCH TRACT OF LAND SHALL BE USED IN ACCORDANCE WITH THE REQUIREMENTS OF THE COMPREHENSIVE ZONING ORDINANCE AND ALL OTHER APPLICABLE ORDINANCES OF THE CITY; PROVIDING THAT THE ZONING MAP SHALL REFLECT THE COMMERCIAL DISTRICT WITHIN THE HIGHWAY OVERLAY DISTRICT FOR THE PROPERTY; PROVIDING A PENALTY; PROVIDING REPEALING, SEVERABILITY, AND SAVINGS CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Denison, Texas (hereinafter referred to as “City”) is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, the City Council of the City (the “City Council”) adopted Chapter 28 of its Code of Ordinances, the same being the Comprehensive Zoning Ordinance of the City, which governs the use and development of land in the City (the “Zoning Ordinance”); and

**WHEREAS**, the City owns a certain 3.213 acre tract legally described as being a part of the M. C. Davis Survey, Abstract No. 336 and being all of the 2.33 acre tract of land conveyed by deed without warranty from Union Pacific Railroad Company to the City of Denison, Texas on February 18, 1999 and recorded in Volume 2771, Page 355, and being all of the 0.88 acre tract of land conveyed to the City of Denison, Texas by Affidavit of Lost Deed on February 17, 2023 as recorded in Inst. No. 2023-4052, Deed Records of Grayson County, Texas, as described and depicted in **Exhibit “A,”** which is attached and incorporated as if fully set forth herein (the

“Property”), and has made an application under the provisions of the Zoning Ordinance for a zoning change on the Property from the current zoning district classification of Single Family-5 District within the Highway Overlay District to Commercial District within the Highway Overlay District; and

**WHEREAS**, after public notices were given in compliance with State law and public hearings were conducted, and after considering the information submitted at those public hearings and all other relevant information and materials, the Planning and Zoning Commission of the City has recommended to the City Council the adoption of the amendments to the Zoning Ordinance as set forth in this Ordinance; and

**WHEREAS**, after complying with all legal notices, requirements, and conditions, a public hearing was held before the City Council at which the City Council considered the requested zoning change, the recommendation of the Planning and Zoning Commission, and among other things, the character of the land and its suitability for particular uses, and compatibility with surrounding uses, with a view of encouraging the most appropriate use of land in the City, and the City Council does hereby find that the rezoning approved hereby accomplishes such objectives.

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

**SECTION 1. Findings Incorporated.** The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein, and found to be true.

**SECTION 2. Findings.** After due deliberation and consideration of the recommendation of the Planning and Zoning Commission and the information and other materials received at the public hearing, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City, and of the public health, safety, and welfare.

**SECTION 3. Zoning Amendments.** Chapter 28 of the Code of Ordinances of the City, the same being the City’s Comprehensive Zoning Ordinance, is hereby amended in the following particulars, and all other articles, chapters, sections, paragraphs, sentences, phrases, and words not expressly amended hereby are hereby ratified and affirmed.

The zoning district classification on the Property is hereby changed from Single Family-5 District within the Highway Overlay District to Commercial District within the Highway Overlay District. The Property shall be subject to all applicable City ordinances and regulations governing a Commercial District within the Highway Overlay District.

**SECTION 4. Zoning Map.** The Zoning Map of the City, adopted by Section 28.3 of the Code of Ordinances, and on file in the office of the Planning Director is hereby amended to reflect the foregoing zoning use changes herein made.

**SECTION 5. Severability.** Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force

and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

**SECTION 6. Savings/Repealing Clause.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 7. Penalty.** Any person, firm, entity or corporation who violates any provision of this Ordinance or the Zoning Ordinance, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding Two Thousand and No/100 Dollars (\$2,000.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

**SECTION 8. Publication and Effective Date.** This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

**SECTION 9. Open Meeting.** That it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Article 551.041, Texas Government Code.

**AND IT IS SO ORDERED.**

On motion by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, the above and foregoing Ordinance was passed and approved by the following vote:

Ayes:

Abstentions:

Nays:

At regular meeting December 18, 2023.

\_\_\_\_\_  
JANET GOTT, MAYOR

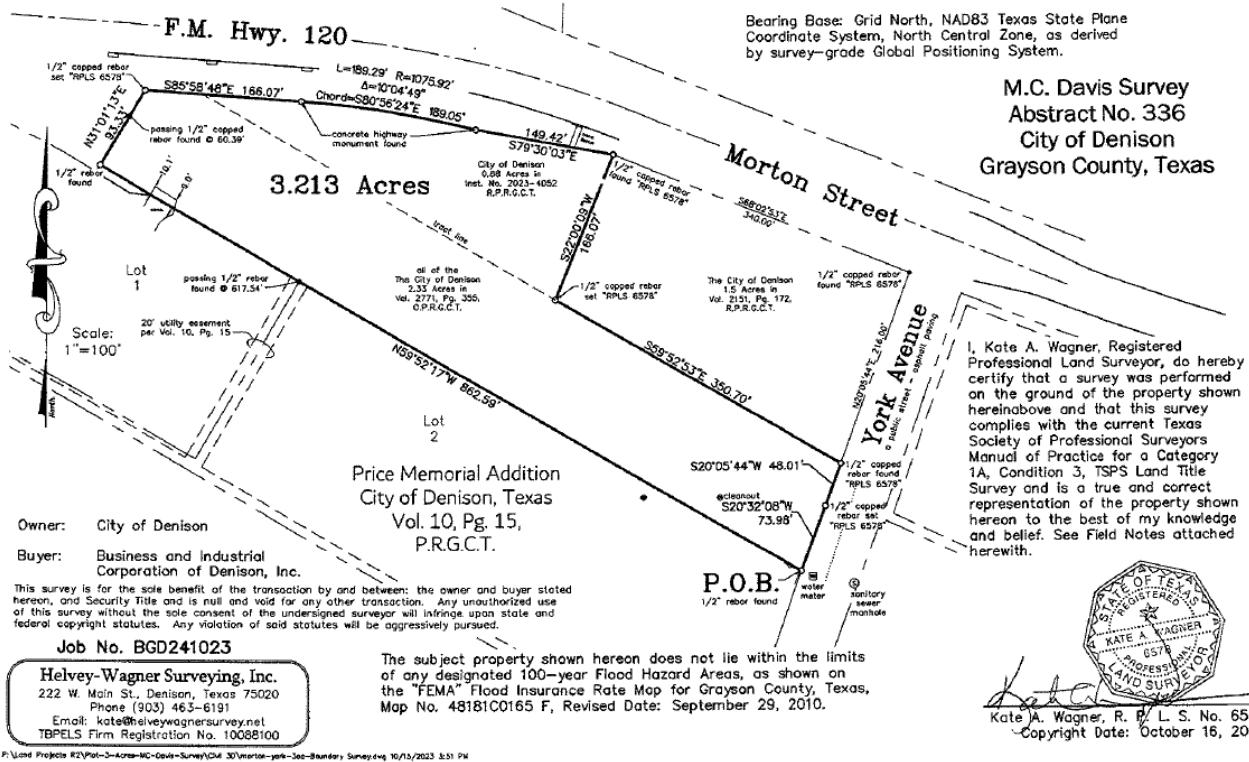
ATTEST:

\_\_\_\_\_  
Christine Wallentine, City Clerk



**EXHIBIT "A"**  
**LEGAL DESCRIPTION AND DEPICTION**

**BEING A 3.213 ACRE TRACT LEGALLY DESCRIBED AS BEING A PART OF THE M. C. DAVIS SURVEY, ABSTRACT NO. 336 AND BEING ALL OF THE 2.33 ACRE TRACT OF LAND CONVEYED BY DEED WITHOUT WARRANTY FROM UNION PACIFIC RAILROAD COMPANY TO THE CITY OF DENISON, TEXAS ON FEBRUARY 18, 1999 AND RECORDED IN VOLUME 2771, PAGE 355, AND BEING ALL OF THE 0.88 ACRE TRACT OF LAND CONVEYED TO THE CITY OF DENISON, TEXAS BY AFFIDAVIT OF LOST DEED ON FEBRUARY 17, 2023 AS RECORDED IN INST. NO. 2023-4052; DENISON, GRAYSON COUNTY, TEXAS.**



# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion, and take action on awarding a bid and entering into a contract with SF Landscaping for the 2023 Utilities Mowing and Maintenance Program, and authorize the Interim City Manager to execute the same.

## Staff Contact

Chip Egger, Parks Administrative Superintendent  
[gegger@cityofdenison.com](mailto:gegger@cityofdenison.com)  
903-465-2720 Ext. 2097

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## Summary

- Staff initiated a request for proposals and invited bids for the 2023 Right of Way Mowing and Maintenance Program on October 23, 2023.
- The program's scope of work covers comprehensive mowing, weed eating, edging, and debris removal for designated utility areas.
- The City received bids from three contractors including SF Landscaping
- Staff assessed and awarded SF Landscaping a higher overall score.
- SF Landscaping submitted a total bid of \$ 64,800.00, which is manageable within the current approved budget.

## Staff Recommendation

Staff recommends entering into an agreement with SF Landscaping.

## Recommended Motion

"I move to approve awarding a bid and entering into a contract with SF Landscaping for the 2023 Utilities Mowing and Maintenance Program and authorize the Interim City Manager to execute the same."

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## Financial Considerations

The bid received from SF Landscaping was in the amount of \$64,800.00. This mowing bid exceeds the FY2024 budgeted amount and will require a budget amendment to be brought before Council at a later date.

## Prior Board or Council Action

None.

## Alternatives

Council can reject the bid from SF Landscaping and instruct staff to readvise on either choosing an alternate bidder or have staff create an alternative program and go back out for bids.

## **2023 UTILITIES MOWING AND MAINTENANCE PROGRAM AGREEMENT**

THIS UTILITIES MOWING AND MAINTENANCE PROGRAM AGREEMENT (“Agreement”) is entered into by and between the CITY OF DENISON, a Texas home rule municipal corporation (the “City”), and Stephen Fulenchek, individually and doing business as SF Landscaping (“Contractor”), (the City and Contractor shall be collectively referred to herein as the “Parties”).

In consideration of the mutual promises and covenants herein and the payment to be made from City to Contractor, Contractor agrees to perform all work as set forth in the City’s Bid/Proposal for 2023 Utilities Mowing and Maintenance Program, in accordance with the Contract Documents listed below, but generally described as mowing and landscape services throughout City owned or managed properties, and rights of way, including, but not limited to, mowing, edging, litter, and debris removal and disposal (collectively, the “Services”).

The “Contract Documents” consist of the following items, which items, Contractor acknowledges have previously been provided to or created by Contractor and which items are incorporated into this Agreement by reference as though fully set out in this Agreement:

- A. This Agreement;
- B. City’s Invitation to Bid including all attachments, specifications and all addenda issued prior to execution of this Agreement;
- C. Contractor’s Executed Bid Proposal in response to City’s Invitation to Bid;
- D. Bidder’s Affidavit of Non-Collusion;
- E. Conflict of Interest Questionnaire Coversheet;
- F. Conflict of Interest Questionnaire;
- G. All modifications to Contract Documents issued after execution of this Agreement and accepted by the City and Contractor in writing; and
- H. All required Insurance Certificates, and affidavits.

In addition to the above Contract Documents, Contractor shall obtain performance and payment bonds satisfactory to the City, executed by a Surety Company authorized to conduct business in the State of Texas in an amount equal to 100% of the contract amount of \$64,800.00.

In case of any conflict between the terms of this Assignment and the terms of the Contract Documents, the terms of this Agreement shall control.

### **ARTICLE I** **TERM OF AGREEMENT**

This Agreement shall begin on December 19, 2023 (the “Effective Date”) and expire on December 18, 2024, (the “Initial Term”) unless terminated earlier pursuant to the terms of this Agreement.

At the end of the Initial Term, the City shall have the sole right and option to renew for four (4) one (1) year terms (each a “Renewal Term” and collectively, the “Term”) upon thirty (30)

days' written notice to the Contractor prior to the expiration of the Initial Term or then-current Renewal Term, as the case may be.

**ARTICLE II**  
**CONTRACTOR'S DUTIES AND RESPONSIBILITIES**

1. Contractor shall coordinate all Services with the City's designated representatives, which shall be the City Manager or their designee.
2. Contractor shall provide a schedule for maintenance activities to the City each month in order that the City can fully inspect the work in progress, spot potential problems, look for discrepancies and assist the Contractor to make certain that sites receive the required attention.
3. Contractor shall secure, at its own expense, all materials, supplies, machinery, equipment, tools, superintendence, labor, personnel, insurance, and other accessories and services necessary to provide the Services in accordance with the Contract Documents. Additionally, Contractor undertakes to properly maintain all equipment so that Services are performed timely and to a professional standard.
4. Contractor shall conform with Section 13-101 of the City of Denison's Code of Ordinances (the "Code of Ordinances") in performing the Services under this Agreement between the hours of 7:00 a.m. and 7:00 p.m.
5. Contractor shall not make or cause to be made any alterations, additions, or improvements to City property without the prior written consent of the City. All alterations, additions, and improvements to City property made with the written consent of the City shall, upon completion and acceptance by the City, become the property of the City. Contractor may be required to remove, at its expense, any alterations, additions, or improvements not meeting specifications as approved by the City.
6. Contractor shall ensure that their employees maintain a courteous and respectful attitude toward the public at all times. At no time may they solicit, request, or receive gratuities of any kind. Contractor must direct their employees to avoid loud and/or profane language at all times during the performance of duties. Any employee of Contractor who engages in misconduct or is incompetent or negligent in the proper performance of duties or is disorderly, dishonest, intoxicated, or discourteous must be removed from service under this Agreement by Contractor.
7. Contractor shall ensure that their employees adhere to strict safety policies and procedures that may be required in performing the Services under this Agreement and as stated in the Contract Documents.
8. Contractor shall be liable and accountable for any and all damages resulting from Services performed by the Contractor. The Contractor shall be fully responsible for the protection of all persons, including members of the public, Contractor's employees, employees of the City, and employees of other contractors or subcontractors; and all public and private property including structures and utilities above and below the ground. The Contractor

shall give reasonable notice to the City when such properties are liable to injury or damage through the performance of the Services and shall make all necessary arrangements with the City, or other property owners as the case may be, relative to the removal, replacement or protection of such property or utilities.

9. Contractor agrees that, in performance of the Services under this Agreement, Contractor will qualify under and comply with any and all applicable federal, state, and local laws and regulations now in effect, or hereafter enacted during the term of this Agreement, which are applicable to Contractor, its employees, agents or subcontractors, if any, with respect to the work and services described herein.

### **ARTICLE III** **CITY'S DUTIES AND RESPONSIBILITIES**

1. City shall allow reasonable access to the City owned or managed properties that are subject to the performance of Services under this Agreement.
2. City shall routinely make inspections to determine compliance with this Agreement.
3. City shall timely pay all invoices for Services as provided in Article IV, subject to additions and deductions provided for in the Contract Documents.

### **ARTICLE IV** **PAYMENT FOR SERVICES**

In accordance with the bid award, the Contract Documents and this Agreement, the City agrees to pay Contractor up to \$64,800.00 during the Initial Term for the performance of the Services under this Agreement. Contractor shall send detailed invoices, including the date sites were serviced, every Friday following the conclusion of each mowing cycle. (Mowing cycles begin Friday and conclude on Thursday). The City will have three (3) days from receipt of an invoice to confirm the Services have been completed. Payment shall be conditioned upon satisfactory completion of all Services as determined by the City and as set forth in this Agreement. The City will have thirty (30) days from the receipt of an invoice to process and pay each invoice. In no event shall the Contractor receive funds if Services are not provided. If, in the opinion of the City, the Contractor has not or is not satisfactorily performing the Services covered under the terms of this Agreement, the City may, at its option:

- a. Withhold payment;
- b. Terminate the Agreement as set forth in Article V below.
- c. May hire another Contractor to cure any defects in performance or complete all Services covered by the Contract Documents for the remaining term of this Agreement.
- d. In any event, Contractor shall be liable to City for any costs incurred in excess of the amounts in the Contract Documents.

### **ARTICLE V** **TERMINATION AND BREACH**

1. Termination for Convenience. Either party may terminate this Agreement without cause upon thirty (30) days' written notice.
2. Termination for Cause. In the event of a breach of the terms and conditions of this Agreement by either party hereunder, the non-breaching party may elect to terminate this Agreement upon providing the defaulting party with a written notice of such default and allowing the breaching party a period of forty-eight (48) hours from and after the date of such notice to cure such breach. In the event said breach is not cured within the time period set forth herein, either party shall have the right to terminate this Agreement (for-cause).
3. Non-appropriation of Funds. If for any reason, at any time during any term of this Agreement, the Denison City Council fails to appropriate funds sufficient for the City to fulfill its obligations under this Agreement, the City may terminate this Agreement to be effective on the later of (i) thirty (30) days following delivery by the City to the Contractor of written notice of the City's intention to terminate or (ii) the last date for which funding has been appropriated by the City Council for the purposes set forth in this Agreement.

## **ARTICLE VI** **LIABILITY AND INDEMNIFICATION**

**THE CONTRACTOR AGREES TO DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS REPRESENTATIVES, OFFICERS, AGENTS, AND EMPLOYEES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LAWSUITS, ACTIONS, COSTS, AND EXPENSES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, THOSE FOR PROPERTY DAMAGE OR LOSS AND/OR PERSONAL INJURY, INCLUDING, BUT NOT LIMITED TO, DEATH, THAT MAY RELATE TO, ARISE OUT OF, OR BE OCCASIONED BY (I) CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR (II) ANY ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, ASSOCIATES, EMPLOYEES, CONTRACTORS OR SUBCONTRACTORS IN THE PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT.**

**IF ANY ACTION OR PROCEEDING SHALL BE BROUGHT BY OR AGAINST THE CITY IN CONNECTION WITH ANY SUCH LIABILITY OR CLAIM, CONTRACTOR, ON NOTICE FROM CITY, SHALL DEFEND SUCH ACTION OR PROCEEDING, AT CONTRACTOR'S EXPENSE, BY OR THROUGH ATTORNEYS REASONABLY SATISFACTORY TO CITY.**

**IN THE EVENT THAT ANY CITY-OWNED PROPERTY, SUCH AS UTILITIES, UTILITY INFRASTRUCTURE IMPROVEMENTS, EQUIPMENT, TURF, ETC., ARE DAMAGED OR DESTROYED DURING PERFORMANCE OF THE SERVICES UNDER THIS AGREEMENT DUE TO NEGLIGENCE OR ACTS OF OMISSIONS OF THE CONTRACTOR, THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR ALL REPAIRS OR REPLACEMENTS. IN THE EVENT OF DAMAGE DUE TO ACTS OF THE CONTRACTOR, THE CONTRACTOR SHALL REPLACE OR REPAIR THE DAMAGE AT NO COST TO THE CITY. THE CITY SHALL DETERMINE WHETHER ANY DAMAGE HAS BEEN DONE, THE AMOUNT OF THE DAMAGE, THE REASONABLE COSTS OF REPAIRING THE DAMAGE, AND WHETHER THE**

**CONTRACTOR IS RESPONSIBLE. THE CITY SHALL BE THE SOLE JUDGE OF THE DAMAGE TO CITY OWNED PROPERTIES, IN WHICH JUDGMENT SHALL BE EXERCISED REASONABLY. ANY DAMAGE BY THE CONTRACTOR SHALL BE REPAIRED OR REPLACED BY THE CONTRACTOR TO THE REASONABLE SATISFACTION OF THE CITY WITHIN THIRTY (30) DAYS OF RECEIPT OF WRITTEN NOTIFICATION FROM THE CITY.**

**CONTRACTOR COVENANTS AND AGREES THAT CITY SHALL IN NO WAY NOR UNDER ANY CIRCUMSTANCES BE RESPONSIBLE FOR ANY PROPERTY BELONGING TO CONTRACTOR, ITS MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS, INVITEES, LICENSEES, OR TRESPASSERS, WHICH MAY BE STOLEN, DESTROYED, OR IN ANY WAY DAMAGED, AND CONTRACTOR HEREBY INDEMNIFIES AND HOLDS HARMLESS CITY FROM AND AGAINST ANY AND ALL SUCH CLAIMS. THE CITY DOES NOT GUARANTEE POLICE PROTECTION AND WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE SUSTAINED BY CONTRACTOR, ITS MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS, INVITEES, LICENSEES, OR TRESPASSERS ON ANY OF THE CITY PROPERTIES.**

#### **ARTICLE VII** **INSURANCE**

Prior to the commencement of any work under this Agreement, Contractor shall purchase and maintain throughout the term of the Agreement, with an insurance company licensed to transact business in the state of Texas, an "occurrence basis" insurance policy or policies indemnifying, defending and saving harmless City from all damages which may be occasioned to any person, firm, or corporation, whether damages are by reason of any willful or negligent act or acts on part of Contractor, its agents or employees, with limits no less than:

- a. Commercial Liability Insurance: One Million and no/100 Dollars (\$1,000,000.00) combined single limit per occurrence or its equivalent with a Two Million and no/100 Dollars (\$2,000,000.00) aggregate for bodily injury, personal injury, and property damage.
- b. Vehicle Liability: Two Million and no/100 Dollars (\$2,000,000.00) combined single limit per accident for bodily injury and property damage.
- c. Worker's Compensation/Industrial Insurance: Limits as required by the State of Texas.

The general liability provisions in automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- (i) City, its officers, officials, employees, and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied, or used by Contractor; or automobiles owned, leased, hired, or borrowed by Contractor.
- (ii) Contractor's insurance coverage shall be primary insurance as City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be in excess of City's insurance and shall not contribute with it.



- (iii) Any failure to comply with reporting provisions of the policy shall not affect coverage provided to City, its officers, officials, employees, or volunteers.
- (iv) Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (v) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, nor reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to City.

**ARTICLE VIII**  
**MISCELLANEOUS PROVISIONS**

1. Immunity. The Parties agree that the City has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.

2. Assignment/Non-Transferable. The Parties agree that neither this Agreement nor the work to be performed or goods/services provided hereunder will be assigned or transferred without the prior written consent of the City.

3. Successors and Assigns. The Parties, and their partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

4. Execution and Consideration. This Agreement is executed by the Parties hereto without coercion or duress for any substantial consideration, the sufficiency of which is forever confessed.

5. Notices. Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the Party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such Party via facsimile or a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the Parties shall be as follows:

To City:

City of Denison  
Attn: City Manager  
300 W. Main Street  
Denison, TX 75020



With a copy to:

Messer Fort, P.L.L.C.  
Attn: Ms. Julie Fort  
6371 Preston Rd., Ste. 200  
Frisco, Texas 75034  
TEL: (972) 668-6400

To Contractor:

Mr. Stephen Fulenchek  
dba SF Landscaping  
3115 Frances Avenue  
Denison, TX 75020

6. Cumulative Remedies. All rights and remedies of the Parties under this Agreement shall be cumulative, and none shall exclude any other right or remedy provided by law, or by any other provisions of the Agreement. All such rights and remedies may be exercised and enforced concurrently and whenever, and as often, as occasion for their exercise arises.

7. Waiver of Breach. A waiver by either Party of a breach of the Agreement by the other Party does not constitute a continuing waiver or a waiver of any subsequent breach of the Agreement.

8. Parties Bound. The Agreement shall be binding upon, and inure to the benefit of, the Parties to the Agreement and their respective heirs, executors, administrators, legal representatives, successors, and assigns when permitted by this Agreement.

9. No Third-Party Beneficiaries. Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the Parties do not intend to create any third-party beneficiaries by entering into this Agreement.

10. Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the matters contained herein and may not be modified, amended, or terminated except upon the provisions hereof or by the mutual written agreement of the Parties hereto. The subject matter of this Agreement is for landscape maintenance only and not any other matters that may exist between the Parties past, present, or future.

11. Independent Contractor. In the performance of services pursuant to this Agreement, Contractor shall be an independent contractor and not an officer, agent, servant, or employee of City. Contractor shall have exclusive control over the details of the service and work performed and over all persons performing such service and work. Contractor shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any. Neither Contractor nor its officers, agents, employees, or subcontractors shall obtain any right to retirement benefits, Workers' Compensation benefits, or any other benefits which accrue to City employees and Contractor expressly waives and claim it may have or acquire to such benefits.

12. Public Information. Contractor understands and acknowledges that City is a public entity under the laws of the State of Texas and, as such, all documents held by City are subject to disclosure under Chapter 552 of the Texas Government Code. Contractor shall clearly indicate to City what information it deems proprietary. If City is required to disclose any documents that may reveal any of Contractor's Proprietary Information to third parties under the Texas Government Code, or by any other legal process, law, rule, or judicial order by a court of competent jurisdiction, City will notify Contractor prior to disclosure of such documents, and give Contractor the opportunity to submit reasons for objections to disclosure. Contractor acknowledges that the Texas Attorney General or a court will make a determination as to the public nature of any Proprietary Information.

13. Venue. This Agreement shall be construed in accordance with the laws of the State of Texas and shall be performable in Grayson County, Texas.

14. Consideration. This Agreement is executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

15. Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original if properly executed.

16. Authority to Execute. The individuals executing this Agreement on behalf of the respective Parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the Party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the Party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

17. Force Majeure. Neither Contractor nor the City shall be required to perform any term, condition, or covenant in the Agreement so long as performance is delayed or prevented by force majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riots, floods, and any other cause not reasonably within the control of the Party and which by the exercise of due diligence the Party is unable, wholly or in part, to prevent or overcome. Failure of a Party to timely perform an obligation hereunder shall only be excused as an event of force majeure described in this paragraph if a Party who cannot perform sends written notice to the other Party within thirty (30) days of the start of the event of force majeure: (a) stating the obligations that the Party cannot perform due to the event of force majeure; (b) describing in detail the event of force majeure that is preventing performance; and (c) providing a date by which such Party reasonably expects to be able to perform and the length of the force majeure event.

18. Verification Regarding Energy Company Boycotts. To the extent this Agreement constitutes a contract for good or services for which a written verification is required Section 2274.002, Texas Government Code, (as added by Senate Bill 13, 87th Texas Legislature, Regular Session) as amended, Contractor hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, do not boycott energy companies and, will not boycott energy

companies during the term of this Agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “boycott energy companies” shall have the meaning assigned to the term “boycott energy company” in Section 809.001, Texas Government Code. Contractor understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Contractor and exists to make a profit

19. Verification Regarding Discrimination Against Firearm Entity or Trade Associations. To the extent this Agreement constitutes a contract for the purchase of goods or services having a value of at least \$100,000 that is paid wholly or partly from public funds for which a written verification is required under Section 2274.002, Texas Government Code, (as added by Senate Bill 19, 87th Texas Legislature, Regular Session), as amended, Contractor hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any,

1. do not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and
2. will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “discriminate against a firearm entity or firearm trade association” shall have the meaning assigned to such term in Section 2274.001(3), Texas Government Code (as added by SB 19). Contractor understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Contractor and exists to make a profit.

20. Certifications Regarding Terrorist Organizations and Boycott of Israel. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Sections 2252.151-.154 Texas Government Code, Contractor hereby certifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, is not a company identified on the Texas Comptroller’s list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State under federal law.

To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Sections 2271.001-002 Texas Government Code, Contractor and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, further certifies and verifies that it does not boycott Israel and agrees that it will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term “boycott” shall mean and include terminating business activities or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory. (Tex. Gov’t Code §§ 2270.001-.002, 808.001-.006, .051-.057, .101-.102)

The foregoing verification is made solely to comply with Chapter 2271, Texas Government Code, as amended, to the extent the applicable provision in Chapter 2271.001, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “boycott Israel” shall have the meaning assigned to such term in Section 808.001(1), Texas Government Code. Contractor understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Contractor and exists to make a profit.

21. Form 1295 Certificate. Contractor represents that it has complied with Texas Government Code, Section 2252.908 and in connection therewith, Contractor has completed a Texas Ethics Commission Form 1295 Certificate generated by the Texas Ethics Commission’s electronic filing system in accordance

with the rules promulgated by the Texas Ethics Commission. Contractor further agrees to print the completed certificate and execute the completed certificate in such form as is required by Texas Government Code, Section 2252.908 and the rules of the Texas Ethics Commission and provide to the City, at the time of delivery of an executed counterpart of this Agreement, a duly executed completed Form 1295 Certificate. The Parties agree that, except for the information identifying the City and the contract identification number, the City is not responsible for the information contained in the Form 1295 completed by Contractor. The information contained in the Form 1295 completed by Contractor has been provided solely by Contractor, and the City has not verified such information.

22. Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by the Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any Party shall not apply. Headings in this Agreement are for the convenience of the Parties and are not intended to be used in construing this document.

23. Savings/Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

24. Representations. Each signatory represents this Agreement has been read by the Party for which this Agreement is executed and that such Party has had an opportunity to confer with its legal counsel.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement to be effective as of the date of the last of the Parties to sign.

**CITY OF DENISON**

By: \_\_\_\_\_  
Bobby Atteberry, Interim City Manager  
Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Christine Wallentine, City Clerk

**CONTRACTOR:**

Mr. Stephen Fulenchek  
dba SF Landscaping  
3115 Frances Avenue  
Denison, TX 75020

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion and take action on awarding a request for proposal and entering into a contract with Denison Animal Welfare Group (DAWG) for animal shelter services and authorize the Interim City Manager to execute the same.

## Staff Contact

Mike Gudgel, Police Chief  
mgudgel@cityofdenison.com  
(903) 465-2720

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## Summary

- The City has had a longstanding contract for animal shelter services with the Morton Street Animal Hospital.
- In May of 2018, the City hired a consultant to evaluate the needs of its animal services.
- Based on the report and the continued growing needs of the City as to its animal services, staff felt it was time to work on preparing a Request for Proposals (RFP) for Animal Shelter Services.
- On October 6, 2023, the RFP was issued, with responses due no later than 2:00 p.m. on October 24, 2023.
- The City received the two proposals in response to the RFP; one from Denison Animal Welfare Group (DAWG) and the other from Morton Street Animal Hospital.
- A selection committee was put together to evaluate the proposals, which included an on-site visit to both facilities.
- Following the on-site visits, review of the submitted proposals and scoring the proposers, the committee recommends awarding the animal services contract to DAWG.

## Staff Recommendation

Staff recommends awarding the request for proposals and entering into a contract with DAWG for animal shelter services.

## Recommended Motion

“I move to approve awarding the request for proposal and entering into a contract with Denison Animal Welfare Group (DAWG) for animal shelter services and authorize the Interim City Manager to execute the same, subject to final review and approval.”

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## Background Information and Analysis

The City has had a longstanding contract for animal shelter services with the Morton Street Animal Hospital. In May of 2018, the City hired a consultant to evaluate the needs of its animal services. Based on the report and the continued growing needs of the City as to its animal services, staff felt it was time to work on preparing a Request for Proposals (RFP) for Animal Shelter Services. On October 6, 2023, the RFP was issued, with responses due no later than 2:00 p.m. on October 24, 2023. The City received the two proposals in response to the RFP; one from Denison Animal Welfare Group (DAWG) and the other from Morton Street Animal Hospital.

A selection committee was put together to evaluate the proposals. The committee also made on-site visits to each of the facilities at DAWG and the Morton Street Animal Hospital. Following the on-site visits, review of the submitted proposals and scoring the proposers, the committee recommends awarding the animal services contract to DAWG. The initial contract would be an annual contract, with the opportunity for annual renewals. The fee proposal submitted by DAWG showed a cost of \$180,000 annually to the City. DAWG has made substantial improvements to their facility since occupying the former south side fire station, including \$85,000 in upgrades this past year.

**Financial Considerations**

The new contract with DAWG will cost \$180,000 annually. \$151,500 is currently budgeted for this service in the General Fund. The remaining cost above the budgeted amount of \$151,500 (contract plus misc. expenses) would need to come out of fund balance.

**Prior Board or Council Action**

None.

**Alternatives**

City Council may deny, table or modify the agenda item.

## **ANIMAL SHELTER SERVICES AGREEMENT**

This Services Agreement (“Agreement”) is made as of December \_\_\_\_\_, 2023, by and between Denison Animal Welfare Group, a Texas 501(c)(3) non-profit organization (“DAWG”), and the City of Denison, Texas, a municipal corporation (“Denison” or the “City”). DAWG and the City are referred to herein individually as a “Party” and collectively as the “Parties.”

**WHEREAS**, City is desirous of providing for residents and businesses with full-time animal control services, and

**WHEREAS**, DAWG, an organization experienced in animal rescue and providing shelter and support for abused, neglected, abandoned, or unwanted animals, now desires to engage in a partnership with the City to provide needed animal shelter services for the City, and

**WHEREAS**, the Parties hereto desire to enter into this Agreement to provide services for the administration and operation of the City’s animal shelter at the highest level possible to the City in accordance with the terms and conditions set forth herein, and

**WHEREAS**, all payments to be made hereunder shall be made from current revenues available to the City, and

**WHEREAS**, the parties have concluded that this Agreement fairly compensates the performing party for the services being provided hereunder and is in the best interest of each party.

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

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

Section 2. Term. This Agreement shall commence on \_\_\_\_\_, 2024 (the “Effective Date”). This is a one (1) year contract and will automatically renew for two (2) additional one (1) year periods, provided both Parties agree to the renewal. The City may terminate the Agreement, with or without cause, upon providing forty-five (45) days’ written notice to DAWG. Any changes in the terms and conditions of this Agreement shall require the approval of the governing body of City and DAWG.

Section 3. Scope of Services: DAWG hereby agrees to the following terms and conditions in accordance with providing the services, personnel, and facilities described in this Agreement:

1. GENERAL TERMS

- a. DAWG must be licensed through the Texas State Department of Health & Human Services (DSHS) or have the ability to obtain such licensure within three (3) months of the Effective Date to operate an animal shelter and thereafter comply

with the Texas Health and Safety Code, Chapter 821 and any attendant state regulations regarding impounded animal care, as well as Chapter 4, City of Denison Code of Ordinances.

- b. DAWG must be licensed by the U.S. Department of the Drug Enforcement Administration (DEA) or have the ability to obtain such licensure within six (6) months of the Effective Date.
- c. DAWG will provide shelter facilities that meet the following requirements:
  - i. Shelter and adoption facilities must contain at least twenty (20) kennels available for pound intakes, which are air conditioned and heated, as well as a minimum of two rabies quarantine kennels.
  - ii. DAWG will establish convenient and consistent public hours of access, including weekend hours.
  - iii. DAWG must employ or contract with a licensed veterinarian during regular business hours, for the purpose of providing emergency medical care to stray animals in distress. Emergency care shall consist of stabilization, pain management, wound care, and diagnostic procedures.
  - iv. DAWG must provide procedures to minimize stress levels and address social and exercise needs. The health and welfare of the animals is a foremost consideration.
  - v. DAWG will develop and follow a clear set of protocols regarding shelter admission and intake procedures, care and welfare of animals, employee conduct, and shelter and adoption operations.
  - vi. Employees will have training or experience appropriate to their positions.

## 2. ANIMAL SHELTER FACILITY

- a. DAWG must provide a shelter facility with routine parking, and which is handicap-accessible (“Facility”).
- b. DAWG must also provide routine maintenance of the shelter, to include:
  - i. Provide regular janitorial services and non-structural maintenance of all buildings, out buildings, grounds and parking areas including but not limited to landscaping maintenance and irrigation requirements.
  - ii. Provide snow and ice removal on all parking areas appurtenant to the buildings, sidewalks, walkways, and entrance areas to the building prior to, and during regular business hours.
  - iii. Pick up and properly dispose of animal waste in and around the shelter grounds.
  - iv. Properly store animal feed to secure it from vermin and wildlife.
  - v. Feed the cats and dogs inside the Facility only. Uneaten food should be



removed and disposed of to discourage vermin.

- vi. Furnish and maintain adequate cages, shelving, seating, computers, desks, phones, office supplies, trash and recycling receptacles, etc.
  - vii. Pay for utilities such as electricity, water, gas, trash, internet, phone, and wastewater services.
  - viii. Provide and pay for structural pest control services either through an internal system or through a licensed pest control vendor.
  - ix. Provide evacuation of all animals in case of emergency.
- c. DAWG shall, at least ten (10) days before any construction work is done by DAWG or on DAWG's behalf by any person or firm, post and record, as provided by law, a notice of non-responsibility on behalf of the City giving notice that the City is not responsible for the work, labor, or materials used or expended, or to be used or expended on the premises.

### 3. ANIMAL INTAKE

- a. DAWG shall accept animals on behalf of the City and members of the public who find stray animals within City limits. This includes live strays – cats and dogs but should not include any animal larger than the largest species of dog – and not snakes.
- b. DAWG shall provide a procedure whereby animals may be delivered to the shelter by Denison Police Officers and their agents with access to sheltering facilities, 24 hours per day/365 days per year.
- c. All stray companion animals impounded, whether by officers or residents, and delivered to the contracted shelter shall be accepted.
- d. Each animal will be assessed upon arrival in regard to physical condition, medical needs, and initial behavioral observations.
- e. DAWG shall promptly provide vaccinations to all animals upon intake into the Facility.
- f. Suitable quarantine and isolation areas must be available to house animals that are dangerous or potentially carrying highly infectious disease that may threaten the health and safety of other animals or humans.
- g. DAWG shall provide daily care for all animals impounded as well as provide all food and water to the animals.
- h. DAWG shall be responsible for ensuring that animals will be assigned housing with consideration for species, sex, whether fertile, medical condition, behavior, and temperament.

- i. Animals will be held prior to eligibility for adoption, via transfer to DAWG or other rescue services, as needed. Minimum holding requirements are as follows:
  - vii. Stray animals that are unlicensed or for which the owner is unknown shall be held for 5 days (120 hours), of which the shelter is open for normal business before being eligible for adoption, transfer, or euthanasia.
  - viii. If a stray animal's owner is known, shelter staff will attempt to notify the owner within 24 hours.
  - ix. Animals classified as potentially dangerous or under legal hold or quarantines are subject to additional holding requirements.
- j. All animals shall have an impound form showing the identification tag number if any, species, breed and description of the animal by coloring, time and date of impound, name of agent taking in the animal and location where the animal was found.
- k. DAWG shall provide competent veterinary medical care for all animals impounded at the shelter through the availability of the professional services of a Doctor of Veterinary Medicine licensed in the State of Texas.
- l. Should an animal be suffering from serious injury or disease that would endanger the other sheltered animals or cause the animal to endure unnecessary pain and suffering if left untreated as determined under the guidance of a veterinarian the animal may be destroyed prior to the expiration of the required hold period and documented.
- m. Any animal impounded may be redeemed upon evidence of rightful ownership or custody, proof of rabies vaccination and payment of any redemption fees. Animals may be denied redemption if placed on investigative hold by the Denison Police Department.
- n. DAWG shall provide Animal Services Officers with chemicals for chemical capture (controlled substances)

#### 4. DISPOSITION OF UNCLAIMED ANIMALS

DAWGs disposition of unclaimed animals must be in accordance with Chapter 4 "Animals," Section 4-5 "Impoundment" of the City's Code of Ordinances.

#### 5. EUTHANASIA

- a. DAWG must arrange and/or provide for humane euthanasia and disposal of unadoptable animals. This shall be accomplished in a manner approved by Federal and State regulations, which shall not subject such animals to any unnecessary pain or suffering.
- b. DAWG, at its sole expense, may make reasonable attempts to locate suitable community resources including rehabilitative or training resources, or place the animal

with DAWG or another appropriate adoption or rescue organization prior to making a determination to euthanize the animal.

- c. DAWG shall develop and follow a clear protocol on the use of euthanasia.
- d. Euthanasia, using the most modern and humane method available, is to be carried out by a licensed veterinarian or, certified euthanasia technicians.
- e. DAWG must provide an appropriate area to store deceased animals until proper disposal of the remains.

## 6. ADOPTION, PLACEMENT OR TRANSFER OF ANIMALS

- a. Every reasonable effort shall be made to identify each animal's owner and return the animal to its owner prior to release of the animal through adoption or transfer to another animal welfare agency.
- b. Adoption is to be promoted through a variety of outreach strategies including advertising, internet, and offsite events.
- c. Cats, dogs, and rabbits are to be spayed or neutered and microchipped as a condition of adoption.
- d. Cats and dogs owned or adopted by residents of the City are to be licensed prior to release. DAWG must serve as a pet licensing agent for the City.

## 7. ANIMAL CRUELTY INVESTIGATIONS AND SPECIAL

- a. All animals that are impounded either as a result of an animal cruelty investigation, to be used as evidence, are to be held per specific instructions of the Denison Police Department, or animals held as a result of a disaster and/or other circumstances not reasonably associated with the normally accepted legal holding time of animals shall be held for a maximum of ten (10) business days and shall not be released, adopted, or otherwise disposed of without authorization from the Denison Police Department. The City shall then notify DAWG, in writing, the procedure for placing animals on hold and removing such animals from a "hold" status. DAWG shall immediately release an animal upon court order or upon require of the prosecuting entity. The animal(s) shall be released, and the custody changed as directed in the court order and/or by the prosecuting entity.
- b. Additional housing for an animal may be granted beyond the ten (10) day hold, should it be required to prosecute any matter of animal cruelty, provided there is adequate space in the shelter, and it is in the best interest of the animal to be held as evidence of the crime. Notwithstanding this provision, DAWG shall comply with all Court orders that pertain to animals in its custody.

8. ADMINISTRATION (DOCUMENTATION, RECORDKEEPING AND ADVERTISING REQUIREMENTS)

- a. DAWG shall operate a social media or website on which a picture of all animals impounded is displayed, along with any specific details to help reunite lost animals with their owners.
- b. DAWG shall maintain required documentation of rabies-quarantined animals, and process suspected rabies cases for shipping and testing, as required by Texas state law.
- c. Shelter services will be operated according to a program budget within the amount specified in this Agreement. Donations, non-contracted service fees, and adoption revenues will be kept and maintained by DAWG.
- d. Good recordkeeping and tracking of individual animals, including veterinary records, will be maintained according to industry standard practices. Records will be made available for viewing by the City upon request.
- e. DAWG shall provide a comprehensive monthly report to the City for the intake and disposition of all animals.
- f. DAWG shall coordinate with the City to achieve seamless and efficient data management across shelter, enforcement, and licensing programs.
- g. DAWG shall be responsible for collecting all impound and licensing fees due upon redemption of a stray animal, in accordance with City regulations. DAWG must issue receipts for payment and utilize best accounting practices.
- h. DAWG shall cooperate with the Denison Police Department on actions pertaining to animals and quarantine; to assist the City in obtaining and presenting evidence in the civil and criminal prosecution of all violations of any ordinance, code, regulation, or law, including licensing and registration.
- i. DAWG shall operate and comply with all federal, state, and local laws applicable to the services provided herein, including any such laws applicable to animal wellness and safety, zoning and health standards, equal employment opportunity, wage and hour requirements, workers' compensation, worker safety, and all other legal requirements governing employee relations and work conditions. DAWG fully agrees to comply with all laws governing animal wellness and safety, even if not stated herein.
- j. DAWG shall always provide access to the City which may, at its discretion, inspect the shelter's facilities. Should a City representative find any regulatory violation or any violation of the agreement, it shall notify the DAWG in writing, and the DAWG shall remedy or repair the violation in a reasonable amount of time to be set by the City.

- k. DAWG shall make no alterations in or addition to the demised premises without first obtaining the written consent of the City. Thereafter, DAWG, at their sole cost and expense, shall make improvements to the premises. All additions or improvements made by DAWG shall be deemed a part of the permanent structure thereon and shall remain upon and be surrendered with said premises as a part thereof at the end of the said term, by lapse of time, or otherwise.

## 9. COMMUNITY PARTNERSHIPS AND INVOLVEMENT

- a. Volunteers and foster families may be an important part of the public shelter and adoption program. Participation in the program will be encouraged, and recruitment, screening, training, and retention of fostering and shelter volunteers will be provided and monitored by DAWG.
- b. A consistent plan to encourage and receive monetary and in-kind donations will be developed and maintained by DAWG.
- c. DAWG shall develop and maintain partnerships with community groups, veterinary service providers, other animal welfare agencies and rescue groups.
- d. DAWG shall ensure that community partners will comply with all provisions regarding City ordinances relating to animal welfare and cruelty prevention for partnered events and programs.

## 10. DISASTER PREPAREDNESS

In the event of a declared emergency under City direction, DAWG shall maintain responsibility for evacuation of shelter animals. Any City requests for emergency response will be forwarded by telephone and electronic mail directly to DAWG's Shelter Manager. Any shelter emergency will be immediately relayed by telephone and electronic mail to the Denison Police Department.

## 11. CUSTOMER SERVICE

- a. DAWG shall provide excellent customer service as a priority.
- b. Public lost and found reporting opportunities, including online posting of stray pets received in the shelter, will be provided by DAWG.

## 12. REPORTING REQUIREMENTS

- a. DAWG will utilize appropriate software and record-keeping procedures to allow for effective data management.
- b. Monthly reports on shelter activities and disposition of animals will be made by DAWG to City and will be made available to the public. At minimum, reports will include the following data for dogs, cats, and other animals:

- i. Number of impounded animals received from the Denison Police Department or their agents.
- ii. Number of stray animals accepted from residents.
- iii. Number of animals returned to owners.
- iv. Number of animals adopted.
- v. Number of animals transferred to other animal welfare agencies; and
- vi. Number of animals euthanized.

DAWG will invoice the City monthly and provide an accounting of per-animal charges, impound fees collected. The invoice will reflect credit for any redemption fees and/or DAWG will keep detailed records that shall be made available to the City upon request.

Section 4. City of Denison's Obligations. City agrees to perform the following:

- a. The City shall not provide any facility, structure, or property to be utilized in any manner needed to meet the requirements of this Agreement.
- b. The City shall unload and kennel the animals that they transport to the shelter for housing.
- c. In the event that an officer finds a sick or injured animal that will require emergency veterinary care and stabilization, the City shall transport such animal to a veterinary clinic. The City shall then be responsible for all associated veterinary costs until the owner of the animal claims the animal or until five (5) days after the animal is impounded, whichever happens first.
- d. City agrees to pay DAWG in accordance with the agreed upon fee proposal, as provided in Exhibit "A", attached hereto and incorporated fully herein. The total amount of the fee proposal shall be distributed into equal monthly payments to be invoiced to the City by DAWG. The City shall provide payment within thirty (30) days of receipt of each invoice.
- e. City agrees to contribute the amounts approved by the governing body of the City and provided as optional costs in the fee proposal in Exhibit "A", to construct a lobby and animal control office within the Facility.

Section 5. Termination.

- a. This Agreement may be terminated at any time, by either party by giving forty-five (45) days written notice to the other party to the addresses provided herein. In the event of such termination by either party, DAWG will be compensated for all services performed up to the termination date, which will be one (1) month after the date of the notice of termination, together with any payments then due and as authorized by this Agreement.

- b. Failure of DAWG to furnish any services under this Agreement, the City shall have the right to make appropriate reduction in any fee paid (as determined by mutual agreement of the parties) or terminate this Agreement by giving proper notice.

Section 6. Notice and Payments. Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the Party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such Party via facsimile or a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the Parties shall be as follows:

DAWG  
3923 Park Avenue  
Denison, TX 76020  
Attn: Stephanie Phillips

City of Denison  
500 W. Chestnut St.  
Denison, TX 75020  
Attn: City Manager

Section 7. Indemnification. **DAWG, ITS OFFICERS, DIRECTORS, PARTNERS, CONTRACTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEES AND/OR TRUSTEES (COLLECTIVELY REFERRED TO AS “DAWG” FOR PURPOSES OF THIS SECTION), AGREE TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY AND ITS OFFICERS, COUNCIL MEMBERS, REPRESENTATIVES, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO AS “CITY” FOR PURPOSES OF THIS SECTION) FROM ANY AND ALL CLAIMS, DEMANDS, DAMAGES, INJURIES (INCLUDING DEATH) LIABILITIES AND EXPENSES (INCLUDING ATTORNEYS’ FEES AND COSTS OF DEFENSE) ARISING DIRECTLY OR INDIRECTLY OUT OF THE OPERATION OR PERFORMANCE OF DAWG UNDER THIS AGREEMENT. THE CITY WILL NOT ACCEPT LIABILITY FOR INJURIES THAT ARE THE RESULT OF NEGLIGENCE, MALFEASANCE, ACTION OR OMISSION OF DAWG. DAWG AGREES TO ACCEPT LIABILITY FOR INJURIES TO ITSELF OR OTHERS CAUSED BY ITS OWN NEGLIGENCE, MALFEASANCE, ACTION OR OMISSION.**

**IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY DAWG IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY CITY, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF DAWG’S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF DAWG’S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT.**

**DAWG SHALL RETAIN CITY-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY’S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF DAWG FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, CITY SHALL HAVE THE**

**RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND DAWG SHALL BE LIABLE FOR ALL COSTS INCURRED BY CITY.**

**THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.**

Section 8. Insurance.

- a. DAWG agrees to procure and maintain, at a minimum:
  - i. Commercial General Liability: \$1,000,000.00 combined single limit per occurrence for Fire Damage, Medical Expenses, Personal & Advertising Injury, General Aggregate and Products–Completed Operations Aggregate. This policy shall have no coverage removed by exclusions.
  - ii. Automobile Liability: \$500,000.00 combined single limit per accident for bodily injury and property damage. Coverage should be provided as a "Code 1," any auto.
  - iii. Worker's Compensation and Employers' Liability: Statutory. Employers Liability policy limits of \$500,000.00 for each occurrence, \$500,000.00 Aggregate - Disease.
- b. Other Insurance Provisions
  - i. The City be named as an additional insured on the Commercial General Liability and Automobile Liability Insurance policies. These insurance policies shall contain the appropriate additional insured endorsement signed by a person authorized by the insurer to bid coverage on its behalf.
  - ii. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice has been provided to the City. If the policy is canceled for non-payment of premium, only ten (10) days' notice is required.
  - iii. Insurance is to be placed with insurers with a Best rating of no less than A:VII. The company must also be duly authorized to transact business in the State of Texas.
  - iv. Workers' Compensation and Employers' Liability Coverage: The insurer shall agree to waive all rights of subrogation against the City, its officials, employees, and volunteers for losses arising from the activities under this contract.
  - v. Certificates of Insurance and Endorsements effecting coverage required by this clause shall be forwarded to:

City of Denison  
Finance Department/Purchasing  
300 W. Main  
Denison, TX 75020
- c. Insurance Certificates must be submitted and issued with the City listed as the certificate holder.



d. **Cancellation Policy must read as follows:**

**"Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will mail a 30-day written notice to the certificate holder named to the left. "**

- e. DAWG shall at all times during the term of the agreement carry, maintain, and keep in full force and effect, a policy or policies of Comprehensive General Liability Insurance with minimum limits of One Million Dollars (\$1,000,000) for each occurrence, combined single limit, against any personal injury, death, loss or damage resulting from the wrongful or negligent acts by Consultant.
- f. DAWG shall at all times during the term of the agreement carry, maintain, and keep in full force and effect, a policy or policies of Professional Liability Insurance with minimum limits of One Million Dollars (\$1,000,000) for each occurrence.
- g. DAWG agrees to maintain in force at all times during the performance of work under the agreement Worker's Compensation insurance as required by law.
- h. DAWG shall require each of its or sub-contractors to maintain insurance coverage which meets all of the requirements of the agreement.
- i. DAWG agrees that if it does not keep the aforementioned insurance in full force and effect, City may either immediately terminate the agreement or, if insurance is available at a reasonable cost, City may take out the necessary insurance and pay, at Consultant expense, the premium thereon.

Section 9. Entire Agreement. This Agreement constitutes the sole and only agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties respecting this subject matter.

Section 10. Assignment. Neither this Agreement nor any duties or obligations under it shall be assignable by DAWG without the prior written consent of City. In the event of an assignment by DAWG to which City has consented, the assignee or the assignee's legal representative shall agree in writing with City to personally assume, perform, and be bound by all the covenants, obligations, and agreements contained in this Agreement.

Section 11. Successors and Assigns. Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the parties to it and their respective heirs, executors, administrators, legal representatives, successors, and assigns.

Section 12. Governing Law and Venue. The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties, shall be governed by the laws of the State of Texas, and venue for any action concerning this Agreement shall be in Grayson County, Texas.

Section 13. Amendment. This Agreement may be amended by the mutual agreement of the parties to it, in a writing to be attached to and incorporated in this Agreement.

Section 14. Legal Construction. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained in it.

Section 15. Independent Contractor. It is understood and agreed by and between the parties that DAWG in satisfying the conditions of this Agreement, is acting independently, and that City assumes no responsibility or liability to any third party in connection with these actions. All services to be performed by DAWG pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of City. DAWG shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement. City and DAWG understand that DAWG shall not be entitled to life or health insurance, sick leave, vacation, longevity or other employee benefits, such as participation in the Texas Municipal Retirement System, which may be afforded to employees of City. City and DAWG agree DAWG shall be liable for any income taxes, payroll or employment taxes, or FICA due to the Federal or State Government.

Section 16. Licenses. DAWG shall obtain all required business licenses or other permits necessary to perform this Agreement.

Section 17. Costs. Except as otherwise set forth herein, DAWG shall bear all costs and expenses of performing this Agreement including, but not limited to vehicle expenses, automobile insurance, liability insurance, travel expenses, telephone expenses, and supplies.

Section 18. Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the \_\_\_\_ day of \_\_\_\_\_, 2023.

Denison Animal Welfare Group

City of Denison

\_\_\_\_\_  
By: Stephanie Phillips

\_\_\_\_\_  
Bobby Atteberry, Interim City Manager

Attest:

Attest:

\_\_\_\_\_  
By: Witness

\_\_\_\_\_  
Christine Wallentine, City Clerk

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion and take action on an ordinance repealing and restating Chapter 30 of the Code of Ordinances, the same being the Historic Preservation Ordinance of the City of Denison.

## Staff Contact

Donna Dow, Main Street Director

[ddow@cityofdenison.com](mailto:ddow@cityofdenison.com)

903-464-4452

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## Summary

- The Denison Historic Preservation Board follows the ordinance currently in existence. A complete overhaul of the ordinance was in order and has been in process for the last nine months.
- Our Historic Preservation Consultant assisted by commenting and reviewing our suggestions.
- The Certified Local Government staff at the Texas Historic Commission has also reviewed our proposed ordinance.
- Staff requests Council approval as we believe it will provide clearer guidance to protect our historic overlay district.

## Staff Recommendation

Staff recommends approval of the item based on thorough review and overall input by all departments and the City Attorney.

## Recommended Motion

“I move to adopt the ordinance repealing and restating Chapter 30 of the Code of Ordinances, the same being the Historic Preservation Ordinance of the City of Denison.”

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## Background Information and Analysis

The City Council adopted Chapter 30 of its Code of Ordinances, the same being the Historic Preservation Ordinance of the City, for the protection, enhancement and perpetuation of districts and landmarks of historical and cultural importance and significance as necessary to promote the economic, cultural, educational and general welfare of the public. Section 214.00111 of the Texas Local Government Code provides authority to preserve substandard buildings as historic property which applies only to a City that is designated as a certified local government by the state historic preservation officer as provided by 16 U.S.C.A. Section 470 et seq. the City is designated as a certified local government by the state historic preservation officer as provide by 16 U.S.C.A. Section 470 et seq.

The Denison Historic Preservation Ordinance has been under review by a group of City leadership staff and was thoroughly reviewed by not only other City departments but also our consultant and Texas Historic Commission staff.

It is accompanied by Historic District Design Guidelines which is also on this agenda. Some of the items previously in the ordinance were more appropriate for the design guidelines. Various portions of the ordinance were updated and strengthened to accommodate current circumstances.

**Financial Considerations**

The item has no financial considerations.

**Prior Board or Council Action**

This item has been presented to the Council as an update. It was only an update, and no action was taken. Previous ordinance revisions have been approved.

**Alternatives**

Additional changes can be made to the ordinance, or it could remain as is.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, REPEALING AND RESTATING CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY, THE SAME BEING THE HISTORIC PRESERVATION ORDINANCE OF THE CITY OF DENISON; PROVIDING FOR SAVINGS, REPEALING AND SEVERABILITY CLAUSES; PROVIDING A PENALTY; PROVIDING AN EFFECTIVE DATE; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**WHEREAS**, the City of Denison (the “City”) is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, Section 214.00111 of the Texas Local Government Code provides authority to preserve substandard buildings as historic property which applies only to a City that is designated as a certified local government by the state historic preservation officer as provided by 16 U.S.C.A. Section 470 et seq.; and

**WHEREAS**, the City is designated as a certified local government by the state historic preservation officer as provide by 16 U.S.C.A. Section 470 et seq.; and

**WHEREAS**, the City Council adopted Chapter 30 of its Code of Ordinances, the same being the Historic Preservation Ordinance of the City, for the protection, enhancement and perpetuation of districts and landmarks of historical and cultural importance and significance as necessary to promote the economic, cultural, educational and general welfare of the public; and

**WHEREAS**, the City Council has considered the recommendations of the Historic Preservation Board concerning the appropriateness of the amendments herein in order to provide a more streamlined and concise approach to historical preservation in the City; and

**WHEREAS**, after complying with all legal notices, requirements, and conditions, and among other things, the necessity for orderly and appropriate regulations of the use of land and the erection of structures thereon, the City Council does hereby find that repealing and restating Chapter 30 “Historic Preservation” accomplishes such objectives.

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

**SECTION 1. INCORPORATION OF PREMISES.** The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**SECTION 2. HISTORIC PRESERVATION ORDINANCE AMENDMENTS.** Chapter 30 of the Code of Ordinances of the City of Denison, Texas, the same being the City’s Historic

Preservation Ordinance, is hereby repealed in its entirety and replaced as provided in Exhibit A, attached hereto and incorporated herein.

**SECTION 3. SAVINGS/REPEALING CLAUSE.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 4. SEVERABILITY.** Should any section, subsection, sentence, clause, phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

**SECTION 5. PENALTY.** Failure to comply with any of the provisions of this ordinance shall be deemed a violation, and the violator shall be liable for a misdemeanor charge and be subject to a fine not to exceed five hundred dollars (\$500.00), unless related to health and public safety and each day that such violation continues shall constitute a separate offense and shall be punishable accordingly. These penal provisions shall not prevent an action on behalf of the City to enjoin any violation of the terms of this section or an action for mandatory injunction to remove any previous violation hereof. The City retains all legal rights and remedies available to it pursuant to local, state and federal law. The penalty if related to health and public safety will be the maximum allowed by law as set forth in the general penalty provision of the Code of Ordinances.

**SECTION 6. EFFECTIVE DATE.** This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

**SECTION 7. OPEN MEETINGS.** That it is hereby found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given, all as required by Article 551.041, Texas Government Code.

**AND IT IS SO ORDERED.**

On motion by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the above and foregoing ordinance was passed and approved on this the 18<sup>th</sup> day of December, 2023, by the following vote:

Ayes:  
Abstentions:  
Nays:

At regular meeting December 18, 2023.

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JANET GOTT, MAYOR

ATTEST:

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Christine Wallentine, City Clerk

**EXHIBIT “A”**  
**Chapter 30 Historic Preservation**

**Chapter 30 HISTORIC PRESERVATION**

**Sec. 30-1. Purpose.**

*Purpose.* The City Council of Denison, Texas (“City Council”), hereby declares that as a matter of public policy the protection, enhancement and perpetuation of districts and landmarks of historical and cultural importance and significance are necessary to promote the economic, cultural, educational and general welfare of the public. It is recognized that the historic districts and landmarks within the City of Denison represent the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually and produced significant historic, architectural and cultural resources that constitute their heritage; and, therefore, this chapter is intended to:

- (a) Protect and enhance the district and landmarks which represent distinctive elements of the City of Denison's historic, architectural and cultural heritage;
- (b) Foster civic pride in the accomplishments of the past;
- (c) Protect and enhance the City of Denison's attractiveness to visitors and the support and stimulus to the economy thereby provided;
- (d) Ensure the harmonious, orderly and efficient growth and development of the city;
- (e) Promote the economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the city; and
- (f) Stabilize and improve the values of such

properties. (Ord. No. 4937, § 3, 3-19-18)

**Sec. 30-2. Appointment of historic preservation officer.**

The City Manager or their designee shall appoint a qualified city official or staff person to serve as historic preservation officer (HPO). The HPO must have an interest, knowledge, and a demonstrated background in the disciplines of architecture, history, urban planning, real estate, legal, archeology, or other disciplines related to historic preservation. In the absence of a qualified official or staff person of the municipality, a consultant may be appointed to serve as HPO. The HPO shall be empowered to:

- (a) Administer this ordinance [from which this chapter derives] and advise the Historic Preservation Board (HPB) on matters submitted to it.
- (b) To maintain and hold open for public inspection all documents and records pertaining to the provisions of this article.
- (c) Receive and review all applications pursuant to this article to ensure their completeness.
- (d) Review and take action on all certificates of appropriateness applications subject to administrative review pursuant to this article.
- (e) Review and forward with any recommendations all applications for certificates of appropriateness subject to review by the HPB pursuant to this article.
- (f) Ensure proper posting and noticing of all HPB meetings, schedule applications for HPB review, provide packets to its members prior to the meetings, record meeting minutes and facilitate all



HPB meetings.

- (g) Review and help coordinate the city's preservation and urban design activities with those of local, state, and federal agencies and with local, state, and national preservation organizations in the private sector.
- (h) Develop and maintain a set of Denison Historic District Design Guidelines.
- (i) Coordinate with Main Street Office pertaining to design

guidelines. (Ord. No. 4937, § 3, 3-19-18)

### **Sec. 30-3. Designation of landmarks or historic districts.**

- (a) The City Council may designate by zoning ordinance certain buildings, sites, structures and objects of at least 50 years of age as historic landmarks and certain areas as historic districts. The designation can be at the request of the property owner, members of the community, the historic preservation board, or City Council. If the owner does not consent to the designation, a  $\frac{3}{4}$  vote of the City Council, planning and zoning, and historic preservation board is required. For properties owned by a religious organization, owner consent is required for designation. Such landmarks and districts shall bear the word "historic" in their zoning designation and shall be represented by designation "H" on the zoning map. The existing overlay district in the zoning ordinance is "CH" Commercial Historic Overlay District.
- (b) The HPB may recommend to the City Council, by way of the Planning and Zoning Commission, a building, site, structure to be designated as a landmark and/or a group of buildings, sites, and structures to be designated as a historic overlay district. Property owners of a proposed landmark or within a proposed historic district shall be notified 30 days prior to the HPB's hearing on the designation. At the HPB's public hearing, HPB members, owners and interested parties may present testimony or documentary evidence that will become part of a record regarding the historic, architectural or cultural importance of the proposed historic landmark or district. The record also may contain staff reports, public comments and other evidence offered outside of the hearing.

Upon recommendation of the HPB, the proposed historic landmark or district shall be submitted to the planning and zoning commission for its review and recommendation. The planning and zoning commission shall give notice, conduct its public hearing and make recommendations to the City Council in the same manner and according to the same procedures as specifically provided in the general zoning chapter of the Code. The City Council shall give notice, follow the publication procedure, hold public hearings and make its determination in the same manner as provided in the general zoning chapter of the Code.

The HPB shall make its recommendation, to be forwarded to the planning and zoning commission, within thirty (30) days from the date of submittal of the designation request. The planning and zoning commission shall schedule a public hearing on the HPB's recommendation to be held within forty-five (45) days of receipt of such recommendation.

Upon designation of an area as a historic landmark or historic district by the City Council, the designation should be recorded in the tax records of the city and the city's official zoning maps. All zoning maps should indicate the designated landmarks and districts by an appropriate mark.

A historic landmark or district may be designated if it is at least 50 years old and demonstrates that it:

1. Possesses significance in history, architecture, archeology and/or culture.
2. Is associated with events that made a significant contribution to the broad patterns of local, regional, state and/or national history.

3. Is associated with the lives of persons significant in our past.
  4. Embodies the distinctive characteristics of a type, period and/or method of construction.
  5. Represents the work of a master designer, builder and/or craftsman.
  6. Represents an established and familiar visual feature of the city.
  7. Is designated as a "high" or "contributing" classification in the Denison Historic Resources Survey, listed as a Recorded Texas Historic Landmark (RTHL), State Antiquities Landmark (SAL) or listed on the National Register of Historic Places (NR).
- (c) The HPB may recommend a district or a landmark to the City Council by way of Planning and Zoning Commission to be designated if it:
1. Contains properties which meet one (1) or more of the criteria for designation of a landmark.
  2. Constitutes a distinct historical significance of the city.
- The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the city secretary's office for public inspection.

**Sec. 30-4. Activities requiring a Certificate of Appropriateness.**

- (a) Prior to the commencement of any work that affects the exterior of a designated historic landmark or a structure within a designated historic district (in accordance with section 30-3), a certificate of appropriateness ("COA") shall be required. The application is available via the City website (at: <https://www.cityofdenison.com/historic-preservation>) or may be obtained from the Historic Preservation Officer. Any work must begin within six months of the issuance of the COA, or the COA will be null and void. The applicant is responsible for obtaining the required building permits before commencing work. Routine maintenance described in section 30- 11 does not require a COA.

COA shall be required from the appropriate body for the following activities:

1. All exterior painting requires a COA. No exterior painting is considered routine maintenance.
2. Minor modifications, including like-for-like replacement of equipment, landscaping, new signage including window vinyl, and window film shall require a COA approved by the historic preservation officer in accordance with the guidelines in section 30-5 and 30-6.
3. Major modifications, including changes to windows or doors, roofs, awnings, the addition of a new material, and substantial alterations to a structure shall require a COA approved by the historic preservation board in accordance with the guidelines in section 30-5 and 30-6.
4. New construction, the moving of, demolition of, and additions to landmarks or historic structures or within Denison's historic district shall require a COA approved by the historic preservation board in accordance with the guidelines in section 30-5 and 30-6.
5. Any exterior modifications to buildings and properties that are designated historic landmarks or within Denison's historic district require a COA be approved before modifications may begin. The COA from the HPB allows the applicant to proceed with planned work to the building following issuance of a building permit, if a building permit is required for the work. Any work initiated prior to receipt of a COA and/or without the appropriate building permit is in violation and is subject to penalties.
6. Any repairs considered emergency require notification to the HPO who can issue an emergency COA if in accordance with guidance in section 30-5.

- (b) Any COA must conform to the City of Denison Historic District Design Guidelines.

**Sec. 30-5. Criteria for approval of a Certificate of Appropriateness.**

To provide for a balanced evaluation of the project in question, the HPO and HPB shall follow the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as well as City of Denison Historic District Design Guidelines approved by Denison City Council and incorporated into this chapter by reference, and which may be updated from time to time ("Design Guidelines"), to assist in its consideration of all applications for COA. These standards and guidelines shall be made available to property owners of historic landmarks or property within a historic district.

**Sec. 30-6. Certificate of appropriateness procedures.**

- (a) Prior to the commencement of any work requiring a COA, the owner or the owner's representative shall submit an application for such certificate to the historic preservation officer. The property owner or the owner's representative shall consult with the historic preservation officer prior to submission of the application with regard to applicable standards and guidelines for the property.
- (b) The complete application shall contain information the HPO deems necessary, including:
  - (a) The name, address, telephone number of the applicant and a detailed description of the proposed work.
  - (b) The location and current photographs of the site, structure, and adjacent properties, as well as historic photographs, if available.
  - (c) Color elevation drawings of the proposed changes.
  - (d) Tangible samples of materials to be used including paint samples of colors.
  - (e) If the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, the method of attachment of the sign, the method of illumination (if any) and a plan showing the sign's location on the property.
  - (f) Letter of intent with details of request including materials proposed and areas affected, size and requested placement of signage, proposed colors and paint scheme.
- (c) A complete application must be received no later than two (2) weeks before the HPB meeting. Incomplete applications will not be accepted.
- (d) No building permit shall be issued for such proposed work until a COA has been issued by the HPO or HPB or, upon appeal, to the City Council pursuant to subsection (f) herein. The COA required by this section shall be in addition to and not in lieu of any building permit that may be required by another ordinance of the city.
- (e) After an application for COA is submitted, the HPO shall determine whether the application shall be eligible for administrative review, or the application shall be considered by the HPB. An application shall be eligible for administrative review by the HPO for minor modifications, including like-for-like replacement of material or features, landscaping, new signage including window vinyl, and window film in accordance with the guidelines in section 30-5 and 30-6. The HPO can approve minor modifications to an existing COA that still meets the intent of the original approval.
- (f) The HPO or HPB will approve, approve with modifications, table, or deny an application within forty-five (45) days, not including demolition requests, from receipt of a complete application.

- (g) All decisions of the HPO and HPB shall be in writing. For approved applications, a COA shall be sent to the applicant and a copy attached to the building permit for public inspection. The HPO or HPB's decision shall state the reasons for denying or modifying any application, adhering to the Secretary of Interior Standards for Rehabilitation and the City of Denison Historic District Design Guidelines.
- (h) Subsequent to a decision by the HPO or HPB, an appeal may be made by the applicant in accordance with the provisions of section 30-15 herein.
- (i) The applicant is highly encouraged to appear at the HPB meeting to present their application. If the applicant fails to appear, the HPB may table or deny the application.

**Sec. 30-7. Demolition and Catastrophic Loss Standards.**

- (a) A permit for demolition of a historic landmark or property within a historic district, including secondary buildings, shall not be granted by the Chief Building Official until the issuance of a COA for demolition by the HPB. In the event an Emergency Demolition is determined necessary by the Chief Building Official, the HPO may grant a COA to allow the Chief Building Official to approve an Emergency Demolition and issue a permit for that Emergency Demolition.
- (b) The HPB shall hold a public hearing on each COA application for Demolition within sixty (60) days from the date a complete application is received by the historic preservation office. Notice of the hearing shall be mailed to the property owner(s). Following the hearing, the HPB has thirty (30) days in which to prepare a written recommendation to the Chief Building Official detailing the deterioration and substantiating the demolition. If the HPB does not act within ninety (90) days of receipt of the application, a demolition permit may be granted.
- (c) In addition to the criteria and procedures established in Sect. 30-6, the HPB will use the criteria of this section in considering applications for demolition of designated historic landmarks and properties in a historic district:
  1. Professionally prepared cost estimates for continued maintenance of the property in its current condition, of rehabilitation, and of demolition.
  2. A stamped engineer or architect's report as to structural soundness to demonstrate that the property is not structurally sound despite evidence of their efforts to maintain it and that it cannot be preserved, restored, rehabbed, or reused.
  3. The HPB must determine that it is not possible or feasible to prevent demolition of the building.
- (d) Nothing herein shall be construed to impair, limit, or suspend the emergency powers of the City of Denison and its officials pertaining to demolition of structures in times of emergencies of calamity or natural disasters.
- (e) Applications for a COA for Demolition must include a Post-Demolition Redevelopment Plan, which must propose a building to replace the demolished building, and must include the following:
  1. Complete Architectural Drawings of proposed replacement building or, in cases where an existing underlying façade will be the replacement façade, a rendering of the expected appearance of the underlying façade, including a proposed restoration work;
  2. A written guarantee between the owner and the city that demonstrates the owner's intent and financial ability to construct a replacement building or façade or restore an existing underlying façade. The guarantee must:
    - a. Contain a covenant to construct the proposed structure by a specific date in accordance

- with architectural drawings depicting no shared walls that are approved by the city through the COA;
- b. Require the owner or construction contractor to post a performance and payment bond, letter of credit, escrow agreement, cash deposit, or other agreement approved by the City Manager or designee to ensure construction of the new structure; and
  - c. Be approved as to form by the city attorney.
3. When demolition of a building is proposed, the Post-Demolition Redevelopment Plan shall also include the following:
    - a. Site Plan for proposed replacement structure; and
    - b. Plan for temporary construction fencing. The plan shall include a depiction of any decorative elements that will be added to temporary construction fencing.
- (f) Temporary Construction Fencing meeting the following standards shall be installed following any building demolition or creation of a vacant lot due to catastrophic loss:
1. All temporary construction fencing requires an application for and approval of both a COA and a permit from the Department of Development Services.
  2. Temporary construction fencing must be comprised of chain-link metal and at least 6' in height. The fencing may be chain link metal panels. The fence should shield the entire site from view and access from right-of-way.
  3. Temporary construction fencing must provide a continuous opaque screen along the front property line.
  4. Temporary construction fence may include decorative elements, such as a mural, but such decorative elements shall require a COA approved by the HPB.
- (g) Emergency Demolition or Vacant Lot Due to Catastrophic Loss: the following standards shall apply to an emergency demolition, or a vacant lot caused by catastrophic loss of a building due to a fire or other act of God:
1. Emergency Demolition requires approval by the Building Official and issuance of an Emergency COA prior to the issuance of a demolition permit.
  2. Temporary fencing meeting the standards must be installed within fifteen (15) days of the date of the emergency demolition or catastrophic loss. The fencing shall be on all visible sides of the lot.
  3. If building construction activity onsite has not begun within one year of the date of the emergency demolition or catastrophic loss of the building, the temporary fence must be replaced by one of the options below. One extension of up to six months may be approved by the HPO if construction plans for the site have been submitted.
    - a. Landscaped site, with non-opaque fence, meeting the following standards:
      1. The applicant shall submit a scaled plan showing the vacant lot layout, the proposed landscaping and irrigation, and the proposed maintenance plan, which shall include provisions for trash removal, erosion management, and landscape maintenance.
      2. Surface shall include grass or other living ground cover, in any combination, provided that the total site is covered.
      3. Irrigation shall be provided consistent with the applicable standards for such systems.
    - b. Minimum six feet tall screening wall constructed out of brick, stone, or brick or stone veneer.
      1. Wall must be aligned with front wall of adjoining buildings.
      2. Wall shall provide a continuous opaque screen along the entire length of the front property line.

3. Property owner must provide for ongoing maintenance of the wall in compliance with minimum property standards.
  4. Upon redevelopment of the site, the screening wall must be removed.
- c. Alternative plan for beautification or activation of lot in line with the purpose and overall intent of the district, as approved by City Council.

**Sec. 30-8. Economic hardship criteria.**

- (a) For *Deviations*. If an application for COA is denied on the grounds that the proposed work will not comply with the criteria set forth in sections 30-5, and 30-6 above, and any Design Guidelines for the property, the owner shall have the right to seek deviations from the Design Guidelines and criteria on the basis of economic hardship. In order to be entitled to a deviation from the guidelines, the owner must prove by a preponderance of the evidence as referenced in the Application for Economic Hardship that they will have no reasonable opportunity to recover the cost of the proposed work if they are required to perform the work in accordance with the criteria and Design Guidelines. If the HPB finds that the owner has failed to satisfy this burden of proof, the COA will be denied. If the HPB finds that the owner would have no reasonable opportunity to recover the cost of the proposed work if performed in accordance with the criteria and the Design Guidelines, the HPB shall grant a deviation from the criteria and any applicable Design Guidelines and may issue a COA for the required work, with or without conditions.

The HPB may consider the following factors in determining the extent of the deviation granted:

1. The cost to perform the work in compliance with the criteria and Design Guidelines;
  2. The value of the property;
  3. The extent to which a deviation is necessary to allow the owner a reasonable opportunity to recover the cost of the work;
  4. Whether granting the deviation will harm an existing or proposed historic or landmark district or structure or property designated with a high priority rating; and/or
  5. Whether the proposed work is in harmony with the spirit and purposes of this section.
- (b) For demolition. An applicant whose COA for a proposed demolition has been denied may apply for relief on the grounds of economic hardship. In order to prove the existence of hardship, the applicant must prove by a preponderance of the evidence as referenced in the Application for Economic Hardship that:
1. The property is incapable of earning a reasonable return, regardless of whether that return represents the highest and best use.
  2. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return;
  3. The property has been listed with a licensed realtor for no less than 60 days; and/or
  4. The structure or property is in such a condition as to be irreparably damaged and, as such, poses a nuisance to the surrounding area and is a threat to the health, safety and general welfare of the community in a manner consistent with the provisions of chapter 5, article VIII of this Code, as amended.

**Sec. 30-9. Economic hardship application procedure.**

- (a) After receiving written notification from the HPB of the denial of a COA, an applicant may, within ten (10) working days, commence the hardship process by completing a request for economic hardship, unless the hardship application is filed simultaneously with the application for a COA. No consideration or action may be taken on the hardship application unless a denial of the COA has been issued. No building

permit or demolition permit shall be issued unless the HPB makes a finding that a hardship exists.

- (b) The HPB shall hold a public hearing on the hardship application at which an opportunity will be provided for proponents and opponents of the application to present their views. Notice of the hearing shall be mailed to the property owner(s).
- (c) The HPB and the historic preservation officer, in consultation with local preservation groups and other interested parties, shall explore with the owner, or his designated representative, alternatives for the performance of the proposed work that will preserve the structure or property to the greatest extent possible, while being economically feasible.
- (d) If a deviation is granted, the COA for the proposed work shall state the terms and conditions of the deviation.
- (e) All deviations shall be in compliance with other city codes and ordinances.
- (f) All decisions of the HPB shall be in writing. A copy shall be sent to the applicant and a copy filed with the city Clerk's office for public inspection. The HPB's decision shall state the reasons for granting or denying the hardship application.
- (g) The hardship determination may be appealed in accordance with section 30-15 herein.
- (h) In the event of an unresolved difference of opinion existing between the HPB and the chief building official concerning the soundness of the structure and the appropriateness of demolition, the application shall be heard by the City Council whose decision shall be final.

### **Sec. 30-10. Enforcement.**

All work performed pursuant to a COA issued under this chapter shall conform to any requirements included therein. It shall be the duty of the Building and/or Neighborhood Services Departments in coordination with the HPO and/or HPB to inspect any such work to ensure compliance. In the event work is found that is not being performed in accordance with the COA, a code compliance officer, building inspector, or the HPO shall issue a stop work order, and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect. Any violation of the stop work order may be subject to penalties in accordance with section 30-14. Work may be reinstated after the appropriate approvals and/or permits are granted.

### **Sec. 30-11. Routine maintenance.**

Nothing in this section shall be construed to prevent the routine maintenance, replacement or repair of any exterior architectural feature of a landmark or property within a historic district. A COA shall not be required for routine maintenance is maintenance that involves no change in materials, dimensions, design, configuration, texture, surface coating, or visual appearance for work meant to remedy damage deterioration of configuration, texture, surface coating, or visual appearance for work meant to remedy damage or deterioration of site elements, structures, or their supplemental fixtures. The HPO shall make all final decisions on whether an activity is "routine maintenance." Routine maintenance is considered maintenance that meets all the following criteria:

- (a) Does not require a building permit or COA;
- (b) Shall be limited to repairing broken elements, replacing roofs like-for-like (i.e .gray asphalt shingles with gray asphalt shingles), replacing door hardware, or replacing broken window glass or reglazing historic windows;
- (c) does not involve a change in design or material, color, painting or outward appearance; and
- (d) Keeps a structure unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition.

**Sec. 30-12. Demolition by neglect.**

No owner or person with an interest in real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the HPB, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself nor should an owner sell a property without full disclosure. Any failure to disclose may cause owner to be subject to penalties in accordance with section 30-14. It is the intent of this section to preserve from deliberate or inadvertent neglect the exterior features of buildings and structures so designated or included within the district and the interior portions thereof when such maintenance is necessary to prevent deterioration and decay of the exterior. All such buildings or structures shall be preserved against decay and deterioration and free from structural defects through prompt corrections of any of the following defects:

- (a) Facades or parts of facades which may fall and injure persons or property;
- (b) Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports;
- (c) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration;
- (d) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken windows or doors;
- (e) Defective or insufficient weather protection for exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering; or
- (f) Any fault or defect in the building which renders it not properly watertight or structurally unsafe.
- (g) Deterioration of any feature so as to create a hazardous condition, which could lead to the claim that demolition is necessary for public safety.
- (h) Once it has been determined that any building or structure designated as a landmark or included within a historic district has any of the above defects or has failed to be preserved in a manner that prevents deterioration of the exterior, the building owner will have 60 days to present a plan to the Historic Preservation Board. HPB will determine timeline and convey to the property owner.

**Sec. 30-13. Fees.**

An application for a COA for building or modifications will require no fee. An application seeking a COA for demolition or designation of a historic landmark or historic district shall be accompanied by an application fee, as set within the City’s comprehensive fee schedule, such fee to be collected by the historic preservation officer or designee at the time of application.

Any application for additions or extensions of work undertaken at the same location within six (6) months of the original application may be included in a revised application for a COA without incurring an additional application fee. Any subsequent additions or extensions will require a fee, as set within the City’s comprehensive fee schedule, such fee to be collected by the historic preservation officer or designee at the time of request for modification or extension.

**Sec. 30-14. Penalties.**



Failure to comply with any of the provisions of this chapter shall be deemed a violation, and the violator shall be liable for a misdemeanor charge and be subject to a fine not to exceed five hundred dollars (\$500.00), unless related to health and public safety and each day that such violation continues shall constitute a separate offense and shall be punishable accordingly. These penal provisions shall not prevent an action on behalf of the city to enjoin any violation of the terms of this section or an action for mandatory injunction to remove any previous violation hereof. City of Denison retains all legal rights and remedies available to it pursuant to local, state and federal law.

The penalty if related to health and public safety will be the maximum allowed by law as set forth in the general penalty provision of the Code of Ordinances. (Ord. No. 4937, § 3, 3-19-18)

### **Sec. 30-15. Appeals.**

Any person aggrieved by a decision of the HPO relating to a COA may, within fifteen (15) days of receipt of the written decision, file a written application with the historic preservation board, through the historic preservation officer, for review of the decision and the approval, denial, modification of, or deviation from, the HPO's decision. The appeal application shall be set before the HPB at its first available meeting.

Any person aggrieved by a decision of the HPB relating to economic hardship, a COA, or an appeal of a decision by the HPO to the HPB may, within fifteen (15) days of receipt of the written decision, file a written application with the City Council, through the office of the city clerk, for review of the decision and the approval, denial, modification of, or deviation from, the HPB's decision. The appeal application shall be set before the City Council at the first available City Council meeting. The City Council's decision shall be final.

### **Sec. 30-16. No vested interest.**

No developer or property owner shall acquire any vested interest in this section or specific regulations contained herein. This section and regulations may be amended or repealed by the City Council in the manner provided by law.

# City Council Meeting Staff Report



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## Agenda Item

Receive a report, hold a discussion and take action on a resolution adopting Design Guidelines for the Historic Preservation District.

## Staff Contact

Donna Dow, Main Street Director

[ddow@cityofdenison.com](mailto:ddow@cityofdenison.com)

903-464-4452

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## Summary

- The Denison Historic Preservation Board previously adopted Design Guidelines. A complete overhaul of the guidelines has occurred over the last nine months.
- Our Historic Preservation Consultant assisted by commenting and reviewing our suggestions.
- The Certified Local Government staff at the Texas Historic Commission has also reviewed our proposed guidelines.
- Staff requests Council approval as we believe it will provide clearer guidance to property owners so they can help protect our historic overlay district.

## Staff Recommendation

Staff recommends approval of the item based on thorough review and overall input by all departments.

## Recommended Motion

“I move to adopt the Historic Preservation Design Guidelines as presented.”

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## Background Information and Analysis

the City Council (the “City Council”) of the City of Denison, Texas (the “City”) adopted Chapter 30 of its Code of Ordinances, the same being the Historic Preservation Ordinance of the City, for the protection, enhancement and perpetuation of districts and landmarks of historical and cultural importance and significance as necessary to promote the economic, cultural, educational and general welfare of the public. The Design Guidelines were developed as a guide to assist and educate property owners, design professionals, real estate professionals and developers. The Historic Preservation Ordinance incorporates the Denison Historic District Design Guidelines.

The Denison Historic Preservation Design Guidelines has been under review by a group of City leadership, staff, the City Attorney and was also thoroughly reviewed by not only other City departments but also our consultant and Texas Historic Commission staff.

It is accompanied by Historic District Ordinance which is also on this agenda. Some of the items previously in the guidelines were clarified, strengthened, and updated. Various portions such as solar energy systems were added to accommodate current circumstances.

## Financial Considerations

The item has no financial considerations.

**Prior Board or Council Action**

This item has been presented to the Council as an update. It was only an update, and no action was taken. Previously, the Council adopted the Design Guidelines.

**Alternatives**

Additional changes can be made to the guidelines, or it could remain as is.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS ADOPTING DESIGN GUIDELINES FOR THE HISTORIC PRESERVATION DISTRICT; PROVIDING SEVERABILITY, SAVINGS AND REPLEALING CLAUSES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council (the “City Council”) of the City of Denison, Texas (the “City”) adopted Chapter 30 of its Code of Ordinances, the same being the Historic Preservation Ordinance of the City, for the protection, enhancement and perpetuation of districts and landmarks of historical and cultural importance and significance as necessary to promote the economic, cultural, educational and general welfare of the public; and

**WHEREAS**, the Historic Preservation Ordinance incorporates the Denison Historic District Design Guidelines (“Design Guidelines”), as set forth in **Exhibit A**, attached hereto and incorporated as if fully set forth herein, as a guideline to establish the goals set by the City for rehabilitation; and

**WHEREAS**, the Design Guidelines were developed as a guide to assist and educate property owners, design professionals, real estate professionals, developers; and

**WHEREAS**, the City Council now desires to adopt the Design Guidelines in order to better accomplish the goal of rehabilitating the area while promoting reinvestment.

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

**SECTION 1: Findings.** The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

**SECTION 2: Design Guidelines.** The City Council does hereby resolve that the Design Guidelines, as set forth in **Exhibit A**, attached hereto and incorporated as if fully set forth herein, are hereby adopted. The Design Guidelines are incorporated by reference into Chapter 30 of the City’s Code of Ordinances.

**SECTION 3. Severability.** If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this Resolution or the application thereby shall remain in effect, it being the intent of the City Council of the City of Denison, Texas, in adopting this Resolution, that no portion thereof

or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any portion or provision.

**SECTION 4. Savings/Repealing Clause.** All provisions of any resolution in conflict with this Resolution are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending action for violation of the repealed resolution, nor shall the repeal prevent an action from being commenced for any violation if occurring prior to the repeal of the resolution. Any remaining portions of said resolutions shall remain in full force and effect.

**SECTION 5: Open Meeting.** It is officially found, determined and declared that the meeting at which this Resolution 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 Resolution was given, all as required by Chapter 551, as amended, Texas Government Code.

**SECTION 6. Effective Date.** This Resolution shall be in force and effect immediately upon final passage, and it is so resolved.

On motion by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the above and foregoing Resolution was passed and approved at a Regular Meeting of the City Council of the City of Denison, Texas, on this the 18<sup>th</sup> day of December, 2023.

Ayes:

Nays:

Abstentions:

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JANET GOTT, MAYOR

ATTEST:

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Christine Wallentine, City Clerk

## **Exhibit A**



# **Denison Historic District**

## **Design Guidelines**

**Revised October 13, 2023**

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- Downtown Denison Historic District
- Intent
- Secretary of the Interior’s Standards for Rehabilitation

### **Chapter 2: PRINCIPLES**

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- Contributing vs. Non-Contributing Resources

### **Chapter 3: GUIDELINES**

- Character-defining features
- Maintenance
- Alterations
- Additions
- Energy Efficiency
- Building Materials and Finishes
- Building Components
- Accessory Features
- Landscaping

### **Appendices: BUILDING QUICK GUIDE**

- Map of Historic District Overlay
- Recommended Color Palette
- Resources



## **Chapter One- INTRODUCTION**

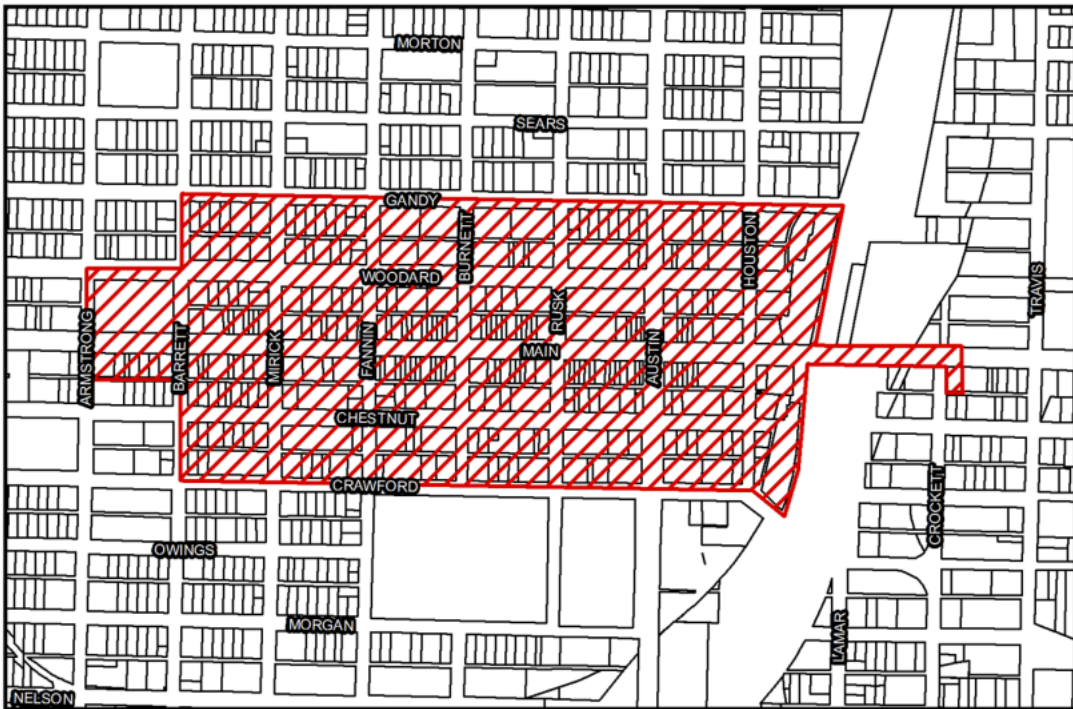
### **1.01. Downtown Denison Historic District – 1875 to 1930**

The City of Denison is located on U.S. Highway 69 in northeastern Grayson County. The town was founded in advance of the arrival of the Missouri, Kansas and Texas Railroad (MKT or Katy). The land for the town was purchased in the early 1870s by William Munson, Sr. and R.S. Stevens working in conjunction with officials from the MKT, land investors and developers. In the summer of 1872, the town site was laid out. It was named after the vice-president of the MKT, George Denison. The first train arrived in town December 24, 1872. By the time the town was incorporated in the summer of 1873, there were over 3000 residents. Main Street was established and thriving as the commercial center. The town was platted the way most of the railroad communities were laid out, with a grid pattern. The difference in Denison was the width of the major streets including Main Street and Woodard Street. These two streets were 100 feet wide, probably to accommodate large wagons delivering and picking up goods from the railroad. The town lots were carefully measured with 25 foot lot widths along Main, Chestnut, Crawford, and Woodard streets so to encourage retail and business uses there. The railroad station, auxiliary buildings and utilities are located at the east end of Main Street.

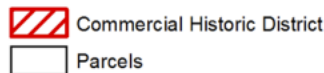
By the 1880s, the 100, 200, and 300 blocks of West Main Street were completely developed with masonry buildings on both sides. The 400 and 500 blocks developed in the 1890s and early 1900s, and the 600 block was built during the 1900-1920 period.

While many of the historic downtown buildings are a handsome commercial style, the oldest ones have a definite Italianate character. Buildings constructed shortly after the turn-of-the-century show various stylistic influences, such as Beaux Arts Revival and Classical Revival. A few facades were rebuilt in the Art Moderne or Art Deco style from the 1930s to 1940s. Other buildings had large plate glass windows bricked in, as the second floor offices or rooms for rent went out of fashion.

Downtown Denison includes 30 city blocks centered on Main Street from the railroad right-of-way (east) to Barrett Avenue (west) and from Gandy Street (north) to Crawford Street (south) and extending east to include the Traveler's Hotel and west to include the 700 block of W. Main. The City of Denison established this area as a local historic district in 1983. Within this larger district is the Denison Commercial National Register Historic District, which was listed in the National Register of Historic Places in 1983. Both districts have a period of significance spanning from 1875 to 1930 with some buildings' history beginning subsequent to this time period. Chapter 30 of the Denison City Code (adopted 2003; revised 2023) creates the local historic district and provides for city staff and the Denison Historic Preservation Board to review all applications for alterations to the exterior of buildings within the Commercial Historic Overlay District (CHOD) also known as the Downtown Denison Historic District and Denison Commercial Historic District.



## Denison Commercial Historic District



### 1.02. Intent

The City of Denison through its Main Street Department supports the integration of historic preservation and downtown development to create a working, growing, and aesthetically pleasing business and cultural center. This approach seeks to reinforce and enhance economic vitality in our historic downtown district while promoting the smalltown character and charm that comprise Denison, Texas.

The purpose of this document is to guide the rehabilitation of downtown while promoting reinvestment. These design guidelines seek to assist and educate property owners, design professionals, real estate professionals, developers, city staff, and the Denison Historic Preservation Board in determining the types of alterations that will maintain the unique qualities of the Downtown Denison Historic District. The guidelines help maintain the character of a historic area and protect its visual aspects, while improving the quality of development. Guidelines do not provide case-specific advice but are a general guide for changes to historic buildings.

These guidelines are intended to integrate with and not supersede the Denison Code of Ordinances. City code establishes when variances may be appropriate. The Downtown Denison Historic District is a

Commercial Historic (CH) Overlay District (Sec. 28.47) primarily encompassing the Central Area (CA) Zoning District, which is defined in the city code (Sec. 28.39).

### **1.03. Secretary of the Interior’s Standards for Rehabilitation**

All guidelines presented in this document align with the historic preservation standards established by the US Department of the Interior and accepted by the Texas Historical Commission and the City of Denison. The City’s preservation ordinance, city code (Sec. 30), establishes that the Historic Preservation Officer and the Historic Preservation Board will follow the Secretary’s Standards for Rehabilitation as well as the City of Denison’s Historic District Design Guidelines in consideration of all applications for certificates of appropriateness.

The US Department of the Interior defines four treatment approaches to historic properties: preservation, rehabilitation, restoration, and reconstruction, with rehabilitation defined as “the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical or cultural values.” The Secretary of Interior’s Standards for Rehabilitation (Standards) form the foundation for these design guidelines. The National Park Service, an office within the Department of the Interior, created these ten basic principles (the Standards) in 1977 (amended 1990) to guide the preservation of the historic integrity of a building. Integrity is defined for this document as the ability of a property to convey its significance through the survival of physical characteristics. Seven aspects of historic integrity are considered to be location, design, setting, materials, workmanship, feeling, and association.

The Standards, recognize the need for adapting historic structures to modern times and therefore allow for changes and new construction that are compatible with the building and/or the historic district. The Standards are general enough that they apply to all architectural styles, periods, and building types. The detailed guidelines included in this document provide a local interpretation of the Standards. The City of Denison, as well as the Historic Preservation Board, seek to apply the Standards in a reasonable manner, taking into consideration economic and technical feasibility of the project.

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

## Chapter Two-PRESERVATION PRINCIPLES

### 2.01. Basic Principles of Historic Preservation

While design guidelines provide direction for specific design issues, there are basic principles of building rehabilitation that provide the foundation. The following principles apply (Secretary of the Interior Standards are in parentheses):

#### ***Retain Distinguishing Features (Standards #2, 5)***

Every building possesses some components that contribute to its architectural character. During rehabilitative work, an effort should be made to retain these historic features.

#### ***Avoid Imitative Historic Features for which there is No Historical Basis (Standards #3,9)***

Some owners tend to make alterations to a building that have no foundation in history; they may try to make the building appear to be older than it actually is, for example. In general alterations should be in character with the specific historic building.

#### ***Retain Later Additions of Significance (Standard #4)***

Most buildings have been altered periodically. A porch or sunroom may have been added, for example, and these changes are evidence of the building's history. Such changes may be significant in their own right if they contribute to the property's significance, define the historic character of the building and retain integrity.

#### ***Retain Crafted Elements and Details (Standards #2, 5)***

Many existing historic buildings possess characteristics that would be difficult or impossible to reproduce today. These elements include such things as molded cornices, cast iron work, terra cotta ornaments, and plaster decorations. Elements like these give character to a historic building that distinguishes it from more recent buildings.

#### ***Repair, Don't Replace (Standard #6)***

Historic building elements should be retained whenever possible. While some replacement elements may closely match the appearance of the historic, newer elements will generally reduce the integrity and historic value of the building.

#### ***Use Careful Cleaning Methods (Standard #7)***

Harsh cleaning methods for building materials, historically wood and masonry, are discouraged. These methods often have an adverse effect on the visual qualities of the surface and thereby affect the overall appearance of a building. In fact, such methods often undermine the structural and physical integrity of building materials.

### ***Design Compatible Additions and Construction (Standards #9, 10)***

Compatible designs for additions and alterations are encouraged. New construction and alterations should reflect the basic architectural forms of the building and context. Additions should relate to the existing building in terms of height, mass, lot placement, ratio of solid to void, and materials. Additions should be designed to reinforce visual attention on the building to which they were added. Another way to understand this concept is to think of the addition as a visual background to the existing historic buildings.

### ***Plan for Reversibility (Standard #10)***

Wherever possible, alterations should be 'reversible'. New additions or alterations should be designed so that the historic fabric of the existing building remains unaltered. The character and detail of the historic building can be restored if alterations or additions are removed at a later date.

## **2.02. Contributing vs Non-Contributing Properties**

The Downtown Denison Historic District contains resources that either contribute or do not contribute to the historic significance of the district.

**Contributing resource**---a building, site, structure, or object adding to the historic significance of a district. These resources date to the period of significance, retain a substantial amount of historic material, design, and workmanship, and convey the commercial and architectural history of the district.

**Non-contributing resource**---a building, site, structure, or object that does not add to the historic significance of a district. These resources post-date the district's period of significance and/or no longer retain historic materials, design, and workmanship to convey its historic associations with the district. In some cases, the historic integrity is covered by inappropriate materials, which if removed, could render the resource contributing.

The City strives to maintain contributing resources and work toward converting noncontributing resources into contributing. Great consideration should be given to proposed alterations to all resources within the district. Inappropriate alterations could result in a building becoming non-contributing. The loss of contributing buildings could result in the loss of the historic designation of the district.

## Chapter Three-GENERAL DESIGN GUIDELINES

### 3.01. Character-Defining Features

Character-defining features of historic buildings should be retained. Collectively, these features are the building blocks that define the unique character and context of neighborhoods and districts, as well as the identity for the City as a whole. Typical character-defining features include (but are not limited to): historic wall materials, decorative cornices, pilasters and columns, vertically aligned upper-story windows, larger first floor openings, and trim around the openings. Planning for rehabilitation of a historic building should begin with the identification of its historic character-defining features.

#### **Guideline 3.01.1-Retain intact character-defining features.**

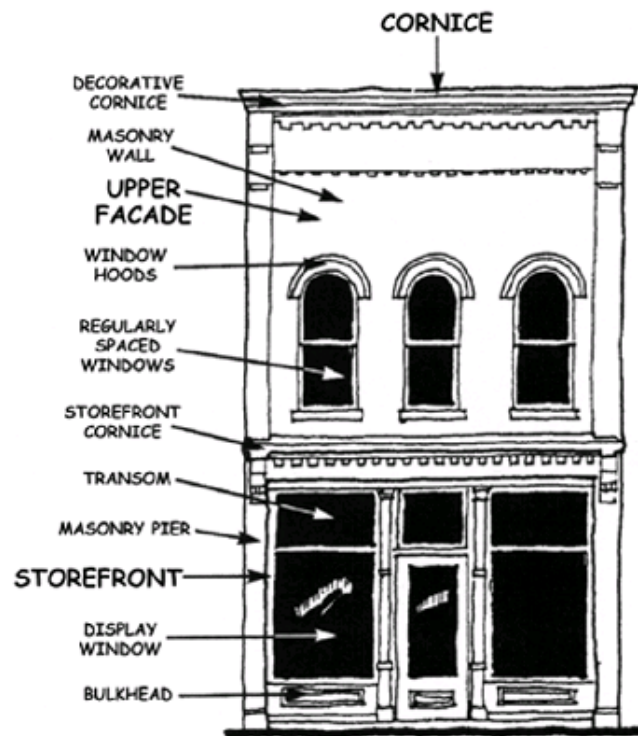
- (a.) Do not remove or damage character-defining features.
- (b.) Preserve intact features with appropriate maintenance techniques.
- (c.) Applicable Standards: 2, 5

#### **Guideline 3.01.2-Repair damaged historic features.**

- (a.) Use methods that will not harm remaining historic materials.
- (b.) If a feature is to be removed during repairs, carefully identify how the feature will be stored during rehabilitation.
- (c.) Applicable Standards: 2, 5, 6, 7

#### **Guideline 3.01.3-Replace features that are missing or beyond repair.**

- (a.) Reconstruct only those portions that are beyond repair using identical or similar materials.
- (b.) Reconstruct or replace missing features based on documented historic evidence.
- (c.) Avoid creating details from speculation that could give a false impression from the age or character of the building.
- (d.) Consider a simplified interpretation of historic elements if evidence is not available.
- (e.) Applicable Standards: 2, 3, 6, 9



TRADITIONAL  
FACADE  
COMPONENTS

### **3.02. Maintenance**

Ordinary building maintenance is essential to realizing the advantages of historic construction and materials. Maintenance costs are relatively small compared to the costs associated with repair or replacement of building components. Regular maintenance ensures that durable qualities of a building are sustained. Maintenance is essentially preventative, avoiding the need for consideration of repair or replacement. Intervention as soon as any deterioration becomes apparent should be pursued. A periodic maintenance regimen will usually preempt the need for any repair. Ordinary maintenance also does not usually require review by the City or the Historic Preservation Board.

**Guideline 3.02.1 – Program a regular and thorough maintenance schedule to ensure that the need for repair or replacement of historic features and materials is avoided.**

- (a.) Plan periodic maintenance schedules to address the effects of seasonal weather conditions.
- (b.) Pay particular attention to areas that are exposed or where water may gather.
- (c.) Review the building interior for any signs of distress or failure.
- (d.) Act on the first signs of any deterioration to prevent more costly intervention later.
- (e.) Applicable Standards: 2, 6

### **3.03. Alterations**

Buildings undergo alterations over time, and compatible changes may occur to historic buildings. Alterations should be planned to retain a building's historic integrity. Alterations should be designed to avoid destruction of character-defining features, so that the building will continue to convey its historic character.

**Guideline 3.03.1-Design an alteration to be compatible with the historic character of the property.**

- (a.) Avoid alterations that would hinder the ability to interpret the architectural character or significance of the existing historic building.
- (b.) Avoid alterations that seek to imply stylistic or historical components that are inconsistent with the style or period of the existing or historic building. For example, it would be inappropriate to apply Spanish Colonial Revival elements to a Mid-Century modern building.
- (c.) Applicable Standards: 1, 2, 3, 6, 9

**Guideline 3.03.2-Avoid alterations that remove or damage historic features**

- (a.) Seek to repair damaged or deteriorated historic features. Missing features too deteriorated to be repaired should be replaced in kind from documented evidence including photographs or physical evidence.
- (b.) Do not cover up historic features. Allow subsequent modifications to the historic building that may have gained in historic interest or importance to remain, repairing as necessary.
- (c.) Any new equipment should be attached to the building without damaging or obscuring

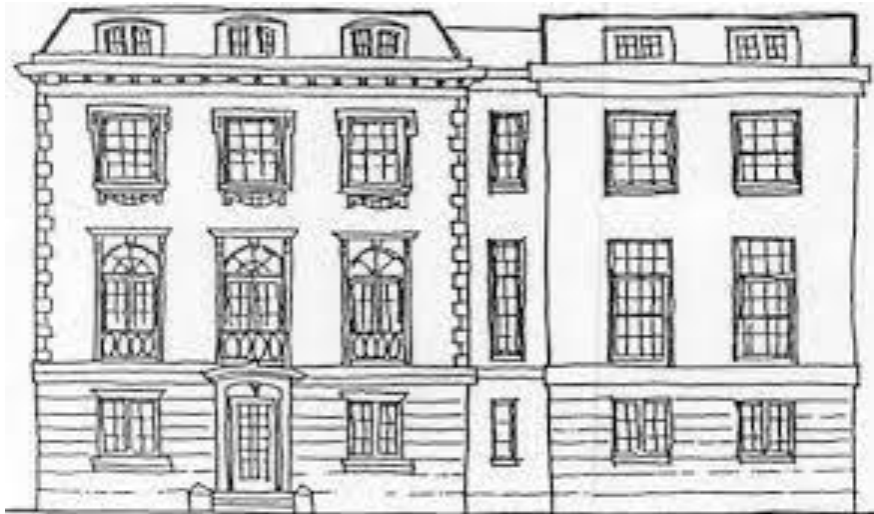


historic materials.

(d.) Applicable Standards: 2, 5, 6, 7, 9

### 3.04. Additions

Additions should be considered only after determining that the existing square footage within a historic building will not meet the needs of the new use. Additions may take a variety of forms, ranging from an increase in floor space by an extension to the building footprint to an increase in the building height with a rooftop addition. An addition should be designed to respect and complement the character of the historic building using compatible forms, materials, and finishes. It should also be designed to be less visually commanding than the existing historic building. Additions to non-contributing buildings should not compromise the historic character of the historic district. Setbacks, massing, and scale should be compatible with the district and the established regulations of the Central Area Zoning District and Commercial Historic Overlay District. (*Reference* Sec. 28.39. - CA—Central Area District; Sec. 28.47. - CH—Commercial Historic Overlay District)



**Guideline 3.04.1-An addition should be less prominent in scale and appearance than the historic building.**

- (a.) Additions should be of harmonious or compatible design in relation to the existing building in terms of mass, scale, and form.
- (b.) Additions should be positioned so that the visual prominence remains with the historic building.
- (c.) Rooftop additions are generally inappropriate for one-story buildings. Rooftop additions on historic two-or-more-story buildings should be kept to the rear half of the building and not exceed one story in height.
- (d.) Do not locate an addition to the front of a building; in general, this is inappropriate.
- (e.) Additions should not be larger than the historic building.

(f.) Applicable Standards: 1, 2, 5, 9, 10

**Guideline 3.04.2-An addition should be consistent with the materials and detailing of the historic building**

- (a.) Design an addition to complement the character of the existing historic building and adjacent historic buildings.
- (b.) Style and detail of the addition can be simplified and provide a positive design effect and to differentiate the new construction from the historic.
- (c.) Match principal historic materials if possible.
- (d.) Provide complementary design interest and vitality by using design contrast, for example, using a higher proportion of glazing than that of the existing historic building.
- (e.) Applicable Standards: 1, 2, 3, 6, 9

**Guideline 3.04.3-An addition should not damage or obscure architecturally important features.**

- (a.) Locate additions to connect to the existing historic building on less important façades, which are generally the back and non-street facing sides of the building.
- (b.) Design additions to respect the existing pattern and detail of windows and doors.
- (c.) Do not cover or alter windows and doors on street facing façades.
- (d.) Avoid the loss or alteration of a cornice line.
- (e.) Applicable Standards: 1, 2, 5, 9, 10

**Guideline 3.04.4-A rooftop addition should not change the proportions of the architectural composition of the building's street facing façades.**

- (a.) Do not visually detract from the front façade appearance with a rooftop addition.
- (b.) Set a rooftop addition back from the front façade to ensure that it will not be visible or will only be minimally visible by a person standing on the ground across the street from the street facing side of the building.
- (c.) Design the addition to complement the building in form, height, massing, materials, and color.
- (d.) Design the addition to be less visually important than the existing building.
- (e.) Applicable Standards: 1, 2, 5, 9, 10

### **3.05. Infill**

New construction within the historic district should be encouraged where the design and materials are appropriate. New construction provides another avenue of downtown investment. Similar to additions, new construction/infill can take a variety of forms, but generally it should complement the design precedent of the historic district. Setbacks, massing, and scale should be compatible with the district and the established regulations of the Central Area Zoning District and Commercial Historic Overlay District. (*Reference* Sec. 28.39. - CA—Central Area District; Sec. 28.47. - CH—Commercial Historic Overlay District)

**Guideline 3.05.1-New construction should defer to the surrounding context.**

- (a.) Follow the established street-facing setbacks of adjacent buildings. A recessed façade within a row of historic zero-setback buildings would disrupt the streetscape.
- (b.) The new construction should not overwhelm adjacent historic buildings by its height. Taller buildings may be more appropriate for the periphery of the district.
- (c.) New construction should be undertaken to minimize potential harm to historic materials and character-defining features of adjacent historic buildings.
- (d.) When infill occurs on vacant lots between adjacent historic buildings, the new construction should span the width of the parcel to retain the completeness of the streetscape.
- (e.) Keep new free-standing buildings to the periphery of the historic district rather than within the middle of the district with tight streetscapes.
- (f.) New construction should retain the gridded block plan of downtown. Streets and historic alleyways should be retained and not incorporated into the footprint of a new building.
- (g.) Setbacks, massing, and scale should be compatible with the central area zoning district and commercial historic overlay district ordinance requirements. (*Reference Sec. 28.39. - CA—Central Area District; Sec. 28.47. - CH—Commercial Historic Overlay District*)
- (h.) Applicable Standards: 1, 9, 10

**Guideline 3.05.2-The design and materials of new construction should complement the design and materials of the historic district.**

- (a.) The design of the primary or front façade should follow the one- and two-part commercial block design of the district. In general, one-story buildings should have storefront systems with clear glass display windows with bulkhead. Two-story buildings should have a similar storefront with smaller windows in the second story. All glass two-story facades are not appropriate.
- (b.) Roof design should follow the precedent of the district’s historic buildings. For example, a gable roof would be inappropriate if the adjacent buildings have flat roofs.
- (c.) Materials used in new construction should complement the historic materials of the district and specifically adjacent historic buildings.
- (d.) Applicable Standards: 9, 10

**3.06. Non-Contributing Resources**

While the majority of the resources within the historic district are contributing, there are some that do not contribute to the district because of age or inappropriate alterations. These alterations include anything from later slipcovers, demolition (partial or full), and/or the removal of historic character-defining features (cornices, storefronts). Proposed changes to non-contributing buildings should complement the historic integrity of the district.

**Guideline 3.06.1-If a non-contributing building dates to the period of significance, alterations should prioritize restoring a historic appearance to change the status to contributing.**

- (a.) Investigation of whether historic materials remain should be undertaken before any work is performed.
- (b.) Remaining historic materials should be retained and protected during work on the building.
- (c.) Applicable Standards: 1, 2, 4

**Guideline 3.06.2-Non-contributing resources should be evaluated in their existing state to determine if the current appearance may have gained historic significance.**

- (a.) Some alterations undertaken in the recent past, such as the addition of a mid-century slipcover or storefront, may have gained historic significance.
- (b.) If possible, prioritize retention of materials and design that have gained significance.
- (c.) Applicable Standards: 4

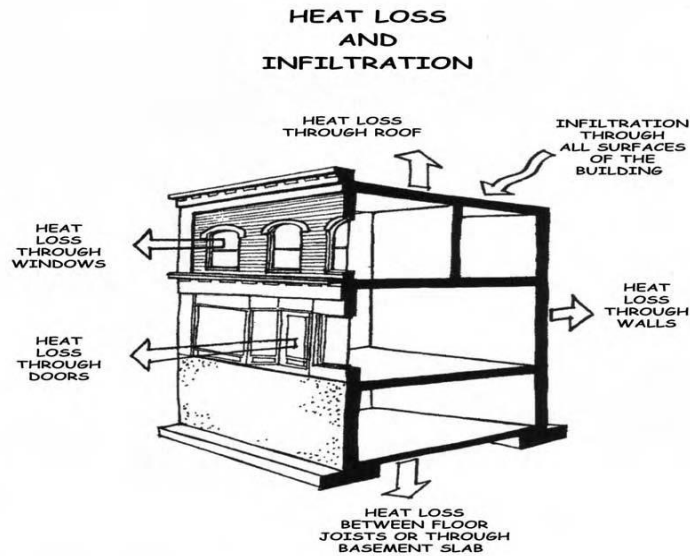
**Guideline 3.06.3-Alterations to non-contributing buildings that post-date the district's period of significance should complement the precedent of the historic district.**

- (a.) Overwhelming additions to non-contributing buildings are inappropriate.
- (b.) Material selection should complement the materials in the district. Substitute materials may be appropriate in some instances.
- (c.) Applicable Standards: 9, 10

**Guideline 3.06.4-Non-contributing parking lots and vacant lots should be prioritized for new construction to rebuild some of the historic density of the downtown district.**

### **3.07. Energy Efficiency**

Historic buildings tend to be constructed of materials which have natural energy management advantages. Masonry is slow to warm and slow to cool, providing a moderating influence on temperature extremes. Possibilities and opportunities for enhancing the energy management efficiencies of historic buildings are many and varied. New sustainability features introduced to an existing building should have a limited impact on the historic character.



**Guideline 3.07.1-Air Filtration**

- (a.) Add weather-stripping to reduce free flow of outside air into the building.
- (b.) Where appropriate, caulk open joints in the exterior walls. Caulking should match the color of the adjacent building materials.
- (c.) Do not use caulk as a substitute for missing mortar, which should be repointed instead.
- (d.) Do not plug holes intended to vent building components such as weep holes at the base of a masonry wall or small vent holes intended to vent the air space between storm windows and existing or historic windows.

**Guidelines 3.07.2-Attic and Roof Insulation**

- (a.) Add insulation to an accessible attic space, a source of the majority of heat loss in a historic building.
- (b.) Maintain adequate attic ventilation to prevent condensation.
- (c.) If the attic is inaccessible, it may be appropriate to add insulation to the ceiling of the top floor of the historic building.
- (d.) Rigid insulation may be added to a “flat” roof during a re-roofing project.

**Guideline 3.07.3-Wall insulation**

- (a.) Introducing new wall insulation in historic buildings with intact historic interiors is not recommended.
- (b.) Follow manufacturer’s instructions when insulating the walls historic buildings to deter water retention in the insulation layer which will lead to the deterioration of other building materials.
- (c.) Do not insulate air spaces or cavities of exterior masonry walls of historic buildings because

it will inhibit the wall system's ability to dispense with condensation and humidity that may lead to the deterioration of the wall.

**Guideline 3.07.4-Basement and Crawl Space Insulation**

- (a.) Insulate ceiling spaces of unheated basements and crawl spaces.
- (b.) In heated basements, walls may be insulated to a point at least three feet below the exterior ground plane.

**Guideline 3.07.5-Duct and Pipe Insulation**

- (a.) Follow manufacturer's instructions and install insulation around existing heating ducts and exposed pipes.
- (b.) When installing new pipes and ducts that may be enclosed in walls and bulkheads, install insulation around them before enclosing with other building materials.

**Guideline 3.07.6-Replacement Windows and Window Film**

- (a.) Consider replacing non-historic windows in such a way as to replicate the historic building's historic windows.
- (b.) Replacing previously replaced windows will permit the use of insulated (double-paned) glazing, if desired.
- (c.) Installing clear, low-emissivity (low-e) glass or film without noticeable color in historically clear windows will reduce solar heat gain.
- (d.) Refer to Section 5.01 for additional guidance.

**Guidelines 3.07.7-Storm Windows**

- (a.) Properly sized and installed storm windows provide equal insulative qualities as non-historic double-paned windows.
- (b.) While interior storm windows are preferred, exterior storm windows may be appropriate.
- (c.) Existing storm windows should be maintained to be tight fitting to the opening and be in good working condition.
- (d.) Do not damage existing historic windows and adjacent building materials during storm window installation.
- (e.) Storm windows should use visually clear glass and frame should be colored to match the existing window frames.
- (f.) Clear low-e coatings may be applied to storm windows or interior window surfaces.
- (g.) Intermediate divisions and frame pieces should align with mullions and meeting rails of the existing window.
- (h.) Refer to Section 5.01 for additional guidance.

**Guidelines 3.07.8-Window Film**

- (a) Installing clear, low-emissivity (low-e) glass or film without noticeable color in historically clear windows will reduce solar heat gain.

- (b) Retrofit historic windows with high-performance glazing or clear film, when possible, and only if the historic character can be maintained.

**Guideline 3.07.9- Doors and Storm Doors**

- (a.) Most historic solid or paneled wood doors have good thermal properties and should be retained.
- (b.) Apply weather stripping and caulking to minimize air infiltration around the door.
- (c.) Consider adding a storm door to infrequently used historic doors.
- (d.) Storm doors should permit view of the historic doors they protect.
- (e.) Refer to Section 5.03 for additional guidance.

**Guidelines 3.07.10-Awnings and Shade Devices**

- (a.) Consider using awnings and canopies to shade exterior windows and doors to reduce heat gain in summer months.
- (b.) Consult early or historical photographs for physical evidence of past awnings or canopies that may no longer be in place.
- (c.) Refer to Section 5.06.3 for additional guidance.

**Guideline 3.07.11-Vestibules**

- (a.) Create an interior secondary air space at a frequently used doorway to reduce air infiltration.
- (b.) Refer to Section 5.03 for additional guidance.

**Guideline 3.07.12-Building Systems and Appliances**

- (a.) Upgrade existing mechanical and electrical systems to capitalize on energy savings from modern equipment.
- (b.) Upgrade appliances to maximize energy savings from their use.
- (c.) Solar panels should be installed in locations that minimize or fully hide the equipment from view of the public right-of-way. For example, roofs of commercial buildings provide good locations as the surrounding parapets provide adequate screening.

**3.08. Accessibility and Life-Safety**

Historic buildings do not always accommodate the needs of people with disabilities or meet modern building codes. Where necessary, buildings should be sensitively adapted to accommodate disabilities and meet life-safety requirements. Proposed alterations should consider the potential impact to the historic building, as well as the streetscape.

**Guideline 3.08.1-Accessibility**

- (a.) New entry vestibules should be designed to accommodate people with disabilities.
- (b.) Consider adapting door sills on primary elevations to accommodate people with mobility devices.

- (c.) Accessible ramps should not obstruct character-defining features of the façade. Consider adapting entrances to connect to internal ramps.
- (d.) Consider creating accessible entrances on secondary elevations if such entrances on the primary façade cannot be accomplished in a way that meets the Standards.

**Guideline 3.08.2-Life-Safety**

- (a.) Fire egress should prioritize the retention of the historic design and materials of the front of the building. Storefronts that require additional egress should be designed to minimize historic material loss.
- (b.) Where possible, new egress openings should be within secondary elevations.
- (c.) New metal fire escapes, where necessary, should be installed on secondary elevations.
- (d.) Utilize the interior of the historic building for placement of new egress stairs. Avoid constructing new egress stair towers on facades or primary elevations.



## Chapter Four-DESIGN GUIDELINES FOR MATERIALS

Building materials are important in identifying the character and age of a building. Some building materials used in historic buildings are no longer available and may be expensive to recreate. The age of a building is appreciated by observing weathering patterns and signs of use through time. Indications of aging embody the character that is most appreciated about historic buildings. The retention and maintenance of materials on a historic building is important and should be key objectives of building conservation projects.

### 4.01. Masonry

Masonry refers to a range of solid construction materials, including stone, brick, stucco, and concrete. A substantial number of downtown buildings are constructed of masonry materials. The following guidelines apply to the masonry surfaces, features, and details of historic buildings. Masonry is an important character-defining feature of historic buildings. Masonry materials of various types exist as walls, cornices, pediments, steps, chimneys, foundations, and other building features.

#### **Guideline 4.01.1-Retain historic masonry surfaces, features, and details**

- (a.) Repair damaged historic masonry through patching, splicing, and consolidation, using appropriate materials for the repair. For example, caulk or Portland cement should not be used in patching.
- (b.) If deterioration is too severe, replace in-kind. Some stonework may be replaced with cast stone or other substitute material if it matches in color, texture, and other visual qualities.
- (c.) Applicable Standards: 2, 5, 6

#### **Guideline 4.01.2-Retain the historic scale and character of masonry surfaces and architectural features.**

- (a.) Retain the character of masonry materials, which includes historic mortar joint. Characteristics such as texture, tooling, color, and dimensions. Remove deteriorated mortar carefully to ensure masonry units are not damaged.
- (b.) Retain bond patterns, which are important character-defining aspects of historic masonry.
- (c.) Do not parge, stucco, or paint masonry walls that were not historically covered.
- (d.) Applicable Standards: 2, 5

#### **Guideline 4.01.3-Retain the historic mortar mix to the extent that it was designed for the physical qualities of the masonry**

- (a.) Retain historic mortar in good condition.
- (b.) Match the mix design of the existing mortar as closely as possible when re-pointing mortar.
- (c.) Strength adjustments to mortar mix design may be accommodated for re-pointing.
- (d.) Applicable Standards: 2, 5, 6

**Guideline 4.01.4-Protect masonry structures from water deterioration**

- (a.) Provide proper drainage, preferably in the back of the building, so that water does not stand on flat, horizontal surfaces or accumulate in decorative features.
- (b.) Provide positive drainage away from masonry foundations to minimize rising moisture.
- (c.) Application of water repellents, sealers, or other coatings is generally not appropriate for historically unpainted masonry, as these products can trap moisture in the building. Consultation with a mason who is familiar with historic buildings is advisable for determining whether sealing is appropriate. Water repellent application should only occur as a last resort.
- (d.) Applicable Standards: 7

**4.02. Metals**

Metals in historic buildings were used in a variety of applications including columns, roofing, canopies, storefronts, window frames, and decorative features. The types of metals used include cast iron, steel, aluminum, lead, bronze, brass, and copper. Historic metals should be retained and repaired.

**Guideline 4.02.1-Retain architectural metal features that contribute to the overall historic character of the building.**

- (a.) All historic metals are part of the historic character of the building.
- (b.) Maintain and repair metal features wherever possible.
- (c.) Provide proper drainage on metal surfaces to minimize water retention.
- (d.) Maintain protective coatings, such as paint, on exposed metals that have been historically painted.
- (e.) Applicable Standards: 2, 5, 6

**Guideline 4.02.2-Repair historic metal features by patching, consolidating, or otherwise reinforcing the historic material.**

- (a.) Only replace the historic metal feature in its entirety if the majority of the feature is deteriorated beyond repair.
- (b.) New metal should be compatible with the historic metal features of the building.
- (c.) Applicable Standards: 2, 5, 6

**4.03. Wood**

Wood has been used historically for framing, exterior siding, trim, and ornamental details. Historic wood framing and cladding were usually carefully chosen. Remaining historic wood features and components will have become seasoned and durable through time. Contemporary replacement wood is unlikely to have the same physical qualities and resilience. When properly maintained, wood will have a long lifespan. Painted surface finishes should be maintained in order to preserve historically painted exterior wood features and details. Early woodwork should be maintained and repaired as necessary.

**Guideline 4.03.1-Preserve historic wood siding**

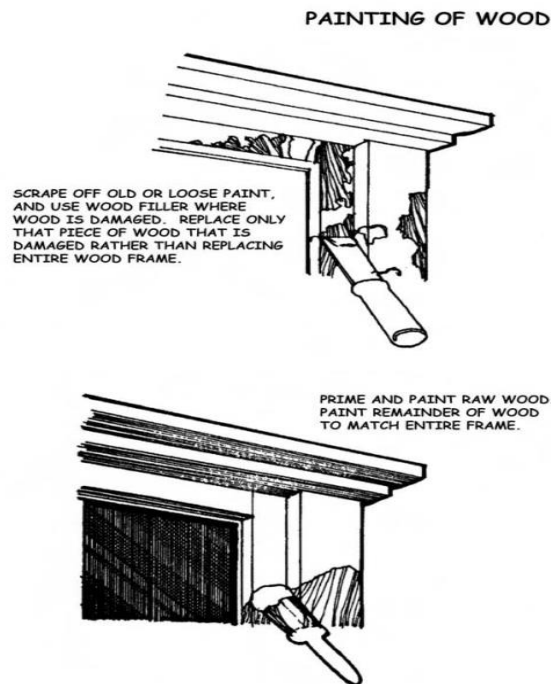
- (a.) Avoid removing siding that is in good condition or that can be repaired in place.
- (b.) Remove only siding which is deteriorated and beyond repair.
- (c.) Match the detail, form, style, dimensions (including the dimensions of the lap), and finish of the historic siding if new siding is being installed where portions of wood siding must be replaced.
- (d.) Applicable Standards: 2, 5, 6

**Guideline 4.03.2-Protect wood features from deterioration**

- (a.) Provide proper drainage and ventilation to minimize decay.
- (b.) Maintain protective coatings to decrease damage from moisture. If the building was painted historically, it should remain painted.
- (c.) Retain a painted finish of trim if the trim of the building was painted historically.
- (d.) Applicable Standards: 2, 5, 6

**4.04. Paint & Other Coatings**

Historic buildings that were clad with wood siding were usually painted to protect the wood. Masonry surfaces that have not been painted, or that were not painted historically, such as stone, brick, and terra cotta, should not be painted. Use historic color schemes when performing regular maintenance of painted surfaces, including wooden windows, doors, and trim. The City Council has a recommended color palette that is included in the appendices of this document. Murals may not be installed on unpainted masonry surfaces and must follow the City’s Public Art Guidelines as adopted by Resolution 4031.



**Guideline 4.04.1-Prepare wood substrate well to receive new paint**

- (a.) Remove damaged or deteriorated paint only to the next intact layer using the gentlest method possible prior to painting.
- (b.) Repair or replace damaged wood pieces before applying new paint.
- (c.) Make sure the surface to be painted is dry before applying coating.
- (d.) Applicable Standards: 2, 5, 7

**Guideline 4.04.2-Use paint products designed for the existing materials and environmental conditions of the locations proposed to receive new paint finishes**

- (a.) Follow manufacturer's directions when applying paint products, including proper preparation of the substrate.
- (b.) Use primer coats as directed by the paint manufacturer's instructions. Some latex paints will not bond well to earlier oil-based paints without a primer coat.
- (c.) Employ special procedures for removal, preparation for new paint, or encapsulation of older paint layers that contain lead (or are lead-based)
- (d.) Applicable Standards: 2, 5, 7

**Guideline 4.04.3-Maintaining or re-establishing the historic color scheme is appropriate**

- (a.) Research what the historic painting scheme had been and use it as a basis for deciding on a new color scheme if the historic scheme is not known. The Historic Preservation Board has a recommended color palette (see appendices) to help in the selection process.
- (b.) Color selection should be appropriate to the architectural style and complement the building. Overly bright and obstructive colors are not appropriate. The simpler the building, the fewer colors should be used.
- (c.) Building trim color should contrast and complement the base building color. Historic commercial buildings typically had their body color defined by the main building material (i.e., brick and stone) while a trim color defined windows, doors and other architectural elements such as cast iron. A third color, commonly called an accent color, was quite often utilized to accentuate, or highlight a particular feature of a building. On commercial buildings, the accent color was also used to highlight particular architectural features of the building facade.
- (d.) Choose a discreet location to sample paint layer history using a simple means of sanding through each layer revealing the color of different paint layers through time.
- (e.) Use a comprehensive color scheme for a building's entire exterior, so that upper and lower floors and subordinate masses of a building are seen as components of a single structure.
- (f.) Applicable Standards: 2, 5, 7

**Guideline 4.04.4-The painting or coating of historically uncoated masonry is inappropriate in most situations**

- (a.) Do not coat (e.g., paint, seal, waterproof, parge) historically unpainted masonry surfaces. This treatment can trap moisture in the wall by reducing water vapor transmission, slowing natural drying cycles, and increasing moisture saturation. Increased moisture leads to more extreme freeze-thaw cycling, coating failure, corrosion of metallic components within the wall

structure (such as ties), rotting of wood components, and ultimately irreversible damage to the masonry itself.

(b.) If possible without damaging the masonry, remove paint from historically unpainted masonry surfaces and leave unpainted.

(c.) Water repellent may be acceptable in limited situations. Due diligence must be undertaken to determine the source of moisture. The type of masonry, conditions, wall assemblies, and maintenance frequencies must be documented and understood. Water repellents (or any coatings) should not be applied under the following conditions:

1. Wall assembly type is unknown.
2. The building is mass (load-bearing) or transitional construction. Coating of a cavity wall assembly may prevent moisture transference, which is needed to keep construction dry. Curtain walls may be okay.
3. The source of water infiltration is unknown or not mitigated.
4. The wall has a high moisture and/or salt concentration.
5. Coating will not be maintained over time (water repellents can last 5-10 years).

(d.) The following steps to mitigate moisture must be documented to have been undertaken by qualified contractor(s) prior to application of repellent:

1. Create positive grading to allow water to flow away from the building. This may involve the removal of built-up paving material or soil.
2. Drainage from the building (gutters, downspouts, drains) has been properly installed and/or fixed.
3. Capillary action from the ground has been mitigated to prevent rising damp.
4. Door and windowsills have been repaired and properly flashed.
5. Roof flashing has been installed or repaired correctly.
6. Cracks around masonry openings have been sealed appropriately.
7. Mortar joints have been repointed properly.
8. Any damage at the top of the wall has been repaired.
9. Indoor plumbing, drains, and water lines have been inspected and repaired.

(e.) If a water repellent is determined to be the last and best solution, application must be done by a qualified masonry contractor. The surface must be properly prepared to receive the repellent. The proper product must be used based on the type of masonry (not all repellents are the same). Consult the product information to determine whether the product is appropriate for the surface.

(f.) Applicable Standards: 2, 5, 7

**Guideline 4.04.5-Murals should not be painted directly onto historically uncoated brick and stone**

(a.) Murals should not completely cover a historic brick or stone wall due to the adverse effect of the paint on the substrate.

(b.) Murals should not be installed on the front of the building.

(c.) Smaller murals may be permitted if the size is less than half of the area of the exposed masonry and applied to a panel that can be attached to the building. The use of a graffiti-

resistant coating may be appropriate as an undercoating. These coatings are intended to be a sacrificial surface that forms a film over the masonry. They usually last 5-10 years and can be removed with an appropriate stripper or low-pressure power wash (100-400psi).

(d.) Masonry should be in good condition and be free of moisture before painting.

(e.) Consult with a qualified masonry contractor to help determine treatment and appropriate product.

(f.) Applicable Standards: 2, 7

#### **4.05. Cleaning Materials & Methods**

Historic masonry materials rarely, if ever, need to be cleaned. Some cleaning materials and methods can harm the building fabric. Many cleaners can be harsh and abrasive, often permanently damaging the surface and durability of historic building materials. Moreover, abrasive cleaning methods will remove the water-protective outer layer of the material and thereby accelerate deterioration and failure of the material. When maintaining historic buildings, only cleaning materials and methods which do not harm the historic building materials should be used.

##### **Guideline 4.05.1-Avoid cleaning historic building materials in most circumstances**

(a.) Masonry cleaning should be undertaken only when necessary to halt deterioration or to remove heavy soiling.

(b.) Applicable Standards: 2, 5, 7

##### **Guideline 4.05.2-If cleaning is needed, use the gentlest cleaning method possible to achieve the desired result**

(a.) Do not use abrasive cleaning methods including sandblasting, pressurized water blasting, or other blasting techniques using any kind of materials, such as soda, silica, or nut shells.

(b.) Decide which cleaning methods should be used only after first researching appropriate methods for the material and location.

(c.) Test all proposed cleaning procedures in sample locations first.

(d.) Hire a firm experienced in the cleaning of historic buildings to pursue and advise on the lowest impact method of cleaning. For instance, low pressure washing (100-400psi) may be appropriate.

(e.) Protect surrounding surfaces while the material is being cleaned to avoid unintentional damage.

(f.) Applicable Standards: 2, 5, 7

##### **Guideline 4.05.3-Use the gentlest means possible in the removal of paint or other coatings**

(a.) Prioritize the use of biodegradable and environmentally safe paint removal products.

(b.) Where not required to be abated, encapsulate lead paint with new coatings.

(c.) Remove damaged or deteriorated paint down to the next sound layer using the gentlest means possible such as hand scraping.

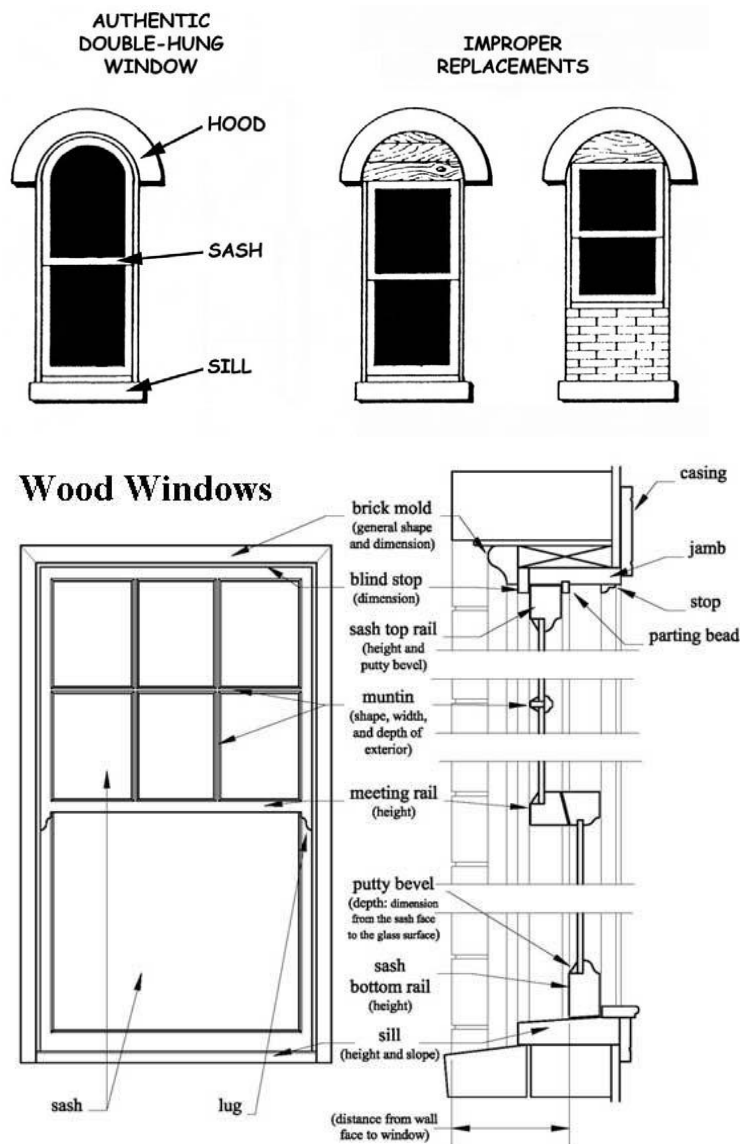
(d.) Abrasive methods such as media blasting or high pressure water should not be used.

- (e.) Use the proper paint/coating removal products for the base material to ensure the historic base materials are not damaged.
- (f.) Protect surrounding surfaces during removal process.
- (g.) Applicable Standards: 2, 5, 7

## Chapter Five-DESIGN GUIDELINES FOR BUILDING COMPONENTS

### 5.01. Windows

The arrangement, proportions, and design of windows and other openings in a building façade (“fenestration”) is an important aspect of the visual and architectural design character of a building. Fenestration is often designed in a pattern or multiple patterns. These patterns are essential to the character of the building and should be retained. The character-defining features of a historic window, the distinctive materials, profile (silhouette), and details should be preserved. Some of the character-defining features of a historic window include, but are not limited to, the frame, sash, muntins, mullions, glass, glazing, beads, sills, heads, jambs, moldings, and operation.





**Guideline 5.01.1-Preserve the position, number, and pattern of arrangement of the windows in a building façade**

- (a.) Do not enclose a historic window opening in an important character-defining façade.
- (b.) Do not add a new window opening because it may disturb the composition of windows in an important façade. This is especially important on the front of a street or the side of a building because the historic ratio and pattern of solid wall to window opening is a character-defining feature.
- (c.) New openings on the back half of the sides of a building and back walls may be appropriate
- (d.) Do not replace, cover up, or enclose historic windows, which will adversely affect the integrity of the building.
- (e.) Replace infilled windows with new windows, where appropriate.
- (f.) Applicable Standards: 1, 2, 5, 6

**Guideline 5.01.2-Retain the historic ratio of window openings to solid wall on a primary façade**

- (a.) Do not increase or reduce the amount of glass on a character-defining façade. The dimensions of window frame components have a direct relationship to the size of the glass of a window.
- (b.) Some flexibility in the ratio of solid (opaque) material to void (transparent) materials may be more appropriate for secondary façades not visible from the public right-of-way.
- (c.) Applicable Standards: 1, 2, 5, 6

**Guideline 5.01.3-Retain the size and proportions of a window opening**

- (a.) Do not reduce a historic opening to accommodate a smaller window or increase it to receive a larger window.
- (b.) Retain the proportion of the historic window opening.
- (c.) When reopening infilled historic window openings, new windows should fit the full opening.
- (d.) Applicable Standards: 1, 2, 5, 6

**Guideline 5.01.4-Retain and repair the functional and decorative features of a historic window**

- (a.) Repair window frames and sashes instead of replacing the historic window.
- (b.) Replace only those sections and parts of the historic window that are deteriorated beyond repair.
- (c.) Match the historic detail, form, and materials of the window when making repairs.
- (d.) Carefully retain historic glass wherever this may still exist. New glass, if required, should have a clear finish. Tinted glazing is an inappropriate treatment.
- (e.) Consult an expert in historic window repair.
- (e.) Applicable Standards: 1, 2, 5, 6

**Guideline 5.01.5-Replacement windows can be used if historic windows are beyond repair or to replace inappropriate replacement units. Match the design of a replacement window to the design of the historic.**

- (a.) A window that is beyond repair is generally one with more deteriorated parts than whole parts. This includes rotten or broken structural items (jambs, stiles, rails, sills, muntins, etc). Broken glass, missing glazing, broken ropes, painting needs, are all repairable conditions and do not constitute “deteriorated beyond repair.”
- (b.) When considering replacement, consider if the whole unit is deteriorated or if the window requires new sashes. Prioritize repair over replacement of historic material if possible, especially on primary facades.
- (c.) The design of the replacement window/sash should mimic the configuration of historic windows. For instance, if the historic window is a hung window, then the replacement window should also be a hung window (double or single). New units should have frame and sash dimensions and profiles that match the existing historic window (if known) or be typical of historic windows of the era in which the building was constructed. Where feasible on front elevations, new windows should have simulated putty bevels where glass meets the sash and a panning system that replicates historic brick mold. When historic windows are not extant, use historic photos, if possible, to determine the historic window configurations.
- (d.) Consider consolidation of historic windows to the primary façade, where possible.
- (e.) Consider the overall impact of having replacement windows next to historic windows. The design and materials of the new unit should be even more careful to mimic the historic dimensions.
- (f.) Distinctive window units that are not replicable should be retained and stabilized rather than replaced.
- (g.) It is desirable, but not necessary, that the window sash of hung windows remain operable. Lubricate friction points, and replace broken cords/chains.
- (h.) New glass should have a clear finish. Tinted glazing is an inappropriate treatment. Replacing already replaced windows will permit the use of insulated (double-paned) glazing, if desired.
- (i.) Applicable Standards: 1, 2, 5, 6

**Guideline 5.01.6-In a replacement window on a primary (front) elevation, use materials that adequately mimic historic units**

- (a.) The material of new windows will depend upon the material of the historic window being replaced. Steel windows can be replaced with steel or aluminum units. Wood windows can be replaced with wood, fiberglass (or a fiberglass hybrid), or aluminum. Steel and wood should be painted; aluminum should have a baked finish, not anodized. The material used should allow the windows to have dimensions and profiles seen on historic windows.
- (b.) New windows with applied muntins should have spacer bars between the double panes of glass that are the same colors as the windows sashes.
- (c.) Reflective glass should not be used. New glass may have a clear, low-e coating.

(d.) Installing clear, low-emissivity (low-e) glass or film without noticeable color in historically clear windows will reduce solar heat gain.

(e.) Applicable Standards: 1, 2, 5, 6

**Guideline 5.01.7-Improve energy conservation in historic window.**

(a.) Recaulk gaps in fixed joints.

(b.) Replace or install appropriate weatherstripping to existing windows.

(c.) Replace broken gaskets, latches, and glazing putty to create a weathertight unit.

(d.) Replace broken glass. Insulated glass may be used if its installation will not adversely affect the soundness of the historic window. New glass should have a clear finish. Tinted glazing is an inappropriate treatment. Replacing already replaced windows will permit the use of insulated (double-paned) glazing, if desired.

(e.) A storm window, combined with weather-stripping, is usually more energy efficient and much more cost-effective, than a replacement of insulated glass (double or triple glazed) window. Storm windows should be as inconspicuous as possible. Use matching one-over-one pane configuration, matching the location of the meeting rail of the window unit. Storm windows placed on the exterior also helps protect historic windows.

(f.) Install a storm window on the interior, when feasible. This will allow the character and profile of the exterior of the historic window to be appreciated and remain as part of the street façade.

(g.) Fit the interior storm window rightly within the recessed area (rough opening for the window) to avoid the need for sub-frames.

(h.) Install storm window frames as closely as possible to the existing window frame and recess as far as possible from the plane of the wall surface.

(i.) Regularly maintain historic windows to further reduce energy consumption and heat loss.

(j.) Storm windows should have clear glass to avoid clouding.

(k.) Applicable Standards: 1, 2, 5, 6

## **5.02. Commercial Storefronts**

Many of the storefronts in the city have components characteristically seen on historic commercial buildings. The repetition of framework elements and cornices creates a visual rhythm and unity along the street frontage. Within this unity, there is often a rich tapestry of individual design creativity present in each building that is expressed in different design details. Both combine to create the individual character of the streets and particular context across the city. When considering a project, historic storefront design, details, and materials should be retained or restored.

The design of a historic city storefront building may include several of the following components:

**-Display windows:** The main portion of glass on the storefront, where goods and services are displayed. Historically, this may or may not be subdivided into a number of glass panes.

**-Transom:** The upper portion of the display window separated from the display windows by a frame.

**-Knee wall:** The portion located beneath the display window, sometimes called a kick plate.

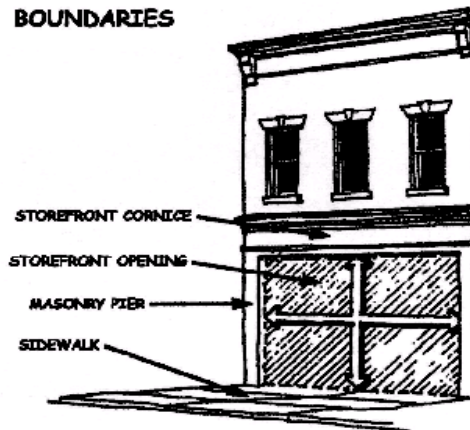
**-Entry:** Often set back from the sidewalk in a protected recess.

**-Cornice:** A decorative, often projecting band at the top of a wall or other element.

**-Pilasters:** The attached, incomplete, or stylized profile of a column, often designed to frame the windows and entry.

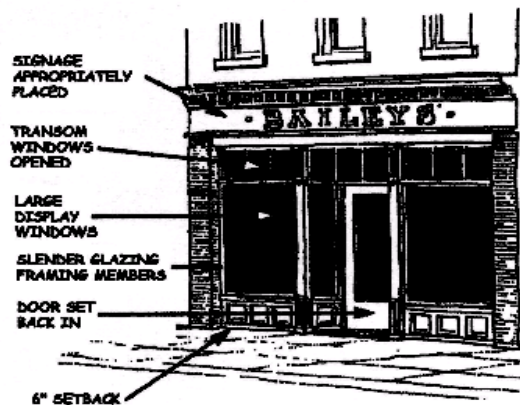
**-Brackets:** Angled supports from a projection such as a cornice or decorative elements that highlight corners of an opening.

**STOREFRONT BOUNDARIES**



**TRADITIONAL STOREFRONT DESIGN**

STOREFRONT FITS WITHIN BOUNDARIES



Storefront materials may vary widely, and include wood, stone, brick, terra cotta, stucco, cast concrete, iron, steel, aluminum, and other metals. Storefronts frequently changed, even during the period of significance, with new tenants or as existing tenants modernized. Clear, obscured and opaque glass may have been used in certain circumstances on various parts of the building. Leaded lights and glass block are also used in storefronts.

**Guideline 5.02.1-A historic commercial storefront should be retained during a rehabilitation project.**

- (a.) Ensure that proper care is taken to protect historic designs and materials during construction activities.
- (b.) Repair deteriorated components. If components are deteriorated beyond repair, replace in-kind.
- (c.) Minimize damage to historic materials if adapting an entry for ADA compliance or adding required additional egress.
- (d.) Applicable Standards: 1, 2, 5, 6

**Guideline 5.02.2-If a storefront has been inappropriately altered, restore it to a documented historic design.**

- (a.) Use physical evidence, historic photographs, and existing drawings to identify the design, details, and materials of the historic storefront.
- (b.) The historic storefront design, detail, and materials may be obscured by inappropriate cladding. Carefully remove later materials and restore the historic if possible.
- (c.) Sometimes storefronts that postdate the period of significance have gained significance and should be retained and restored instead of removed to reveal or reconstruct the historic storefront.
- (d.) Ensure that the end result of the storefront rehabilitation does not create an overall façade design that never existed historically. This could be the inadvertent result of the removal of a slipcover to reveal the late 19<sup>th</sup> century upper story while keeping a mid-century storefront.
- (e.) Applicable Standards: 1, 2, 3, 4, 5, 6

**Guideline 5.02.3-A new and compatible storefront alternative design should be considered where the historic storefront is missing or deteriorated beyond repair.**

- (a.) Continue to convey the character of a historic storefront in a new design, including the transparent character of the display window.
- (b.) If evidence or documentation of the historic storefront design is missing, it may be appropriate to use an interpretation created from the design and appearance of similar storefronts. In such cases, simplify the design to minimize the risk of creating a false sense of history.
- (c.) Appropriate materials include wood and aluminum. Wood should be painted, and the aluminum should have a baked finish (not anodized).
- (d.) The design of the new storefront should include the components of a historic storefront: transparent display windows, knee walls or bulkhead, pedestrian door(s) (inset or not), transom level glass or windows. Consult historic photos and Sanborn maps to determine historic locations of doors to guide location of doors. Garage doors are not appropriate for storefronts for buildings that did not have a vehicular function.
- (e.) New glass should have a clear finish. Tinted glazing is an inappropriate treatment. Installing clear, low-emissivity (low-e) glass or film without noticeable color in historically clear windows will reduce solar heat gain.
- (f.) Applicable Standards: 1, 2, 3, 4, 5, 6

### **5.03. Doors and Entrances**

The entrance to a building and its historic door(s) are important elements of the architectural composition of the façade. The placement of an entrance is usually arranged as part of a pattern of openings in the building façade. The entrance and door are usually designed as key elements of the architectural style of the building with the design often reflecting the function of the building.

**Guideline 5.03.1-Retain the decorative and functional features of a primary entrance**

(a.) Avoid changing the position and function of historic front doors and primary entrances. In a warehouse or industrial building, the primary entrance may also include loading docks or bays both at ground level and above.

(b.) Maintain features important to the character of a historic doorway. These may include the door, frame, screen door, threshold, glass panes, paneling, hardware, detailing, transoms, and flanking sidelights.

(c.) Applicable Standards: 2, 5, 6

**Guideline 5.03.2-Retain historic doors important to the character of the building, including loading dock doors**

(a.) Maintain historic size, shape, proportion, and profile.

(b.) Retain historic materials, hardware, and details.

(c.) Historic doors can be fixed in place if they are not functional or do not need to be utilized. This is more likely to occur on a secondary entrance.

(d.) Applicable Standards: 2, 5, 6

**Guideline 5.03.3-Maintain the integrity, detail, and materials of an entrance, stoop, threshold, steps, staircase, including historic balustrades and handrails**

(a.) Repair rather than replace damaged components. If component pieces are deteriorated beyond repair, replace in-kind.

(b.) If the door is a secondary entrance, consider if it can be sensitively adapted to meet egress and/or ADA compliance.

(c.) Applicable Standards: 1, 2, 5, 6

**Guideline 5.03.4-When a historic door is damaged, repair its historic appearance and detailing**

(a.) Match repair materials for an existing door to the materials of the door. For example, if a part of a door that is damaged or deteriorated is made out of wood, then a piece of wood replicating the appearance of the damaged or deteriorated part should be used for its repair.

(b.) Historic doors can be adapted with new hardware to accommodate egress and other compliance requirements. New hardware should attempt to fit the design of the historic door and should be additive if possible.

(c.) Applicable Standards: 2, 5, 6

**Guideline 5.03.5-Doors may be replaced if they are documented to be deteriorated beyond repair.**

(a.) If a door is damaged or deteriorated beyond repair, replacement may be considered. Some evidence of use and wear helps to define the age and integrity of the building.

(b.) The replacement should match the historic door or be consistent with the style of the building.

- (c.) Ensure that the components of the replacement door such as design proportions, profile, and detailing are compatible. If recreating a door, the new door should mimic the details of the historic door.
- (d.) Use the same material of the historic door for a replacement door.
- (e.) Applicable Standards: 2, 3, 5, 6

**Guideline 5.03.6-Use a storm door instead of replacing a historic door to enhance energy conservation**

- (a.) Choose materials, such as wood or metal that are appropriate to the character of the building.
- (b.) Maintain a simple design for a storm door.
- (c.) Match the finish and color of the storm door to the character of the entrance door, the building trim, and window frames.
- (d.) Provide maintenance and weather-stripping of the door and frame to improve energy conservation.
- (e.) Creating an air-lock or vestibule just inside the entrance of the building may be possible or appropriate if a storm door is not appropriate for the style or the function of the building. The installation of an air-lock should not destroy important and interesting historic features of the building interior. Air-locks may need to be large enough to meet accessibility guidelines including access by a person using a wheelchair.
- (f.) Applicable Standards: 2, 5

## **5.04. Roofing**

A proper roofing system is crucial to the longevity of a building. Roofing systems include but are not limited to: decking, underlayment, insulation, drainage, exterior material, flashing, and coping. Proper roofing systems prevent weather infiltration and animal infestations.

**Guideline 5.04.1-Buildings should have drainage systems that do not damage historic materials or appearance**

- (a.) Roof drains should be kept clear and tightly connected to drainage pipes.
- (b.) Gutters and downspouts should be installed at the rear of commercial buildings. Downspouts should not empty against the building. Water should be directed away from the foundations.
- (c.) Proper flashing should be installed to prevent water infiltration and lead water to drainage system.
- (d.) Applicable Standards: 2, 5, 6

**Guideline 5.04.2-The visibility of the roof will determine the appropriateness of the roofing material**

- (a.) Roofing material on flat roofs are generally not distinctive nor visible from ground level. They may be replaced with an appropriate material.

- (b.) Flat roofs can be built up to incorporate additional insulation as needed. The roof slope should remain the same, and the roofing material should not extend above parapets.
- (c.) Mechanical equipment, including solar panels, can be installed on flat roofs as long as they are not visible from ground level or public rights of way.
- (d.) Distinctive historic roofing material such as slate, metal, and terra cotta should be retained and repaired. If deteriorated beyond repair, replacement should be in-kind. The new material should mimic the historic material in shape, size, material, and profile.
- (e.) Non-historic roofing material can be replaced with a more historically appropriate material, if documentation indicates the historic material was different. For example, asphalt shingles often replace clay tiles.
- (f.) Applicable Standards: 2, 3, 5, 6

**Guideline 5.04.3-Retain historic parapets**

- (a.) Parapets should retain their historic heights, shapes, and coping.
- (b.) Clay tile coping is a distinctive material. If installing a new membrane roof, do not cover coping with membrane. Use reglets within mortar joints to secure edges of membrane. Secure membrane to mortar joints of parapet.
- (c.) If historic coping is missing or deteriorated, replace with an appropriate material. In-kind replacement is preferred but cast stone may be used in place of stone if the color, texture, and profiles can be replicated. Unless it can be documented to be historic, metal is not an appropriate substitute material for coping.
- (d.) Applicable Standards: 2, 3, 5, 6

## **5.05. Lighting**

Good lighting brightens and complements historic buildings and provides an inviting atmosphere.

**Guideline 5.05.1-Retain historic light fixtures.**

- (a.) Historic light fixtures should be retained and repaired. Fixtures can be upgraded if needed to meet modern codes or energy conservation needs.
- (b.) Applicable Standards: 2, 5, 6

**Guideline 5.05.2-New light fixtures should complement the historic character of the district buildings.**

- (a.) New lighting fixtures should complement the historic character of the building without providing a false sense of history.
- (b.) Architectural accent lighting should be inconspicuous in size and location.
- (c.) Applicable Standards: 2, 3, 5, 6



## 5.06. Signage, Canopies, & Awnings

Good sign design is encouraged. Attractive signage is a positive value to the business. It should not only be a draw for people driving by, but also for the foot traffic, to encourage them to visit the stores. (Refer to Ordinance #4678, Sign Ordinance.) Awnings and canopies can provide an inviting environment while also helping to reduce heat gain in the summer. Signage, canopies, and awnings should be compatible with the district and the established regulations of the Central Area Zoning District and Commercial Historic Overlay District.

### **Guideline 5.06.1-Retain historic, character-defining signage**

- (a.) Historic signage is part of the character of the district and should be retained and repaired.
- (b.) Historic painted signage should not be painted over with new murals, signage, or coatings.
- (c.) Applicable Standards: 2, 4, 5, 6, 7

### **Guideline 5.06.2-New signage should not harm historic materials or design of the building or district**

- (a.) Mount a sign to ensure that it does not damage decorative moldings or architectural details. Use mortar joints to mechanically attach signs instead of drilling into the historic masonry units.
- (b.) Design and place a sign, signboard, or awning to respect the design framework of a storefront.
- (c.) Projecting signage:
  - 1. Should be constructed of noncombustible material.
  - 2. Should not project more than four (4) feet, measured from the building face and not be closer than eight (8) feet from the back of the curb line.
  - 3. Should be at least eight (8) feet above the sidewalk.
  - 4. May be externally illuminated. Internal illumination is not permitted.
  - 5. Should not exceed twenty (20) square feet per sign face.
- (d.) Canopy signage:
  - 1. May be attached to or be an integral part of the face of a canopy.
  - 2. Artwork or copy on canopy signs should be limited to a business name, business logo and/or property address.
  - 3. The artwork or copy on a canopy sign should not exceed ten (10) percent of the face of the canopy, or a maximum of twenty-five (25) square feet, whichever is greater.
  - 4. An illuminated stripe may be incorporated into a canopy. The stripe may extend along the entire length of the face of the canopy. The width or thickness of the stripe should be limited to one-third ( $\frac{1}{3}$ ) of the vertical dimension of the face of the canopy. The internal illumination of a canopy is limited to the portions of the canopy face on which a sign or stripe is permitted.
- (e.) Roof signage: One sign is allowed for each building. The size of the sign should be scaled appropriately for the building.

(f.) Non-permitted signage: Banner signs should not be utilized as permanent wall signs. Neither non-historic exposed neon lighting nor digital signage is allowed on the exterior.

(g.) Applicable Standards: 2, 5, 6, 7

**Guideline 5.06.3-New awnings (including awning signage) should not harm historic materials or design of the building or district**

(a.) Mount an awning to ensure that it does not damage decorative moldings or architectural details. Use mortar joints to mechanically attach awnings instead of drilling into the historic masonry units.

(b.) Design and place an awning to respect the design framework of a storefront.

(c.) If desired, awnings can mimic historic signage or awnings that have been documented through historic photographs.

(d.) Awnings may extend the full length of the wall of the building to which it is attached, should be no more than six (6) feet in height, and should provide a clearance of at least eight (8) feet above the sidewalk.

(e.) Artwork or copy on awning signs should be limited to a business name, business logo, and/or property address.

(f.) The artwork or copy for an awning sign should not exceed twenty (20) percent of the area of the awning and should extend for no more than sixty (60) percent of the length of the awning.

(g.) Awnings should not be illuminated.

(h.) Awnings should be composed of canvas or other fabric material approved by the historic preservation-board.

(i.) Ratios—Awnings should be at an appropriate scale to the building size and configuration. They should not extend above the roofline of any single-story structure, or above the top of the second floor of any multi-story structure at the awnings' highest points. Awnings should not completely obstruct any windows on the building.

(j.) Projection—Since awnings must extend beyond the building face, a reasonable amount of projection should be allowed. No awning should extend more than five (5) feet outward from the building face/surface.

(k.) Applicable Standards: 2, 5, 6, 7

**Guideline 5.06.4-Existing awnings and signage should be kept in good repair**

(a.) Non-historic awnings and signage that are in disrepair should be replaced or removed entirely. For instance, awning frames should not be left if the awning material is gone.

(b.) Applicable Standards: 2, 5, 6, 7

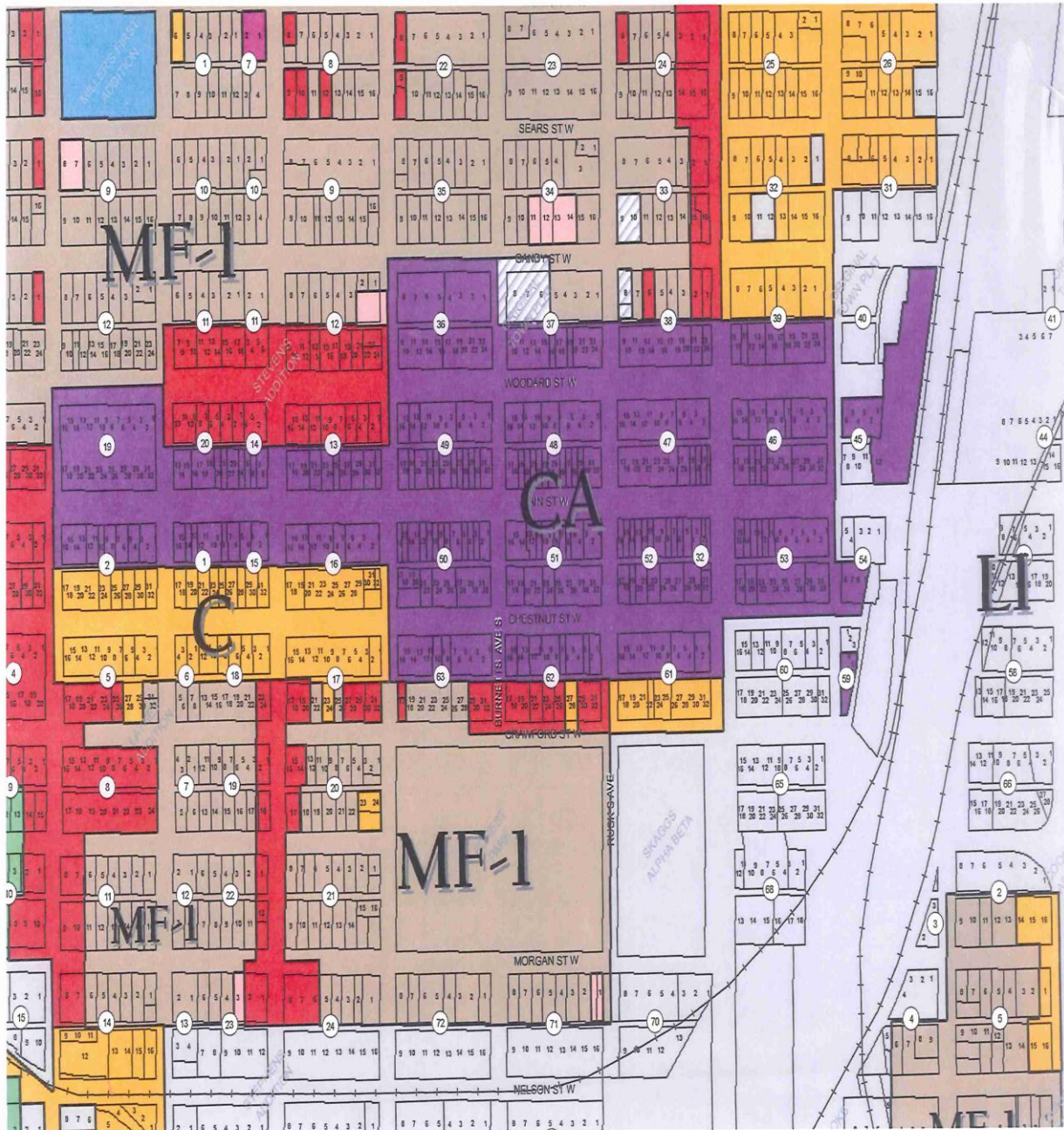
## **5.07. Landscaping**

Proper landscaping should accompany the historically protected and preserved buildings. As most buildings in the downtown are built to the sidewalk, there is no room for landscaping including fencing and pools or water features. The Downtown Streetscape Master Plan provides guidance on plant

material suitable for the area as well as appropriate treatment and placement. The Style Guide portion of the Streetscape Master Plan details elements used in the design and construction. Any areas within the Historic Overlay District that are determined appropriate for landscaping should be appropriate for the environment and complement plant materials included in the Style Guide. As always, both Zoning Department and Building Department requirements must be met. Additionally, the Downtown Denison Sidewalk Usage Design Guidelines offer guidance on sidewalk dining and overall usage of the public space.

# Appendices-BUILDING QUICK GUIDE

## City of Denison Zoning Map for Downtown



### Zoning Key

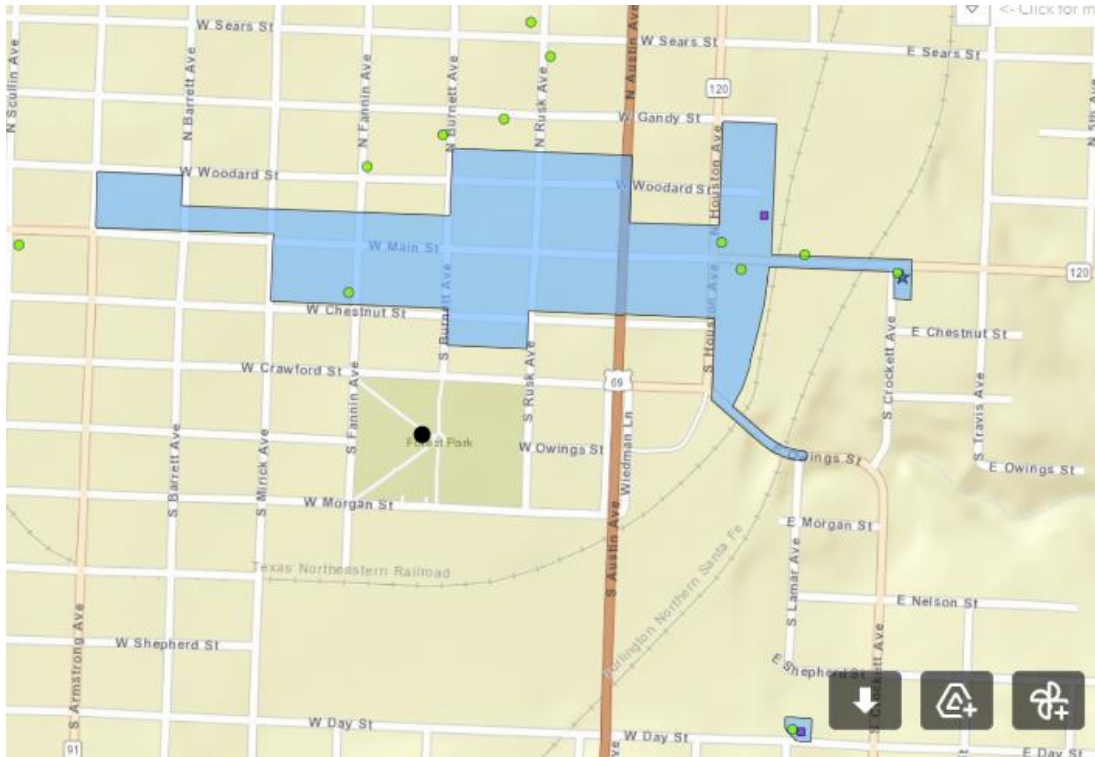
- CA** Central Area (Primary Zoning in Historic Overlay District)
- C** Commercial
- MF-1** Multi-Family 1
- LI** Light Industrial
- Red** Local Retail



Map from National Register Application



Map from Texas Historical Commission of Denison's National Register District



## Resources

National Park Service, Preservation Assistance Div., PO Box 37127, Washington, DC 20013-7127

The National Park Service administers the National Register and Historic Rehabilitation Tax Credit programs for the country. Their staff and website provide technical guidance for rehabilitation projects, including the publication of technical notes and preservation briefs. This is the foremost guidance provided.

Preservation Briefs, available through the National Park Service website:

- 1 Cleaning and Waterproof Coating of Masonry Buildings
- 2 Repointing Mortar Joints in Historic Buildings
- 3 Conserving Energy in Historic Buildings
- 4 Roofing for Historic Buildings
- 5 Preservation of Historic Adobe Buildings
- 6 Dangers of Abrasive Cleaning to Historic Buildings
- 7 Preservation of Historic Glazed Architectural Terra-Cotta
- 8 Aluminum and Vinyl Sidings on Historic Buildings
- 9 Repair of Historic Wooden Windows
- 10 Exterior Paint Problems on Historic Woodwork
- 11 Rehabilitating Historic Storefronts
- 12 Preservation of Historic Pigmented Structural Glass
- 13 Repair and Thermal Upgrading of Historic Steel Windows
- 14 New Exterior Additions to Historic Buildings: Preservation Concerns
- 15 Preservation of Historic Concrete: Problems and General Approaches
- 16 Use of Substitute Materials on Historic Buildings Exteriors
- 17 Architectural Character: Identifying the Visual Aspects of Historic Buildings as an Aid to Preserving Their Character
- 18 Rehabilitating Interiors in Historic Buildings
- 19 Repair and Replacement of Historic Wooden Shingle Roofs
- 20 Preservation of Historic Barns
- 21 Repairing Historic Flat Plaster: Walls and Ceilings
- 22 Preservation and Repair of Historic Stucco
- 23 Preserving Historic Ornamental Plaster
- 24 Heating, Ventilating, and Cooling Historic Buildings: Problems and Recommended Approaches
- 25 Preservation of Historic Signs
- 26 Preservation and Repair of Historic Log Buildings
- 27 Maintenance and Repair of Architectural Cast Iron
- 28 Painting Historic Interiors
- 29 Repair, Replacement, and Maintenance of Historic Slate Roofs
- 30 Preservation and Repair of Historic Clay Tile Roofs
- 31 Mothballing Historic Buildings
- 32 Making Historic Properties Accessible

- 33 Preservation and Repair of Historic Stained and Leaded Glass
- 34 Applied Decoration for Historic Interiors: Preserving Composition Ornament
- 35 Understanding Old Buildings: The Process of Architectural Investigation
- 36 Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes
- 37 Appropriate Methods for Reducing Lead Paint Hazards in Historic Housing
- 38 Removing Graffiti from Historic Masonry
39. Preserving Historic Brick Streets

Denison's National Register Nomination(s) are linked on the City's Historic Preservation section of the website. Additional documentation can be located at:

Sanborn Insurance Maps of Denison ([https://www.loc.gov/item/sanborn08498\\_007/](https://www.loc.gov/item/sanborn08498_007/))

Texas State Historical Agency

(<https://www.tshaonline.org/handbook/entries/denison-tx>)

Texas Historical Commission, Texas Main Street.

As the State Historic Preservation Office, the THC administers the National Register, Certified Local Government, and Historic Tax Credit programs for the state of Texas. Both state and federal tax incentives are available for the rehabilitation of historic buildings. The THC also provides practical guidance on the best practices of historic rehabilitation in the state.

Main Street America

Supports preservation-based economic development in historic downtown commercial districts across the country.

National Trust for Historic Preservation, 1785 Massachusetts Ave, NW, Washington, D.C. 20036

The national advocacy organization for historic preservation.

Old-House Journal, Dovetail Publishers. 2 Main Street, Gloucester, MA 01930 800-234-3797

The Journal provides helpful information on the preservation and rehabilitation of historic buildings.

Traditional Building, Historical Trends Corp., 69A Seventh Ave., Brooklyn, NY 11217

The monthly publication provides a catalog of resources and services available to assist in rehabilitation projects.

Books on Local History (all available at the Denison Public Library under local history section):

Dr. Mavis Bryant's books (e.g. Industrial Denison; Little Stories of Frontier Denison, Texas; Images of America: Denison; Lives in Photography, 1872, 1999; Donald Mayes of Denison, Texas: An Architectural Legacy; My Life in Print, etc.)

Ms. Donna Hord Hunt (co-authored many of the above with Dr. Bryant, plus many newspaper articles available via the Portal of Texas History)

Jack Maquire's, "Katy's Baby"

Brian Hander's self-published books (Downtown Denison, A History of Denison's Commercial District; Denison150: Celebrating Untold and Under-Told Stories from Denison's first 150 years [written with Dr. Bryant and Ms. Hunt]; The Serpentine)

Frontier Village's copies of the Denison City Directories (for names, by street address, of early owners); photographs; and other historic items that could point to what buildings looked like in our historic era.



## DENISON, TEXAS | HISTORIC DISTRICT COLOR PALETTE

**GENERAL NOTE:** The list of colors outlined in this document utilize a prior collaboration between the Valspar brand and the National Trust for Historic Preservation, though paint may be purchased from any supplier. Paint names are reflective of the original Valspar color, though paint can be sourced from other manufacturers using either the RGB value, HEX value, or Valspar Reference Number. Any selection must match the original color from this palette and application should be reviewed by appropriate authority and process having jurisdiction. Any clarifications or questions regarding a particular color, application or accent designation should be reviewed and confirmed with local authorities.

**COLOR NAME**

IF "ACCENT ONLY"  
NOTED IN TEXT HERE  
{Valspar Reference #}

LRV ⓘ	RGB	HEX
57	213, 198, 194	#D5C6C2

LIGHT REFLECTIVE VALUE, RED GREEN BLUE VALUE, HEX COMPARISON

**FOLKSTONE**

6001-2A

LRV ⓘ	RGB	HEX
22	139, 137, 120	#8B8978

## HONEYSUCKLE DELIGHT



1007-10C

LRV 74 RGB 237, 222, 214 HEX #EDDE06

## WESTERN SANDSTONE



1001-10A

LRV 38 RGB 179, 168, 161 HEX #B3ABA1

## MARRON



1004-9B

LRV 13 RGB 127, 108, 103 HEX #7F6C67

## BERRY FROST



1004-10A

LRV 42 RGB 190, 173, 169 HEX #BEADA9

## MOVING MELODY



1009-5

LRV 7 RGB 121, 74, 77 HEX #794A4D

## BERRY CREAM



1004-10B

LRV 57 RGB 213, 198, 194 HEX #D5C6C2

## CHERRY TAUPE



1005-10A

LRV 31 RGB 181, 151, 145 HEX #B59791

## LOVEBUG



1005-10B

LRV 45 RGB 202, 177, 174 HEX #CAB1AE

## STOIC



ACCENT ONLY

1010-6

LRV 7 RGB 114, 78, 86 HEX #724E56

## BROWN PLUM



1006-7A

LRV 7 RGB 110, 77, 76 HEX #6E4D4C

## BRICKSTONE RED



1006-9B

LRV 11 RGB 130, 94, 87 HEX #825E57

## MAUVE BLUSH



1006-10A

LRV 33 RGB 184, 155, 145 HEX #B89B91

## DECADENT RED



2002-5A

LRV 9 RGB 144, 76, 68 HEX #904C44

## IN THE RED



1007-5A

LRV 8 RGB 127, 80, 81 HEX #7F5051

## EARTH ROUGE



1007-7A

LRV 9 RGB 130, 85, 81 HEX #825551

## PLUM RIBBON



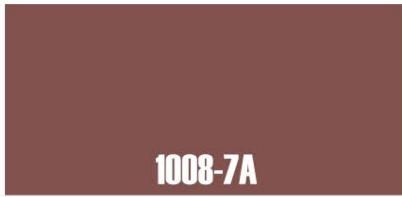
ACCENT ONLY

1007-7C

LRV 26 RGB 176, 136, 134 HEX #B08886

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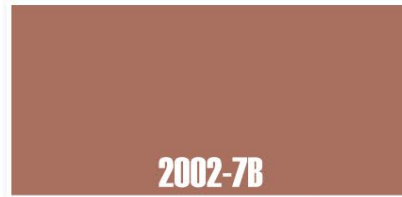
## RED HENNA



1008-7A

LRV 9 RGB 128, 81, 78 HEX #80514E

## TINY TULIP



2002-7B

LRV 18 RGB 168, 110, 94 HEX #A86E5E

## TAVERN MAHOGANY



ACCENT ONLY  
2002-9A

LRV 7 RGB 107, 82, 76 HEX #6B524C

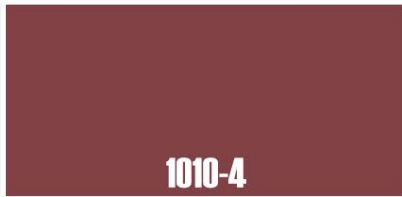
## ISLAND SALSA



ACCENT ONLY  
2003-3A

LRV 17 RGB 187, 93, 80 HEX #B85050

## PERENNIAL RED



1010-4

LRV 6 RGB 128, 64, 69 HEX #804045

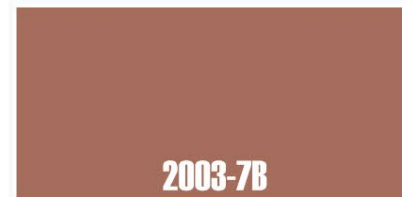
## JAZZY RED



ACCENT ONLY  
1009-6

LRV 5 RGB 120, 55, 65 HEX #783741

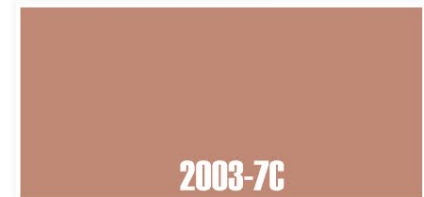
## DEEP CLAY RED



2003-7B

LRV 17 RGB 165, 108, 91 HEX #A56C5B

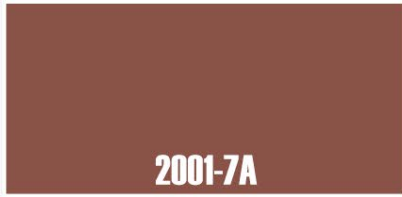
## KITCHEN TERRA COTTA



2003-7C

LRV 28 RGB 190, 136, 116 HEX #BE8874

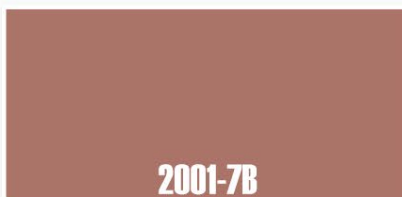
## REMEMBER ME RED



2001-7A

LRV 9 RGB 138, 82, 72 HEX #8A5248

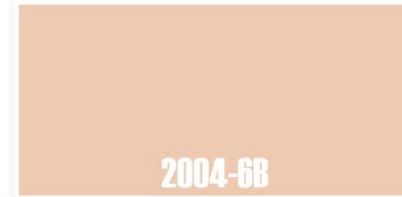
## PAJARITO RED



2001-7B

LRV 19 RGB 170, 114, 103 HEX #AA7267

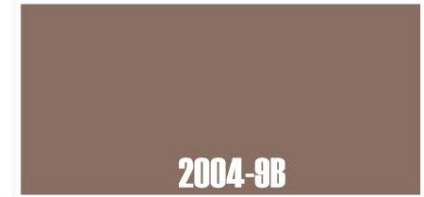
## SPECIAL PEACH



2004-6B

LRV 62 RGB 236, 201, 177 HEX #ECC9B1

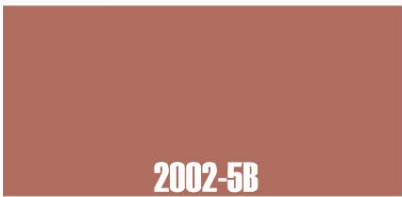
## BROWN BARK



2004-9B

LRV 14 RGB 135, 110, 99 HEX #876E63

## KITCHEN TILE RED



2002-5B

LRV 19 RGB 175, 109, 95 HEX #AF6D5F

## SWEETLY SINGING



ACCENT ONLY  
2005-3C

LRV 35 RGB 225, 142, 120 HEX #E18E78

## RIO GRANDE MUD



2005-7A

LRV 15 RGB 153, 105, 91 HEX #99695B

## MORNING COFFEE



2005-10A

LRV 41 RGB 195, 171, 153 HEX #C3A899

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## PERFECT PEACH



LRV ⓘ    RGB    HEX  
45    222,171,137    #DEAB89

## SOUTHERN PEACH



LRV ⓘ    RGB    HEX  
57    230,193,164    #E6C1A4

## CHOCOLATE SAUCE



LRV ⓘ    RGB    HEX  
11    128,94,79    #805E4F

## ESTATE PEACH



LRV ⓘ    RGB    HEX  
49    211,183,165    #D3B7A5

## SCENTED CANDLE



LRV ⓘ    RGB    HEX  
16    136,116,101    #887465

## GALLERY GREY



LRV ⓘ    RGB    HEX  
47    195,184,172    #C3B8AC

## LOVELY LOVE SONG



LRV ⓘ    RGB    HEX  
15    195,75,68    #C34B44

## RUSTIC EARTH



LRV ⓘ    RGB    HEX  
15    144,107,88    #906B58

## COSY CHAIR



LRV ⓘ    RGB    HEX  
43    209,170,138    #D1AABA

## WOODLAND STONE



LRV ⓘ    RGB    HEX  
33    176,158,142    #B09E8E

## CLEAN SWEEP



LRV ⓘ    RGB    HEX  
46    197,183,169    #C5B7A9

## BASK IN THE GLOW



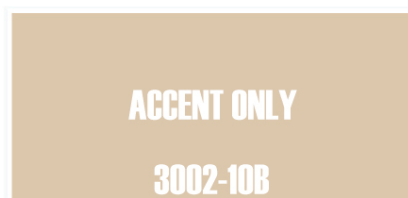
LRV ⓘ    RGB    HEX  
63    247,204,124    #F7CCTC

## FIESTA



LRV ⓘ    RGB    HEX  
19    182,107,70    #B66E46

## WHEAT TOAST



LRV ⓘ    RGB    HEX  
58    221,200,171    #D0C8AB

## STANDING STILL



LRV ⓘ    RGB    HEX  
15    143,109,82    #8F6D52

## FRIENDLY TAN



LRV ⓘ    RGB    HEX  
35    194,158,127    #C29E7F

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## BLANK CANVAS



7001-16

LRV 75 RGB 234, 224, 215 HEX #EAE0D7

## CLAY ANGEL



7002-1

LRV 68 RGB 223, 215, 203 HEX #DFD7CB

## WESTERN CLAY



ACCENT ONLY  
2009-8

LRV 11 RGB 127, 96, 92 HEX #7F605C

## BERRY BUTTER



ACCENT ONLY  
2010-8

LRV 9 RGB 125, 89, 85 HEX #7D5955

## PARLOUR TAUPE



7003-1

LRV 63 RGB 218, 208, 192 HEX #DAD0C0

## UNFORGETTABLE



7003-2

LRV 70 RGB 228, 220, 199 HEX #E4DCC7

## STURDY BRONZE



3001-7C

LRV 33 RGB 188, 154, 129 HEX #BC9A81

## MANILA CREAM



3001-8C

LRV 70 RGB 230, 219, 202 HEX #E6D8CA

## FROLIC



7003-12

LRV 80 RGB 241, 231, 209 HEX #F1E7D1

## PRESIDENTIAL WHITE



7003-15

LRV 74 RGB 231, 225, 206 HEX #E7E1CE

## SUN TAN



3002-8A

LRV 51 RGB 220, 185, 149 HEX #DCB995

## SUBTLE BLUSH



3002-8C

LRV 78 RGB 242, 227, 208 HEX #F2E3D0

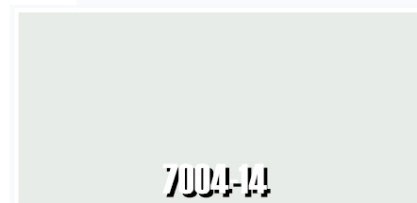
## BLUE KISS



7004-11

LRV 83 RGB 235, 237, 237 HEX #EBEDED

## WHITE SASH



7004-14

LRV 81 RGB 230, 234, 230 HEX #E6EAE6

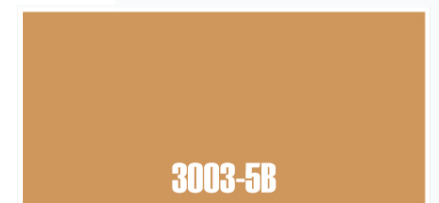
## SAVOURY BEIGE



3002-10C

LRV 68 RGB 228, 216, 198 HEX #E4D8C6

## AUTUMN SPICE



3003-5B

LRV 34 RGB 205, 150, 92 HEX #CD965C

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## IMPERIAL GOLD



3003-5C

LRV ⓘ RGB HEX  
48 220, 180, 130 #DCB482

## PUMPKIN PIE OH MY!



3003-6B

LRV ⓘ RGB HEX  
64 236, 207, 166 #ECCFA6

## SIMPLE PLEASURES



3003-6C

LRV ⓘ RGB HEX  
73 241, 220, 191 #F1DCBF

## CORNER CAFÉ



3003-7C

LRV ⓘ RGB HEX  
28 184, 141, 96 #B88D60

## YOUNG AT HEART



3003-8A

LRV ⓘ RGB HEX  
47 212, 180, 136 #D4B488

## CHARM BRACELET



3004-4B

LRV ⓘ RGB HEX  
73 248, 220, 167 #F8DCA7

## PRETTY PRETTY PICTURE



3004-4C

LRV ⓘ RGB HEX  
79 250, 229, 188 #FAE5BC

## POSEIDON'S GOLD



ACCENT ONLY

3004-5A

LRV ⓘ RGB HEX  
34 206, 150, 80 #CE9650

## AFTERNOON STROLL



3004-5C

LRV ⓘ RGB HEX  
49 223, 182, 116 #DFB674

## WARM SUNSHINE



3004-6B

LRV ⓘ RGB HEX  
67 240, 212, 168 #F0D4A8

## PALOMINO PONY



3004-8A

LRV ⓘ RGB HEX  
56 224, 195, 157 #E0C39D

## HAZY YELLOW



3004-8B

LRV ⓘ RGB HEX  
69 236, 216, 182 #ECD8B6

## ESTATE VANILLA



3004-8C

LRV ⓘ RGB HEX  
79 243, 230, 205 #F3E6CD

## RIVER OAK



3004-9C

LRV ⓘ RGB HEX  
27 168, 144, 113 #A89071

## LEATHERBOUND



3004-10A

LRV ⓘ RGB HEX  
42 197, 173, 143 #C5AD9F

## WETLAND CLAY



3007-10A

LRV ⓘ RGB HEX  
41 192, 174, 147 #C0AE93

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## GARDEN OCHRE



3005-5A

LRV 26    RGB 183, 135, 76    HEX #B7874C

## CREAMY ORANGE



3005-5B

LRV 44    RGB 218, 172, 111    HEX #DAAAC6F

## AMBITIOUS



3005-5C

LRV 45    RGB 216, 175, 119    HEX #D8AF77

## VERANDA YELLOW



3005-6A

LRV 55    RGB 228, 193, 139    HEX #E4C18B

## SWEET TREATS



3005-6B

LRV 62    RGB 233, 205, 161    HEX #E9CDA1

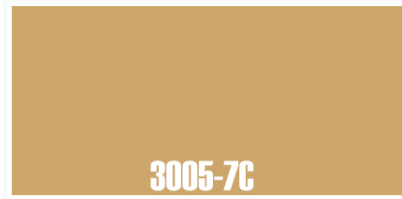
## SOFT CANDLELIGHT



3005-6C

LRV 71    RGB 239, 218, 187    HEX #EFDABB

## LEWIS GOLD



3005-7C

LRV 39    RGB 203, 165, 107    HEX #C8A56B

## CAPRICIOUS



3005-8B

LRV 68    RGB 239, 214, 172    HEX #EFD6AC

## PALE MAIZE



3005-8C

LRV 79    RGB 243, 231, 193    HEX #F3E7C1

## GARDENIA



3005-10B

LRV 58    RGB 217, 199, 171    HEX #D9C7AB

## SUMMER LINEN



3005-10C

LRV 79    RGB 237, 232, 215    HEX #EDE8D7

## DEMURE YELLOW



3006-6C

LRV 76    RGB 242, 225, 186    HEX #F2E18A

## TIMELESS GOLD



3006-7C

LRV 32    RGB 182, 155, 112    HEX #B69870

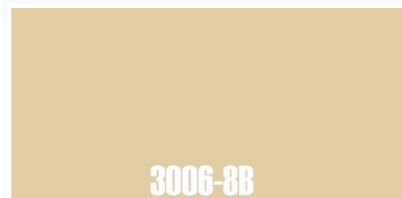
## DINING ROOM GOLD



3006-8A

LRV 47    RGB 207, 183, 139    HEX #CFB78B

## LIGHT AMBER



3006-8B

LRV 61    RGB 226, 206, 164    HEX #E2CEA4

## IVORY ESSENCE



3006-8C

LRV 76    RGB 236, 227, 206    HEX #ECE3CE



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## INSPIRING HUE



LRV 71 RGB 198, 228, 219 HEX #C6E4DB

## PRAIRIE PATH



LRV 22 RGB 154, 134, 104 HEX #9A8668

## CLASSIC BUFF



LRV 64 RGB 225, 210, 182 HEX #E1D2B6

## SHANIA'S LACE



LRV 79 RGB 236, 231, 217 HEX #ECE7D9

## IRONCLAD



LRV 16 RGB 127, 121, 98 HEX #7F7962

## TWEED JACKET



LRV 43 RGB 198, 176, 131 HEX #C6B083

## PAPER MOON



LRV 73 RGB 239, 222, 187 HEX #EFDEBB

## WILD MUSHROOM



LRV 32 RGB 171, 156, 131 HEX #AB9C83

## DEEPEST RIVER



LRV 6 RGB 75, 86, 83 HEX #4B5653

## COUNTRY CHARM



LRV 53 RGB 209, 194, 166 HEX #D1C2A6

## RATTAN BASKET



LRV 61 RGB 218, 207, 187 HEX #D4CFB8

## 24 KARATS



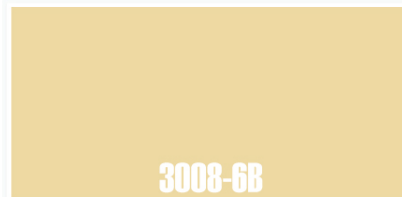
LRV 56 RGB 223, 198, 134 HEX #DFC686

## GREYED



LRV 53 RGB 201, 196, 178 HEX #C9C4B2

## CANARY DIAMOND



LRV 68 RGB 236, 216, 162 HEX #ECD8A2

## HIDDEN PATH



LRV 70 RGB 231, 219, 192 HEX #E7D8C0

## FRESHLY BAKED



LRV 48 RGB 199, 186, 166 HEX #C7BAA6



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## DREAMY TEAL



LRV 23 RGB 78, 151, 149 HEX #4E9795

## COZY WHITE



LRV 80 RGB 237, 232, 220 HEX #EDE8DC

## SPLENDID BLUE



LRV 26 RGB 119, 149, 179 HEX #7795B3

## METROPOLIS LILAC



LRV 20 RGB 100, 77, 124 HEX #645880

## SWEET CAROLINA



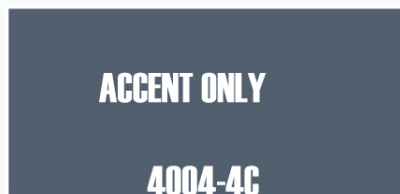
LRV 26 RGB 150, 147, 126 HEX #96937E

## PORCH STEP



LRV 8 RGB 97, 92, 89 HEX #615C59

## MIDNIGHT SHADOW



LRV 8 RGB 82, 94, 109 HEX #525E6D

## GUEST BLUE



LRV 21 RGB 119, 133, 163 HEX #7785A3

## MOSAIC GREEN



LRV 5 RGB 55, 82, 100 HEX #375264

## GARDEN WALK



LRV 9 RGB 108, 95, 86 HEX #6C5F56

## BEDTIME STORY



LRV 17 RGB 106, 123, 162 HEX #6A7BA2

## GREY SUIT



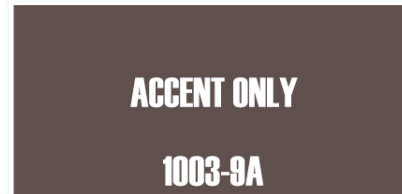
LRV 22 RGB 136, 136, 134 HEX #888886

## SANDY SAGE



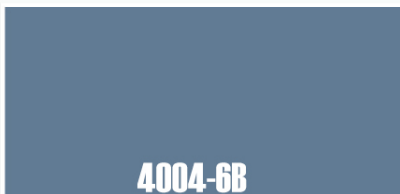
LRV 47 RGB 189, 185, 170 HEX #BDB9AA

## VIRGINIA SOIL



LRV 6 RGB 95, 79, 76 HEX #5F4F4C

## VERANDA BLUE



LRV 15 RGB 96, 121, 146 HEX #607992

## MUSKEG GREY

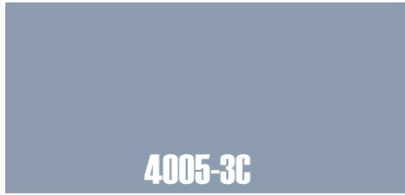


LRV 6 RGB 84, 86, 89 HEX #545659



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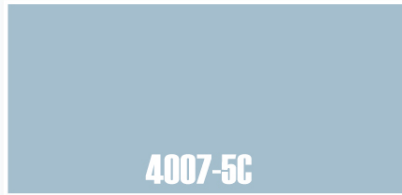
## BLISSFUL BLUE



4005-3C

LRV 30 RGB 142, 157, 174 HEX #BE9DAE

## MEMORYBOOK BLUE



4007-5C

LRV 47 RGB 122, 138, 155 HEX #7A889F

## BOUNTIFUL BLUE



4007-6B

LRV 17 RGB 97, 126, 144 HEX #617E90

## PULITZER BLUE



4008-4A

LRV 22 RGB 118, 141, 156 HEX #768D9C

## NORTHERN SKY BLUE



4008-5B

LRV 51 RGB 170, 197, 211 HEX #AAC5D3

## NOIR



ACCENT ONLY

4009-2

LRV 3 RGB 67, 68, 70 HEX #434446

## DARK IRIS



ACCENT ONLY

4009-5

LRV 5 RGB 58, 83, 103 HEX #3A5367

## PHOTOGENIC



ACCENT ONLY

5010-10

LRV 12 RGB 68, 112, 135 HEX #447087

## GREY BROOK



5001-1B

LRV 26 RGB 108, 122, 133 HEX #6C7A7E

## NORTHERN SKY



5001-3B

LRV 61 RGB 202, 210, 208 HEX #CAD2D0

## NORTHERN JUNIPER



5001-4B

LRV 21 RGB 118, 139, 140 HEX #768B8C

## VILLA BLUE



5002-4B

LRV 24 RGB 118, 146, 146 HEX #769292

## TURQUOISE PORCELAIN



ACCENT ONLY

5002-5C

LRV 38 RGB 140, 179, 179 HEX #8CB3B3

## SEA SERENADE



ACCENT ONLY

5002-8A

LRV 37 RGB 117, 179, 194 HEX #75B3C2

## MELLOW TUNE



5003-1B

LRV 57 RGB 198, 204, 194 HEX #C6CCC2

## COTTAGE LATTICE GREEN



ACCENT ONLY

5003-2A

LRV 22 RGB 134, 138, 125 HEX #868A7D



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## TAIGA SPRUCE



LRV 19    RGB 118, 134, 127    HEX #76867F

## FOREST NIGHTFALL



LRV 8    RGB 84, 96, 92    HEX #54605C

## DESTINY



LRV 62    RGB 189, 214, 213    HEX #B0D6D5

## WATER'S EDGE



LRV 25    RGB 116, 151, 149    HEX #749795

## ANGELIC BLUE



LRV 66    RGB 122, 200, 217    HEX #7ACED9

## INFINITY POOL



LRV 58    RGB 156, 213, 230    HEX #9CD5E6

## FIESTA BLUE



LRV 46    RGB 123, 197, 217    HEX #78C5D9

## BURNT TILE



LRV 5    RGB 89, 78, 73    HEX #594E49

## GARDEN POOL



LRV 16    RGB 14, 130, 159    HEX #0E829F

## MINT GLAZE



LRV 58    RGB 202, 205, 191    HEX #C4C0BF

## TUSCAN OLIVE



LRV 29    RGB 148, 154, 132    HEX #949A84

## FLORA



LRV 9    RGB 94, 99, 87    HEX #5E6357

## GARDEN FLOWER



LRV 56    RGB 193, 203, 192    HEX #C1CBC0

## FAVOURITE JADE



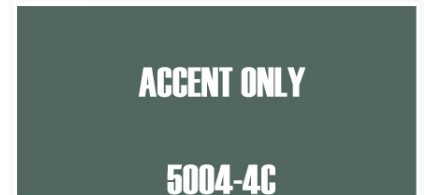
LRV 39    RGB 162, 176, 160    HEX #A2B0A0

## BLUERIDGE FIR



LRV 21    RGB 118, 139, 130    HEX #768B82

## CANADIAN FIR



LRV 9    RGB 81, 102, 94    HEX #51665E



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## BLOWING BUBBLES



LRV 76 RGB 219, 232, 222 HEX #D8E8DE

## VALLEY HAZE



LRV 41 RGB 150, 183, 175 HEX #96B7AF

## OUT OF THE BLUE



LRV 69 RGB 191, 226, 231 HEX #BFE2E7

## FLUFFY SLIPPERS



LRV 83 RGB 229, 239, 240 HEX #E5E9F0

## NUANCE



LRV 48 RGB 182, 189, 179 HEX #B6BDB3

## BALLROOM DANCING



LRV 41 RGB 169, 180, 165 HEX #A9B4A5

## COOL BLUEGRASS



LRV 23 RGB 110, 147, 127 HEX #6E937F

## MADISON WHITE



LRV 68 RGB 218, 217, 210 HEX #DAD9D2

## GINKGO TREE



LRV 22 RGB 128, 140, 121 HEX #808C79

## TREELINE



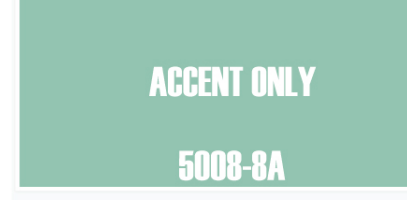
LRV 9 RGB 87, 99, 86 HEX #576356

## MINTY DELIGHT



LRV 78 RGB 220, 234, 224 HEX #DCEAE0

## GREEN CHARM



LRV 45 RGB 145, 194, 176 HEX #91C2B0

## BLUE TURQUOISE



LRV 17 RGB 0, 138, 135 HEX #008AB7

## KISS OF MINT



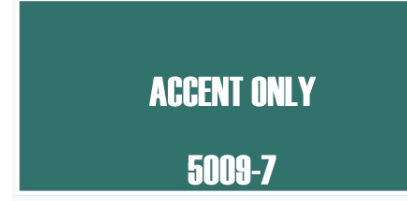
LRV 60 RGB 193, 213, 185 HEX #C1D5B9

## MEADOWGRASS



LRV 33 RGB 140, 168, 133 HEX #8CA885

## ARTISAN GREEN



LRV 11 RGB 53, 113, 108 HEX #35716C



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## WEDDING MINT



LRV ⓘ RGB HEX  
54 189, 200, 181 #BDC8B5

## DEEP MINT



LRV ⓘ RGB HEX  
12 62, 119, 88 #3E7758

## SUMPTUOUS SAGE



LRV ⓘ RGB HEX  
47 185, 188, 152 #B9BC98

## SEPTEMBER FOG



LRV ⓘ RGB HEX  
68 222, 218, 204 #DEDACC

## ALOE VERA



LRV ⓘ RGB HEX  
64 198, 216, 204 #C6DBCC

## YOUNG WILLOW



LRV ⓘ RGB HEX  
46 189, 185, 148 #BDB994

## SNOWED IN



LRV ⓘ RGB HEX  
80 235, 234, 228 #EBEAE4

## SOULFUL GREY



LRV ⓘ RGB HEX  
46 187, 184, 175 #BBB8AF

## CARRIAGE HOUSE



LRV ⓘ RGB HEX  
40 179, 175, 159 #B3AF9F

## BACKWOODS



LRV ⓘ RGB HEX  
40 178, 176, 138 #B2B08A

## TRUE BLISS



LRV ⓘ RGB HEX  
63 207, 215, 180 #CFD7B4

## GOOD MORNING



LRV ⓘ RGB HEX  
51 185, 199, 156 #B9C79C

## ASHEN GRAY



LRV ⓘ RGB HEX  
39 179, 171, 161 #83ABA1

## VILLA GREY



LRV ⓘ RGB HEX  
59 209, 204, 191 #D1CCBF

## OAKMOSS



LRV ⓘ RGB HEX  
44 186, 181, 148 #BAB594

## DUSTY OLIVE



LRV ⓘ RGB HEX  
34 167, 165, 134 #A7A586



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## WISPY WHITE



6006-1

LRV 75 RGB 229, 226, 217 HEX #E5E209

## WARM PUTTY



6006-1A

LRV 65 RGB 218, 212, 200 HEX #DAD4C8

## COOL MOSS



6006-4A

LRV 30 RGB 163, 156, 126 HEX #A39C7E

## SMOKED OLIVE



6006-4B

LRV 25 RGB 150, 143, 105 HEX #968F69

## PARLOUR SAGE



6006-5B

LRV 53 RGB 202, 197, 160 HEX #CAC5A0

## THROW RUG



6006-6A

LRV 33 RGB 167, 163, 115 HEX #A7A373

## OLIVE RUSH



6006-6B

LRV 30 RGB 163, 155, 110 HEX #A39B6E

## OLIVITA



ACCENT ONLY

6006-6C

LRV 17 RGB 129, 122, 83 HEX #817A53

## GRACIOUS



6007-1A

LRV 71 RGB 226, 221, 207 HEX #E2DDCF

## MOUNTAIN OLIVE



ACCENT ONLY

6007-4C

LRV 21 RGB 141, 132, 95 HEX #8D845F

## COUNTRY WHITEWASH



6008-1A

LRV 81 RGB 237, 234, 220 HEX #EDEADC

## SOFT STONES



6008-1C

LRV 48 RGB 197, 187, 168 HEX #C5BBA8

## TRANSITIONAL TAN



6008-2A

LRV 37 RGB 176, 167, 144 HEX #B0A790

## DAYBREAK



6008-3A

LRV 71 RGB 229, 221, 201 HEX #E5DDC9

## WILDERNESS



ACCENT ONLY

6009-5

LRV 8 RGB 71, 97, 81 HEX #476151

## PALACE GREEN



ACCENT ONLY

6009-6

LRV 7 RGB 60, 97, 79 HEX #3C614F



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# City Council Meeting Staff Report



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## Agenda Item

Receive a report and hold a discussion regarding the Katy Trail Project.

## Staff Contact

Justin Eastwood, Director of Parks and Recreation  
jeastwood@cityofdenison.com  
(903) 465-2720

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## Summary

- The City of Denison was awarded a \$2,822,653 grant from the TxDOT Transportation Alternatives Set-Aside Program for the construction of Phase 2 of the Katy Trail.
- The second phase, Loy Lake Road south to Spur 503, will be a 12' wide concrete path along the former UP Railroad corridor purchased by the City in 2015.
- Two new sculptures have been donated and installed on the Katy Trail.

## Staff Recommendation

No staff recommendation – update only.

## Recommended Motion

No staff recommendation – update only.

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## Background Information and Analysis

In 2015, the city was able to purchase abandoned railroad right of way with the hopes of one day turning it in to a multi-use trail that connects downtown Denison to downtown Sherman. Council supported the application to the Transportation Alternatives Program for the construction of the Katy Trail Project. The nomination was not selected by TxDOT and recommended the project be broken into three phases.

In 2017, Council supported the application to the Texas Department of Transportation 2017 Transportation Alternatives Set-Aside Program for the construction of Phase 1 of the Katy Trail Project. The city was awarded the funding near the end of 2017 and have since completed design and construction of the first phase. The overall trail will reach from downtown Denison to the southern end of Denison, near the newly constructed multi-sport Texoma Health Foundation Park.

Phase 1 of the trail is approximately one mile, running from Day Street to Loy Lake Road. The construction bid was awarded in November 2019 and a pre-construction meeting was held in December. Construction began in January 2020 was completed in November 2021. At the crossing of Loy Lake Road, a 200-foot pedestrian bridge was constructed to cross Loy Lake Road. South of Loy Lake Road will be part of Phase 2 of the trail construction. The City applied for additional funding for Phase 2 from TxDOT this year and was approved for \$2,822,653.

Phase 2 will stretch from Loy Lake Road to the northbound access road to Spur 503. It will be approximately 1 ¼ mile in length. The trail design calls to match the construction of the Phase 1 Katy

Trail with a continuous 12' wide concrete shared use trail with respite areas that contain benches, water fountains, and bike racks.

Next steps for City staff include:

- Attending a virtual workshop to discuss general project initiation and development timelines with TxDOT.
- Participating in a project kickoff meeting with the TxDOT District and Public Transportation Representative.
- Coordinate with the TxDOT District and Metropolitan Planning Organization (MPO) to begin the process to list the project in the local Transportation Improvement Program (TIP) document and then the Statewide TIP.
- Determine the project manager and develop a project development and construction letting schedule.

There is not an official timeline set for construction to begin on the Katy Trail Phase Two Project.

In December of 2022, four railroad-themed art sculptures were donated by Texoma Medical Center, First United Bank, EarnhartBuilt, and the Hander family and installed onto the Katy Trail. Two more sculptures were installed in November of 2023, donated by the Courtright family and the Crawley family. The sculptures were created by Casni Studio.

#### **Financial Considerations**

None. The City received 100% funding through the TxDOT Transportation Alternatives Set-Aside Program.

#### **Prior Board or Council Action**

In 2015, Council supported the application to the Transportation Alternatives Program for the construction of the Katy Trail Project. In 2017, Council supported the application to the Texas Department of Transportation 2017 Transportation Alternatives Set-Aside Program for the construction of Phase 1 of the Katy Trail Project. Phase 1 of the Katy Trail Project was completed in November 2021. In May on 2023, Council supported grant application to the Texas Department of Transportation 2023 Transportation Alternatives Set-Aside (TA) Program to assist with funding for Phase 2 of the Katy Trail Project.

#### **Alternatives**

None.