



REGULAR CITY COUNCIL MEETING

City Hall Council Chambers, 298 West Washington Street
Tuesday, January 05, 2021 at 5:30 PM

AGENDA

CALL TO ORDER

REGULAR AGENDA

1. Recognition of Kason Prince for his Fundraising Efforts on Behalf of Backpack Buddies

2. PUBLIC HEARING

The City of Stephenville Intends to Submit an Application to the Texas Department of Agriculture for a Texas Community Development Block Grant Program (TxCDBG) grant for the Downtown Revitalization/Main Street Program and the Community Development Fund

3. Consider Approval of a Resolution Designating Public Management, Inc as the Grant Administrator for a Texas Community Development Block Grant Program - Community Development Fund (CDBG)

4. Approval of a Resolution Designating Public Management, Inc. as the Grant Administrator for a Texas Community Development Block Grant - Downtown Revitalization / Main Street Program - Community Development Fund (CDBG - DRP / MS)

PLANNING AND ZONING COMMISSION

Steve Killen, Director of Development Services

5. PUBLIC HEARING

Case No.: RZ2020-012

Applicant is Requesting a Rezone of the Property Located at 1601 Swan, Being Lots 7 and 8, Block 7, of the South Side Addition to the City Of Stephenville, Erath County, Texas, From Industrial District (I) To Multiple Family Residential District (R-3).

6. Consider Approval of an Ordinance Rezoning the Property Located at 1601 Swan, Being Lots 7 and 8, Block 7, of the South Side Addition to the City Of Stephenville, Erath County, Texas, From Industrial District (I) To Multiple Family Residential District (R-3).

7. PUBLIC HEARING

Case No.: RZ2020-013

Applicant is Requesting a Rezone of the Property Located at 1600 W Swan, Being Part of Lot 5, Block 14 of the South Side Addition of the City Of Stephenville, Erath County, Texas, From Industrial District (I) To Multiple Family Residential District (R-3).

8. Consider Approval of an Ordinance Rezoning the Property Located at 1600 W Swan, Being Part of Lot 5, Block 14 of the South Side Addition of the City Of Stephenville, Erath County, Texas, From Industrial District (I) To Multiple Family Residential District (R-3).

9. PUBLIC HEARING

Case No.: RZ2020-014

Applicant is Requesting a Rezone of the Property Located at 1125 South Alexander Road, Being 1.380 acres of A0196, John B. Dupuy Survey of the City Of Stephenville, Erath County, Texas, from Single Family Residential District (R-1) to Multiple Family Residential District (R-3).

10. Consider Approval of an Ordinance Rezoning the Property Located at 1125 South Alexander Road, Being 1.380 acres of A0196, John B. Dupuy Survey of the City Of Stephenville, Erath County, Texas, from Single Family Residential District (R-1) to Multiple Family Residential District (R-3).

11. PUBLIC HEARING

Case No.: RZ2020-015

Applicant is Requesting a Rezone of the Property Located at 2612 Lingleville Road, Being Lot 1, Block 1 of the Latour Addition of the City of Stephenville, Erath County, Texas, from Neighborhood Business District (B-1) To Retail And Commercial Business District (B-2).

12. Consider Approval of an Ordinance Rezoning the Property Located at 2612 Lingleville Road, Being Lot 1, Block 1 of the Latour Addition of the City of Stephenville, Erath County, Texas, from Neighborhood Business District (B-1) To Retail And Commercial Business District (B-2).

PARKS AND LEISURE SERVICES COMMITTEE

Nick Robinson, Chair

13. Parks and Leisure Services Committee Report - December 15, 2020

14. Consider Approval of Expenditure to Replace Rec Hall Windows

PERSONNEL COMMITTEE

Ricky Thurman, Chair

15. Personnel Committee Report - January 5, 2021

16. Consider Approval of a Resolution Authorizing COVID-19 Related Sick Leave

PUBLIC WORKS COMMITTEE

Alan Nix, Chair

17. Public Works Committee Report - December 15, 2020

18. Consider Approval of the Reactivation of the Construction Supervisor and Construction Technician Positions

NOMINATIONS COMMITTEE

Gerald Cook, Chair

19. Nominations Committee Report - December 15, 2020

20. Consider Approval of Appointments to Citizen Boards and Commissions

FINANCE COMMITTEE

Mark McClinton, Chair

21. Finance Committee Report - December 29, 2020

22. Consider Approval of a Request for Waiver of Hotel Occupancy Tax Penalty and Interest from Hampton Inn

23. Consider Approval of Deferred Compensation Plan Update and Adoption Agreement

24. Consider Approval of an Agreement for Benefits Consultant Services

STEPHENVILLE ECONOMIC DEVELOPMENT AUTHORITY

Jeff Sandford, Executive Director

FINANCIAL REPORTS

Monica Harris, Director of Finance

- [25.](#) Monthly Budget Review for the Period Ending November 30, 2020

CONSENT

- [26.](#) Approval of Minutes - Regular City Council Meeting - December 1, 2020
- [27.](#) Approval of Minutes - December 17, 2020 - Council Work Session
- [28.](#) Approve Amendment No. 9 with Freese and Nichols, Inc for Development Review Services
- [29.](#) Approve Ordinance Amending Chapter 50 *Sewer and Water Service* to Comply with Pretreatment Streamline Rules as Required by the Texas Commission on Environmental Quality
- [30.](#) Approve Annual Incode 10 Software Maintenance Expenditure
- [31.](#) Approve Contract with D&M Tank, LLC for the 377 Ground Storage Tank Rehabilitation Project

COMMENTS BY CITY MANAGER

*First day to file for a place on the May 2021 General Election ballot - Wednesday, January 13, 2021

*Council Committee Meetings - Tuesday, January 19 at 5:30 p.m.

COMMENTS BY COUNCIL MEMBERS

ADJOURN

Note: The Stephenville City Council may convene into Executive Session on any matter related to any of the above agenda items for a purpose, such closed session allowed under Chapter 551, Texas Government Code.

Notice is hereby given that members of the Stephenville City Council may participate in this meeting via teleconference or videoconference as allowed by Governor's Order due to the COVID-19 pandemic. As allowed by this Order, a quorum may not be present in a physical location.

Pursuant to Section 418.108(g) of the Texas Government Code, a Declaration of Local Disaster issued on April 22, 2020, and in the interest of public health, the city has exercised its right to limit ingress and egress in public buildings. As such, the public will be allowed into city facilities to attend the meeting on a limited basis.

Those wishing to address the Stephenville City Council may do so in person. Written correspondence may also be mailed to City Hall or emailed to Staci King, City Secretary, at slking@stephenvilletx.gov. Written correspondence must be received by 3:00 p.m. on January 5, 2020. For alternate arrangements, please contact Ms. King at least 48 hours prior to the meeting.

The meeting is available for viewing via livestream on the City's Facebook Page (City of Stephenville – City Hall).

In accordance with the Americans with Disabilities Act, persons who need accommodation to attend or participate in this meeting should contact City Hall at 254-918-1287 within 48 hours prior to the meeting to request such assistance.

PUBLIC HEARING NOTICE
CITY OF STEPHENVILLE
TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

The City of Stephenville will hold a public hearing at 5:30 p.m. on January 5, 2021, at City Hall regarding the submission of an application to the Texas Department of Agriculture for a Texas Community Development Block Grant Program (TxCDBG) grant for the Downtown Revitalization/Main Street Program and the Community Development Fund. The purpose of this meeting is to allow citizens an opportunity to discuss the citizen participation plan, the development of local housing and community development needs, the amount of TxCDBG funding available, all eligible TxCDBG activities, and the use of past TxCDBG funds. The City encourages citizens to participate in the development of this TxCDBG application and to make their views known at this public hearing. Citizens unable to attend this meeting may submit their views and proposals to Jason King, 298 W Washington Street, Stephenville, Texas, 76401, 254-918-1265. Persons with disabilities that wish to attend this meeting should contact City Hall to arrange for assistance. Individuals who require auxiliary aids or services for this meeting should contact City Hall at least two days before the meeting so that appropriate arrangements can be made. For more information, please contact Jason King.

AVISO DE AUDIENCIA PÚBLICA
CIUDAD DE STEPHENVILLE
PROGRAMA DE SUBVENCIONES EN BLOQUES PARA EL DESARROLLO COMUNITARIO DE TEXAS

La ciudad de Stephenville llevará a cabo una audiencia pública a las 5:30 p.m. el Enero 5, 2021, en el Ayuntamiento con respecto a la presentación de una solicitud al Departamento de Agricultura de Texas para una subvención del Programa de Subvenciones en Bloque de Desarrollo Comunitario de Texas (TxCDBG) para el Programa de Revitalización del Centro / Calle Principal y el Fondo de Desarrollo Comunitario. El propósito de esta reunión es brindar a los ciudadanos la oportunidad de discutir el plan de participación ciudadana, el desarrollo de la vivienda local y las necesidades de desarrollo comunitario, la cantidad de fondos disponibles de TxCDBG, todas las actividades elegibles de TxCDBG y el uso de fondos anteriores de TxCDBG. La Ciudad anima a los ciudadanos a participar en el desarrollo de esta aplicación TxCDBG y dar a conocer sus puntos de vista en esta audiencia pública. Los ciudadanos que no puedan asistir a esta reunión pueden enviar sus opiniones y propuestas a Jason King, 298 W Washington Street, Stephenville, Texas, 76401, 254-918-1265. Las personas con discapacidades que deseen asistir a esta reunión deben comunicarse con el Ayuntamiento para coordinar la asistencia. Las personas que requieran ayudas o servicios auxiliares para esta reunión deben comunicarse con el Ayuntamiento al menos dos días antes de la reunión para que se puedan hacer los arreglos necesarios. Para obtener más información, comuníquese con Jason King.

This contract (“Contract”) is made and entered effective _____, 2020 by and between **PUBLIC MANAGEMENT, INC.**, a Texas corporation, of Houston, Harris County, Texas (“Consultant”) and the **CITY OF STEPHENVILLE**, (“Client”) for the purpose of retaining Consultant to render **Application** and **Administration Services** to the Client for Texas Community Development Block Grant Program (TxCDBG) – administered by the Texas Department of Agriculture.

Client and Consultant agree that Consultant will provide services to Client on the terms and conditions outlined in this Contract.

I.

Consultant will provide Client with administrative services as follows:

PRE- FUNDING SERVICES:

Application Preparation: The Team will prepare the application as directed by the Client to apply for available funding sources adherent to the state and federal agencies guidelines. The Team will coordinate all activities and other service providers with regard to the preparation of the application, including, but not limited to:

- Review of proposed project for program compliance and will work with Client staff to provide an overview;
- Advise on important deadlines and procedures;
- Schedule project meetings with client staff to evaluate proposed project and timeframes.
- Prepare project description in conjunction with staff and project engineer;
- Evaluate project objective and develop timelines/milestones;
- Prepare project maps in ArcGIS and PDF format;
- Prepare necessary preliminary Environmental Compliance documentation;
- Conduct public hearings (as applicable) for application submission and attend Client meeting to address application development;
- Package complete application with all pertinent supplemental documentation for client to review prior to submission;
- Identify and document beneficiaries;
- Advise client on funding availability, anticipated scoring, selection and award process.

POST FUNDING SERVICES

GENERAL ADMINISTRATION SERVICES

Administrative Duties: The Team will coordinate, as necessary, between Client and any other appropriate service providers (i.e. Engineer, Environmental, etc.), contractor, subcontract and/or administrative agency to effectuate the services requested.

- Oversee the project and achieve all of the project goals within the constraints given by the funding agency;
- Develop and implement project phases to plan, budget, oversee, and document all aspects of the specific project;
- Coordinate all activities related to the project’s successful completion with all other professionals and organizations associated with this project.

Recordkeeping: The Team will assist the Client with maintaining all records generated by the program. This includes all records required by the funding agency and the Client (i.e. program management records).

- Complete filing system will be developed and maintained at Client’s office;
- Both physical and electronic form of records will be developed and accessible;
- Records will be updated as necessary to ensure compliance with funding source and administrative agency;
- Records will be retained for the appropriate period of time as dictated by the funding agency, with electronic records available for perpetuity.

Financial Management: The Team will assist the Client in keeping the general journal, general ledger, cash receipts journal and all other necessary financial documents, as well as monitor the Client’s financial system.

- Utilize and assist with the agency's system of record to complete milestones, submit documentation, reports, draws, change requests, etc.;
- Request fund expenditure in-line with project milestones;
- Develop a detailed Contract Ledger;
- Establish a filing system that accurately and completely reflects the financial expenditures of the program and project(s).
- Keep track of disbursement of funds and ensure that the vendors are paid within the required timeframe set out by the funding agency.

Construction Management: The Team will coordinate and supervise the project to ensure designated activities are realizing the intended outcomes as stated in contract documents. We will oversee specialized contractors and other personnel and allocate necessary resources.

- Assist the Client in submitting/setting up project applications in the Agency’s system of record;
- Coordinate the development, completion, and execution of contract documents to ensure supporting documentation is in order;
- Conduct regular on-site visitations and assessments;
- Development and maintenance of construction management status log;
- Recommendation and development of scope realignments as prescribed by the project’s complexities.

CONTRACT ADMINISTRATION SERVICES

Administrative Duties: The Team will work with the Client’s staff to provide the necessary administrative and planning services to see the project to completion. The Team will meet with officials on a regular basis to review progress on the objectives of the project and then take actions to see that those objectives are met.

- Act as the Client's liaison to the funding agency in all matters concerning the project;
- Coordinate communication via email, conference call, facsimile, and direct meetings to ensure the project is on schedule and all parties are properly informed;
- Prepare and submit any necessary reports required by the funding agency during the course of the project (i.e. Monthly/Quarterly Progress Reports, Project Monitoring Reports, Project Completion Reports, etc.);

- Provide Client staff specific instructions on the necessary administrative procedures that will assure a successful project;
- Establish and maintain record keeping systems;
- Assist with resolving monitoring and audit findings.

Real Property Acquisition (as applicable): The Team will assist the Client in the preliminary acquisition assessment as well as the development and/or coordination of acquisition of real property (real property in the context of acquisition refers to permanent interest in real property as well as certain less-than-full-fee interests in real property).

- Adherence to the Uniform Act (URA) which guides the acquisition of real property that may be necessary to the needs of the project;
- ***If it is determined that property needs to be acquired, Public Management, Inc. will perform the following services according to the URA for an additional fee.***
- Development and maintenance of appropriate file materials to ensure compliance with federal, state, and program requirements;
- Administrative coordination of parcels, values, correspondence;
- Coordinate property appraisals and determine just compensation;
- Ensure easement/right of way boundaries are in line with proposed project and survey;
- Completion and/or file closure of acquired property.

Environmental Services: The Team will prepare all documents and correspondence for environmental review and clearance as well as maintain close coordination with local officials, project engineer and other members of the project team to assure appropriate level of environmental review is performed. This project element will abide by the National Environmental Policy Act (NEPA) or any other Federal, State or local regulation as applicable.

- Review each project description to ascertain and/or verify the level of environmental review required: Exempt, Categorical Exclusion not Subject to 58.5, Categorical Exclusion Subject to 58.5, Environmental Assessment, and Environmental Impact Statements;
- Prepare and maintain a written environmental review record;
- Consult and coordinate with oversight/regulatory agencies to facilitate environmental clearance;
- Conduct site-visits as necessary to ensure environmental compliance;
- Prepare all responses to comments received during comment phase of the environmental review, including State/Federal Agency requiring further studies and/or comments from public or private entities during public comment period;
- Provide documentation of clearance for Parties Known to be Interested as required by 24 CFR 58.43;
- Advise and complete environmental re-evaluations per 24 CFR 58.47 when evidence of further clearance or assessment is required;
- Assist in compliance with flood plain and wetlands management review guidelines;
- ***Not included in this service are archeological, engineering, or other special service costs mandated by environmental review record compliance agencies.***

Civil Rights Requirements: The Team will structure the program so that all procurement procedures, contracts, and polices will be in accordance with state and federal regulations associated thereto. Ensure that the contractors make affirmative efforts to employ Section 3 Residents and Business Concerns, Minority Business Enterprises, Small Business Enterprises and Women Business Enterprises.

- Set up Civil Rights & Citizen Participation File;
- Designate a Civil Rights Officer (CRO);
- Adopt policies and grievance procedures regarding Citizen Participation;
- Adopt Policies and Pass Resolution/Proclamation/Ordinances regarding Civil Rights;
- Publish Citizen Participation and Civil Rights Notices;
- Place necessary documentation in Bid Packets for Contractors;
- Include required clauses in Construction Contracts between Grant Recipient and Contractor;
- Take action to Affirmatively Further Fair Housing;
- The Team will be diligent and consistent in implementing the project's civil rights responsibilities and will undertake further action and reporting requirements.

Procurement/Bidding/Contracting: Procurement is the process through which an entity obtains goods and services from vendors. The Team will assist the Client in following appropriate procurement procedures to obtain professional and construction services necessary to complete the project.

- Provide assistance to ensure compliance with Local Government Code Chapter 252 as applicable to goods and services;
- Provide assistance to ensure compliance with 2 CFR 200.320 (Methods of Procurement to be Followed).

Labor Standards Monitoring: The Team will ensure that all labor standards laws and regulations are observed during the course of the project. The Team will structure the program so that all procurement procedures and contracts will meet equal opportunity requirements. The Team will also ensure that the contractors make affirmative efforts to employ minority persons and minority subcontractors. Ensure compliance with laws regarding Labor Standards, which include:

- Davis-Bacon Act (40 USC Chapter 31, Subchapter IV);
- Contract Work Hours & Safety Standards Act (CWHSSA);
- Copeland (Anti-Kickback) Act (18 USC 874; 40 USC 3145);
- Fair Labor Standards Act.

Force Account (as applicable): The Team will assist the Client in preparing force account documentation for the project, if necessary, and will consolidate this information for suitable presentation to funding agency. ***Public Management, Inc. may consider an additional fee for these services depending upon the scope of Force Account activities.***

- Develop and maintain documentation of all associated costs;
- Using appropriate recordkeeping forms required by funding agency;
- Submit documentation upon completion of necessary milestones.

Contract Close-out Assistance: The Team will prepare any necessary reports required by the funding agency to close out the project. The Team will work with the Client in preparing the annual audits and necessary actions to ensure the project reaches the "Administratively Closed" status.

- Ensure projects outcomes are in line with contract documents and funding agency's goals and objectives;
- Ensure project beneficiaries are appropriately documented and reported;
- Develop, complete, and submit project completion report(s) and any other necessary administrative completion documents.

It is specifically agreed and understood that Consultant will not provide either personally or by contract any professional or technical services requiring a license by the State of Texas in any phase or aspect of the foregoing. Rather, Consultant will advise Client of the need of such services in furtherance of the planned objectives of Client's Program.

Client acknowledges that Consultant is providing Administrative Services only to Client and that Consultant is not responsible for any procurement activities for or on behalf of the Client. That is, Client, not Consultant, will advertise for and procure the services of any third party required to fulfill Program requirements. By way of example only, Client, not Consultant, must timely and properly post any advertisements necessary to fulfill Program requirements and Client, not Consultant, will enter into any required contracts with third parties necessary to fulfill Program requirements.

Client Initials _____

Consultant Initials _____

II.

Consultant hereby agrees that in the implementation of this Contract, Consultant will comply with the terms and conditions of **Attachment III**, which document is attached hereto and incorporated herein for all purposes, as if set out herein verbatim.

III.

Client is awarding this contract in accordance with the State of Texas Government Code 2254, Professional and Consulting Services.

IV.

It is agreed by the parties hereto that Consultant will, in the discharge of services herein, be considered as an Independent Contractor as that term is used and understood under the laws of the State of Texas and further for the purposes of governing Consultant's fees under the Procurement Standards of Title 2 CFR Part 200.

V.

For work associated to the **Texas Community Development Block Grant Program (TxCDBG)** and in consideration of the foregoing, Client agrees to pay Consultant a fee not to exceed **ZERO DOLLARS (\$0.00)** for **Application Preparation Services**.

For work associated to **Texas Community Development Block Grant Program (TxCDBG)** and in consideration of the foregoing, Client agrees to pay Consultant a fee not to exceed the maximum project costs on the table below. *The fee will be based on final grant award amount. Consultant reserves the right to renegotiate fees based on the type of project being pursued:*

<i><u>TxCDBG Grant Amount</u></i>	<i><u>Percentage Factor</u></i>	<i><u>Fee Not to Exceed</u></i>
\$0 - \$299,000	12.00%	\$35,880.00
\$300,000 - \$500,000	10.00%	\$50,000.00
\$501,000 - 750,000	9.50%	\$71,250.00
\$751,000 - \$1,000,000	8.50%	\$85,000.00
\$1,000,001 +	6.00%	Based on Final Award Amount

VI.

It is agreed that upon determination of total funding request amount Consultant and Client will execute the **Work Authorization (Attachment I)** that will detail final contract amount and cost for services. It is also agreed that payments to such Consultant shall be subject to adjustment where monitoring reviews or audits by the agency indicate that personal services were compensated at greater than reasonable rates.

Services that fall outside the regular scope and/or are not part of the proposed scope will be billed according to the hourly rate and fee schedule defined in **Corporate Hourly Rate and Fee Schedule (Attachment II)**. Prior to Consultant performing any services which are not part of the proposed scope, Consultant shall submit to Client, per paragraph of this contract, a projected hourly schedule and projected total fee for approval.

VII.

Payment of the fees associated with ("**Part V. and VI.**") - Payment Schedule of this Agreement – shall be contingent upon funding award. In the event that grant funds are not awarded to the Client this agreement shall be terminated by the Client.

VIII.

For purposes of this Contract, the Mayor or equivalent authorized person will serve as the Local Program Liaison and primary point of contact for Consultant. All required progress reports and communication regarding the project shall be directed to this liaison and other local personnel as appropriate.

IX.

This Contract shall extend and be in full force until the Program has been fully closed out by the agency. Notwithstanding the foregoing, this Contract may be terminated by Consultant, with or without cause, on forty-five (45) days' written notice to Client.

X.

Termination for Cause by Client: If Consultant fails to fulfill in a timely and proper manner its obligations under this Contract, or if Consultant violates any of the covenants, conditions, contracts, or stipulations of this Contract, Client shall have the right to terminate this Contract by giving written notice to Consultant of such termination and specifying the effective date thereof, which shall be at least five (5) days before the effective date of such termination. In the event of termination for cause, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by Consultant pursuant to this Contract shall, at the option of Client, be turned over to Client and become the property of Client. In the event of termination for cause, Consultant shall be entitled to receive reasonable compensation for any necessary services actually and satisfactorily performed prior to the date of termination.

Termination for Convenience by Client: Client may at any time and for any reason terminate Consultant's services and work at Client's convenience upon providing written notice to the Consultant specifying the extent of termination and the effective date. Upon receipt of such notice, Consultant shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement. Upon such termination, Consultant shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs actually incurred by Consultant as are permitted by the prime contract and approved by Client; (3) plus ten percent (10%) of the cost of the work referred to in subparagraph above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Consultant prior to the date of the termination of this Agreement. Consultant shall not be entitled to any claim or claim of lien against Client for any additional compensation or damages in the event of such termination and payment.

Resolution of Program Non-Compliance and Disallowed Costs: In the event of any dispute, claim, question, or disagreement arising from or relating to this Contract, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or Program requirements, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith within thirty (30) days of receipt of a written notice of the dispute or invitation to negotiate, and attempt to reach a just and equitable solution satisfactory to both parties. If the matter is not resolved by negotiation within thirty (30) days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Contract and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally. If the matter is not resolved through such mediation within sixty (60) days of the initiation of that procedure, either party may proceed to file suit.

XI.

Client, the agency, the U.S. Department of Housing and Urban Development (HUD), Inspectors General, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of Consultant which are directly pertinent to this Program, for the purpose of making audit, examination, excerpts, and transcriptions, and to close

out the Client's contract. Consultant agrees hereby to maintain all records made in connection with the Program for a period of three (3) years after Client makes final payment and all other pending matters are closed. All subcontracts of Consultant shall contain a provision that Client, the agency, and the Texas State Auditor's Office, or any successor agency or representative, shall have access to all books, documents, papers and records relating to subcontractor's contract with Consultant for the administration, construction, engineering or implementation of the Program between the agency and Client.

XII.

If, by reason of force majeure, either party hereto shall be rendered unable, wholly or in part, to carry out its obligations under this Contract, then if such party shall give notice and full particulars of such force majeure in writing to the other party within a reasonable time after the occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

The term "force majeure" as employed herein shall mean acts of God, acts of public enemy, orders of any governmental entity of the United States or of the State of Texas, or any civil or military authority, and any other cause not reasonably within the control of the party claiming such inability.

XIII.

This document embodies the entire Contract between Consultant and Client. Client may, from time to time, request changes in the services Consultant will perform under this Contract. Such changes, including any increase or decrease in the amount of Consultant's compensation, must be agreed to by all parties and finalized through a signed, written amendment to this Contract.

XIV.

If a portion of this Contract is illegal or is declared illegal, the validity of the remainder and balance of the Contract will not be affected thereby.

XV.

Any provision of this Contract which imposes upon Consultant or Client an obligation after termination or expiration of this Contract will survive termination or expiration of this Contract and be binding on Consultant or Client.

XVI.

No waiver of any provision of this Contract will be deemed, or will constitute, a waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver. No waiver will be binding unless executed in writing by the party making the waiver.

XVII.

This Contract will be governed by and construed in accordance with the laws of the State of Texas.

XVIII.

Any dispute between Consultant and Client related to this contract which is not resolved through informal discussion will be submitted to a mutually agreeable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

XIX.

The party who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney fees and all costs of such proceeding.

XX.

Consultant and Client, each after consultation with an attorney of its own selection (which counsel was not directly or indirectly identified, suggested, or selected by the other party), both voluntarily waive a trial by jury of any issue arising in an action or proceeding between the parties or their successors, under or connected with this contract or its provisions. Consultant and Client acknowledge to each other that Consultant and Client are not in significantly disparate bargaining positions.

PATRICK K. WILTSHIRE
President/CEO

Client

Chief Elected Official

ATTEST:

**Attachment I
Work Authorization**

For work associated to _____, and in consideration of the foregoing, Client agrees to pay Consultant a fee not to exceed:

_____ (\$ _____)

The fees are payable upon receipt of invoice from Consultant in accordance with the following schedule for Administrative Services.

ADMINISTRATIVE SERVICES	
Preliminary Administrative Requirements	\$
Environmental Review	\$
Start of Construction	\$
Construction Completion	\$
Closeout Documents	\$
TOTAL FEE	\$

It is also agreed that payments to such Consultant shall be subject to adjustment where monitoring reviews or audits by the client indicate that personal services were compensated at greater than reasonable rates.

PATRICK K. WILTSHIRE
President/CEO

Chief Elected Official

ATTEST:

**Attachment II
Corporate Hourly Rate & Fee Schedule**

PUBLIC MANAGEMENT, INC.
2020 Hourly Rate

Principal Consultant	\$200.00/HR
Project Manager	\$185.00/HR
Planner	\$185.00/HR
Assistant Project Manager	\$150.00/HR
GIS Technician	\$140.00/HR
Executive Assistant	\$110.00/HR

Hourly rates for personnel not listed will be billed at direct payroll cost

REIMBURSABLE EXPENSES

- Travel (vehicle miles traveled) at allowable IRS rate per mile, or at actual out-of-pocket cost.
- Actual cost of subsistence and lodging.
- Actual cost of long-distance telephone calls, expenses, charges, delivery charges, and postage.
- Actual invoiced cost of materials required for the job and used in drafting and allied activities, including printing and reproduction.

This rate schedule will be applicable through December 31, 2020. In January, 2021, if increases are necessary due to increases in wages or other salary related costs, the rates shown will be adjusted accordingly.

ATTACHMENT III
TERMS AND CONDITIONS

I.

Equal Employment Opportunity

During the performance of this Contract, Consultant agrees as follows:

a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor; state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

c) The Contractor will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employees essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

d) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

e) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, "Equal Employment Opportunity" and of the rules, regulations, and relevant orders of the Secretary of Labor.

f) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for

purposes of investigation to ascertain compliance with such rules, regulations, and orders.

g) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

h) The Contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

II.

Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

III.

Section 109 of the Housing and Community Development Act of 1974

The Contractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

IV.

Section 504 Rehabilitation Act of 1973, as Amended

The Contractor agrees that no otherwise qualified individual with disabilities shall, solely by reason of his/her disability, be denied the benefits of, or be subjected to discrimination, including

discrimination in employment, under any program or activity receiving federal financial assistance.

V.

Age Discrimination Act of 1975

The Contractor shall comply with the Age Discrimination Act of 1975 which provides that no person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

VI.

"Section 3" Compliance in the Provision of Training, Employment and Business Opportunities (Limited to contracts greater than \$100,000)

a) The work to be performed under this contract is subject to the requirements of section 3 of the Federal Emergency Management Administration Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by FEMA assistance or FEMA-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of FEMA assistance for housing.

b) The parties to this contract agree to comply with FEMA's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

c) The Contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

d) The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an

e) applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The Contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

f) The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

g) Noncompliance with FEMA's regulations in 24 CFR part 135 may result in sanctions, termination of this Agreement for default, and debarment or suspension from future FEMA assisted contracts.

h) With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this Agreement. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Agreement that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

VII.

Section 503 of the Rehabilitation Act (the "Act") - Handicapped Affirmative Action for Handicapped Workers

a) Consultant will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. Consultant agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising layoff or termination rates of pay or other forms of compensation, and selection for training, including apprenticeship.

b) Consultant agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

c) In the event of Consultant's non-compliance with requirements of this clause, actions for non-compliance may be taken in accordance with rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

d) Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

e) Consultant will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973 and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

f) Consultant will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary Issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor with respect to any subcontract or purchase order as the director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

VIII.

Interest of Members of Client

No member of the governing body of Client and no other officer, employee, or agent of Client who exercises any functions or responsibilities in connection with the planning and carrying out of the Program, shall have any personal financial interest, direct or indirect, in this Contract and Consultant shall take reasonably appropriate steps to assure compliance.

IX.

Interest of Other Local Public Officials

No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connections with the planning and carrying out of the Program, shall have any personal financial interest, direct or indirect, in this Contract; and Consultant shall take appropriate steps to assure compliance.

X.

Interest of Consultant and Employees

Consultant covenants that he presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of its services hereunder. Consultant further covenants that in the performance of this Contract, no person having any such interest shall be employed.

XI.

Debarment and Suspension (Executive Orders 12549 and 12689)

The Consultant certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, or otherwise excluded from or ineligible for participation in federally-assisted programs under Executive Orders 12549 (1986) and 12689 (1989). The term "principal" for purposes of this Agreement is defined as an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Consultant. The

Consultant understands that it must not make any award or permit any award (or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

XII.

Copyrights and Rights in Data

FEMA has no regulations pertaining to copyrights or rights in data as provided in 24 CFR 85.36. FEMA requirements, Article 45 of the General Conditions to the Contract for Construction (form FEMA-5370) requires that contractors pay all royalties and license fees. All drawings and specifications prepared by the Design Professional pursuant to this contract will identify any applicable patents to enable the general contractor to fulfill the requirements of the construction contract.

XIII.

Clean Air and Water.

(Applicable to contracts in excess of \$100,000)

Due to 24 CFR 85.36(i)(12) and federal law, the Design Professional shall comply with applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. § 1857h-4 transferred to 42 USC § 7607, section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15), on all contracts, subcontracts, and sub grants of amounts in excess of \$100,000.

XIV.

Energy Efficiency

Pursuant to Federal regulations (24 C.F.R 85.36(i)(13)) and Federal law, except when working on an Indian housing authority Project on an Indian reservation, the Design Professional shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163 codified at 42 U.S.C.A. § 6321 et. seq.).

XV.

Retention and Inspection of Records

Pursuant to 24 CFR 85.26(i)(10) and (11), access shall be given by the Design Professional to the Owner, FEMA, the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records of the Design Professional which are directly pertinent to that specific Contract for the purpose of making an audit, examination, excerpts, and transcriptions. All required records shall be retained for three years after the Owner or Design Professional and other sub grantees make final payments and all other pending matters are closed.

Public Works

STAFF REPORT



SUBJECT: 2021 TxCDBG – Community Development Program
MEETING: City Council Meeting - 05 Jan 2021
DEPARTMENT: Public Works
STAFF CONTACT: Nick Williams

RECOMMENDATION:

Staff recommends award of a contract to Public Management, Inc. for the grant administration services for the 2021-2022 TxCDBG – Community Development Program application.

BACKGROUND:

- Program:

Every year, the US Department of Housing and Urban Development provides federal Community Development Block Grant funds directly to states, which, in turn, provide the funds to small, rural cities with populations less than 50,000, and to counties that have a non-metropolitan population under 200,000 and are not eligible for direct funding from HUD. These small communities are called "non-entitlement" areas because they must apply for CDBG dollars through the Texas CDBG program. Larger cities, such as Dallas, Houston and others, receive CDBG monies directly from HUD, and are called "entitlement" areas. The Texas Department of Agriculture administers the program in Texas.

For the Community Development Fund, a community must meet the Low/Moderate Income National Program Objective as per the Texas Administrative Code. The project must meet all requirements to document one of the following for each activity:

- LMI Area Benefit,
- LMI Housing Benefit, or
- LMI Limited Clientele benefit (requires TDA approval prior to passage of the local resolution).

Program award amounts range from \$75,000 to \$350,000 and the application deadline is May 3, 2021.

PROJECT:

TxCDBG monies are only available for all types of public projects including, but not limited to water/sewer, street, and drainage improvements, as well as sidewalks. The last CDBG project addressed the undersized water lines in the neighborhood of Lennox, Dodge, and Fairfax.

FISCAL IMPACT SUMMARY:

The cost of administration services is paid as part of the grant funds and only if a grant is awarded.

The grant program maximum award is \$350,000. Twenty percent (20%) in grant matching provides the most competitive application. For a possible maximum grant award of \$350,000, the required city match would be \$70,000. The matching funds may be allocated from the city's street maintenance budget and/or enterprise funds depending upon the project scope submitted.

REQUESTS FOR PROPOSALS:

Requests for Proposals were sent to three pre-qualified grant administration firms on December 14, 2020. Two proposal were received from Gary Traylor and Associates and Public Management, Inc. The proposals were evaluated and ranked based on specific weighted criteria, including experience, prior work performance, capacity to perform, as well as cost.

The review committee ranked each proposal independently and the results were averaged to compile impartial rankings.

Although both submittals were from capable firms, the submittal by Public Management, Inc. ranked the highest due the firm's demonstrated experience with the city. A copy of the ranking sheet is attached to this memorandum.

AGREEMENT:

The proposed agreement for services states, “For work associated to the Texas Community Development Block Grant Program (TxCDBG) and in consideration of the foregoing, Client agrees to pay Consultant a fee not to exceed ZERO DOLLARS (\$0.00) for Application Preparation Services.”

The proposal also states that any payment to Public Management will be contingent upon funding award and further, that in the event that grant funds are not awarded, the agreement will be terminated.

TIMELINE:

The request for contract award is being requested at the public meeting in order to meet the 90-day requirement for a public hearing on the project. A public hearing is part of the scoring process and Stephenville will need all eligible points to have a competitive application. The purpose of the public hearing is to allow for discussion of possible projects. Due to the short notice, staff recommends also discussing possible projects at a Public Works Committee Meeting in January.

1. January 5, 2021 -
 - a. Conduct Public Hearing to allow for the discussion of project priorities.
 - i. Any feedback will be used to create the project scope.
 1. Review project at upcoming Public Works Committee January 19, 2021
 - b. Award No Risk Contract to Grant Administrator
2. February – March
 - a. Identify Application Engineer
3. March – April
 - a. Present Local Resolution to Authorize Submission of Application
 - i. Resolution includes the project description and commitment of any matching funds and must be passed after conducting the public hearing
4. May 3, 2021
 - a. Finalize and Submit Application

ADVANTAGES:

Awarding the administration services provides the best probability for a project to be completed within TDA parameters.

DISADVANTAGES:

There are no known disadvantages to directing staff to negotiate a proposal with the highest ranked firm for review by the committee and council.

ATTACHMENTS:

[2021_01-05 TxCDBG Admin Ranking – Community Development Program](#)

[2021_01-05 TxCDBG Admin Services Proposal – PMI – Community Development Program](#)

Administrative Professional Services Rating Sheet Summary

Grant Recipient: <u>City of Stephenville - Community Development Fund</u>	Tx-CDBG Contract No. <u></u>	Date of Rating: <u>12/31/2020</u>	
<u>Experience</u>	Public Management	Taylor & Associates	Score
Factor	<u>Score</u>	<u>Score</u>	<u>Score</u>
Max Pts.	<u>10</u>	<u>10</u>	<u>10</u>
1 Related Experience / Background with federally funded projects	10	5	0
2 Related Experience / Background with specific project type (housing rehabilitation, acquisition of property, coordination with regulatory agency, etc.)	10	4	0
3 Certified Administrator of Tx-CDBG Program by TDA	10	5	0
4 References from current/past Clients	40	24	0
Subtotal, Experience	30	24	0
Work Performance	Score	Score	Score
Max Pts.	5	4	4
1 Submits requests to client/TDA in a timely manner	5	4	0
2 Responds to client/TDA requests in a timely manner	5	4	0
3 Past client/TDA projects completed on schedule	5	4	0
4 Work product is consistently of high quality with low level of errors	5	4	0
5 Past client/TDA projects have low level of monitoring findings/concerns	5	4	0
6 Manages projects within budgetary constraints	5	4	0
Subtotal, Performance	30	24	0
<small>NOTE: Submissions are ready to review for requests or their status should be reflected by customer performance clients</small>			
Capacity to Perform	Score	Score	Score
Max Pts.	5	3	3
1 Qualifications of Professional Administrators / Experience of Staff	5	5	0
2 Present and Projected Workloads	5	3	0
3 Quality of Proposal	5	5	0
4 Demonstrated understanding of scope of the Tx-CDBG Project	5	5	0
Subtotal, Capacity to Perform	20	18	0
Cost	Score	Score	Score
Factors	Score	Score	Score
1 Cost	10	5	0
Subtotal, Capacity to Perform	10	5	0
Factors	Score	Score	Score
Max Pts.	40	24	0
1 Experience	30	24	0
2 Work Performance	20	18	0
3 Capacity to Perform	10	5	0
4 Cost	10	5	0
Total Score	100	71	0

Evaluator's Name, Title and Signature:

 Alan Williams, P.E. - Director of Public Works

Alan Wick - Chair of Public Works Committee

Sara Tankersley, Executive Administrative Assistant

Notes: Traylor & Associates - Submitted expired grant certificates. Only two people certified - Left voicemails for the four references listed in submittal. No response
 Notes: Public Management - References left 3 voicemails (City of Strawn, Beaumont and Granbury) Spoke with Angela Smith w-City of Cleveland, highly recommend, worked with John Reed and Patrick Wiltshire. Stated very timely and communicate amazingly. Could not rave enough about the great service they have received from them over the past 10 years

A RESOLUTION OF THE CITY OF STEPHENVILLE, TEXAS, AUTHORIZING PROFESSIONAL SERVICE PROVIDER SELECTION FOR A TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM – COMMUNITY DEVELOPMENT FUND (CDBG) THROUGH THE TEXAS DEPARTMENT OF AGRICULTURE (TDA).

WHEREAS, participation in the CDBG requires implementation by professionals experienced in the administration/project delivery of federally-funded projects and creation of planning documents;

WHEREAS, in order to identify qualified and responsive providers for these services a Request for Proposals (RFP) process for administration services has been completed in accordance with the TDA requirements;

WHEREAS, the proposals received by the due date have been reviewed to determine the most qualified and responsive provider for the professional service giving consideration to ability to perform successfully under the terms and conditions of the proposed procurement, integrity, compliance with public policy, record of past performance, and financial and technical resources

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

SECTION 1.

That Public Management, Inc. is selected to provide application and project-related administration/project delivery services for a 2021/2022 CDBG grant for the City.

SECTION 2.

That a cost-price analysis has been conducted and determined the proposed fee to be appropriate and reasonable based upon program requirements and rules.

SECTION 3.

That any and all project-related services contracts or commitments made with the above-named service provider(s) are dependent on the successful negotiation of a contract with the service provider(s).

PASSED AND APPROVED this 5th day of January 2021.

Doug Svien, Mayor

ATTEST:

Staci L. King, City Secretary

Allen Barnes, City Manager
Reviewed

Randy Thomas, City Attorney
Approved as to form and legality

Public Works

STAFF REPORT



SUBJECT: 2021 TxCDBG – Main Street Program
MEETING: City Council Meeting - 05 Jan 2021
DEPARTMENT: Public Works
STAFF CONTACT: Nick Williams

RECOMMENDATION:

Staff recommends award of a contract to Public Management, Inc. for the grant administration services for the 2021-2022 TxCDBG – Main Street Program application.

BACKGROUND:

- Program:

The Main Street Revitalization program, administered under the Texas Department of Agriculture, provides infrastructure improvements to address the conditions that contribute to the deterioration in an area designated as slum or blighted in the applicant community's downtown or main street area.

- Eligible Applicants:

Eligible applicants for the Main Street revitalization program must be an incorporated municipality with a designation as an official Texas Historical Commission Main Street City prior to applying to TxCDBG and must remain a participating city for the duration of the award/contract.

Program award amounts range from \$50,000 to \$350,000 and the application deadline is May 3, 2021.

PROJECT:

TxCDBG monies are only available for public infrastructure improvements or activities explicitly needed to eliminate slum and blight conditions in the downtown or main street area.

Eligible projects include improvements to lighting, sidewalks, ADA infrastructure, pavement, and curbs and gutters. An outline of Stephenville's historic downtown area is attached for reference.

FISCAL IMPACT SUMMARY:

The cost of administration services is paid as part of the grant funds and only if a grant is awarded.

The grant program's award amounts range from \$50,000 to \$350,000. Fifteen percent (15%) in grant matching will be necessary for a competitive application. For a possible maximum grant award of \$350,000, the required city match would be \$52,500. The matching funds may be allocated from the city's street maintenance budget and/or enterprise funds depending upon the project scope submitted.

REQUESTS FOR PROPOSALS:

Requests for Proposals were sent to three pre-qualified grant administration firms on December 14, 2020. Two proposals were received from Gary Traylor and Associates and Public Management, Inc. The proposals were evaluated and ranked based on specific weighted criteria, including experience, prior work performance, capacity to perform, as well as cost.

The review committee ranked each proposal independently and the results were averaged to compile impartial rankings.

Although both submittals were from capable firms, the submittal by Public Management, Inc. ranked the highest due to the firm's demonstrated experience with the city.

A copy of the ranking sheet is attached to this memorandum.

AGREEMENT:

The proposed agreement for services states, “For work associated to the Texas Community Development Block Grant Program (TxCDBG) and in consideration of the foregoing, Client agrees to pay Consultant a fee not to exceed ZERO DOLLARS (\$0.00) for Application Preparation Services.”

The proposal also states that any payment to Public Management will be contingent upon funding award and further, that in the event that grant funds are not awarded, the agreement will be terminated.

TIMELINE:

The request for contract award is being requested at the public meeting in order to meet the 90-day requirement for a public hearing on the project. A public hearing is part of the scoring process and Stephenville will need all eligible points to have a competitive application. The purpose of the public hearing is to allow for discussion of possible projects. Due to the short notice, staff recommends also discussing possible projects at a Public Works Committee Meeting in January.

1. January 5, 2021 -
 - a. Conduct Public Hearing to allow for the discussion of project priorities.
 - i. Any feedback will be used to create the project scope.
 1. Review project at upcoming Public Works Committee January 19, 2021
 - b. Award No Risk Contract to Grant Administrator
2. February – March
 - a. Identify Application Engineer
3. March – April
 - a. Present Local Resolution to Authorize Submission of Application
 - i. Resolution includes the project description and commitment of any matching funds and must be passed after conducting the public hearing
4. May 3, 2021
 - a. Finalize and Submit Application

ADVANTAGES:

Awarding the administration services provides the best probability for a project to be completed within TDA parameters.

DISADVANTAGES:

There are no known disadvantages to directing staff to negotiate a proposal with the highest ranked firm for review by the committee and council.

ATTACHMENTS:

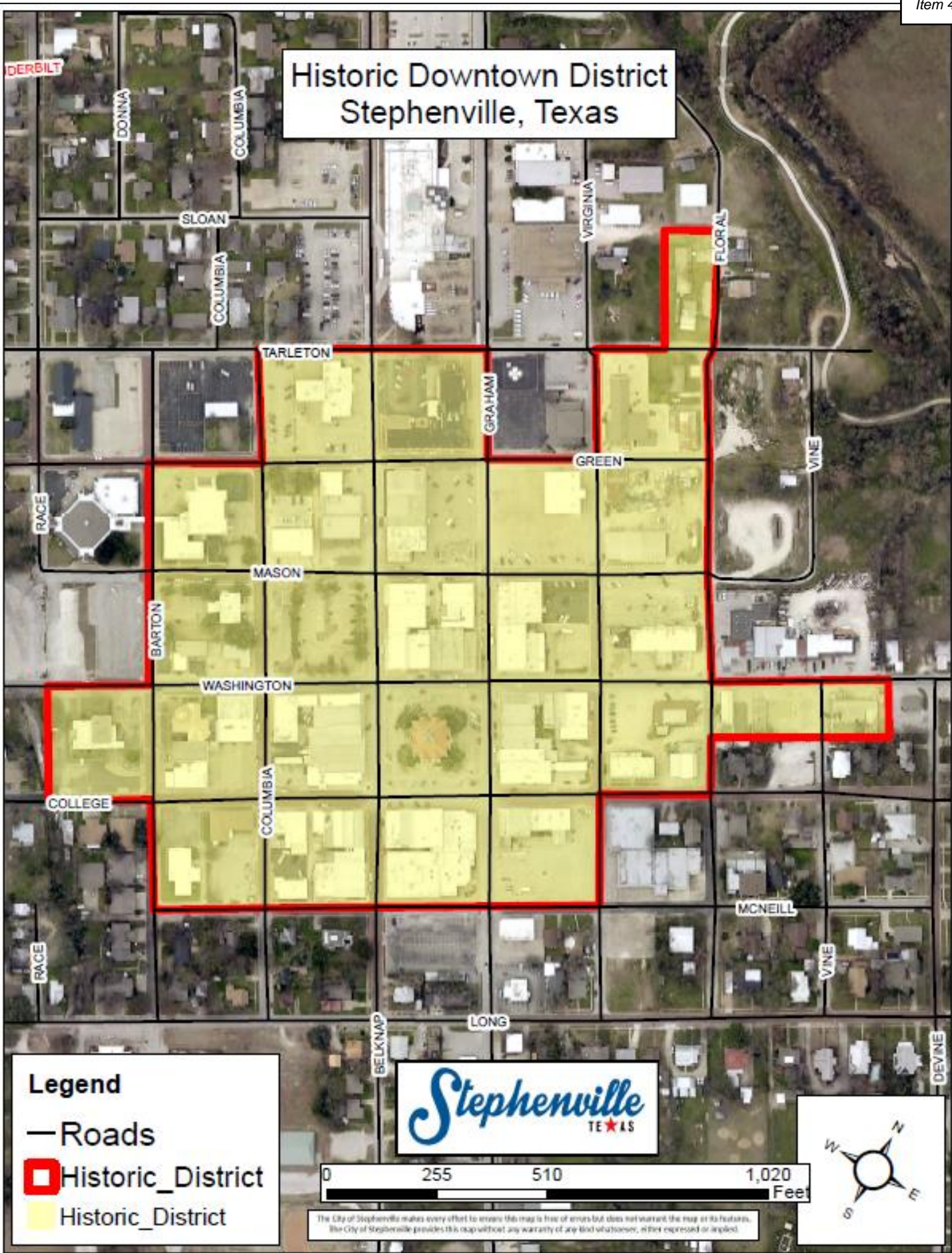
[2021_01-05 TxCDBG Admin Ranking – Main Street Program](#)

[2021_01-05 TxCDBG Admin Services Proposal – PMI – Main Street Program](#)

[Historic Downtown District Map](#)

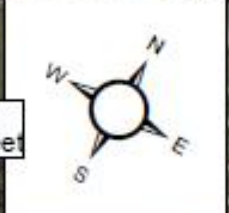
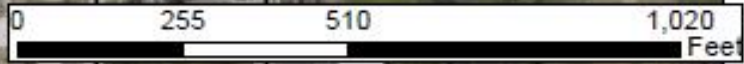
[2021_TxCDBG – Admin Hiring Resolution](#)

Historic Downtown District Stephenville, Texas



Legend

- Roads
- Historic_District
- Historic_District



The City of Stephenville makes every effort to ensure this map is free of errors but does not warrant the map or its features. The City of Stephenville provides this map without any warranty of any kind whatsoever, either expressed or implied.

Administrative Professional Services Rating Sheet Summary

Grant Recipient: City of Stephenville -- 2021 Downtown Revitalization / Main Street Program TxCDBG Contract No. _____ Date of Rating: 12/31/2020


<u>Experience</u>	Respondents: Max Pts	Public Management Score	Taylor & Associates Score	Score
Factor				
1 Related Experience / Background with federally funded projects	10	10	10	Score
2 Related Experience / Background with specific project type (housing rehabilitation, acquisition of property, coordination with regulatory agency, etc.)	10	10	5	Score
3 Certified Administrator of TxCDBG Program by TDA	10	10	4	Score
4 References from current/past Clients	10	10	5	Score
Subtotal, Experience	40	40	24	0
Work Performance				
Factor	Max Pts	Score	Score	Score
1 Submits requests to client/TDA in a timely manner	5	5	4	Score
2 Responds to client/TDA requests in a timely manner	5	5	4	Score
3 Past client/TDA projects completed on schedule	5	5	4	Score
4 Work product is consistently of high quality with low level of errors	5	5	4	Score
5 Past client/TDA projects have low level of monitoring findings/concerns	5	5	4	Score
6 Manages projects within budgetary constraints	5	5	4	Score
Subtotal, Performance	30	30	24	0

*NOTE: Submissions received by email are not eligible to be graded by respondents/clients.

<u>Capacity to Perform</u>	Max Pts	Score	Score	Score
Factor				
1 Qualifications of Professional Administrators / Experience of Staff	5	5	3	Score
2 Present and Projected Workloads	5	5	5	Score
3 Quality of Proposal	5	5	5	Score
4 Demonstrated understanding of scope of the TxCDBG Project	5	5	5	Score
Subtotal, Capacity to Perform	20	18	18	0

<u>Cost</u>	Max Pts	Score	Score	Score
Factor				
1 Cost	10	10	5	Score
Subtotal, Capacity to Perform	10	10	5	0

<u>Factors</u>	Max Pts	Score	Score	Score
Factor				
1 Experience	40	40	24	Score
2 Work Performance	30	30	24	Score
3 Capacity to Perform	20	18	18	Score
4 Cost	10	10	5	Score
Total Score	100	98	71	0

Evaluator's Name, Title and Signature: _____

 Alan Nix - Chair of Public Works Committee

 Sara Tankersley, Executive Administrative Assistant

Notes: Taylor & Associates - Submitted expired grant certificates. Only two people certified. - Left voicemails for the four references listed in submittal. No response
 Notes: Public Management - References left 3 voicemails (City of Strawn, Beaumont and Granbury) Spoke with Angela Smith w-City of Cleveland, highly recommend, worked with John Reed and Patrick Willshire. Stated very timely and communicate amazingly. Could not rave enough about the great service they have received from them over the past 10 years

This contract (“Contract”) is made and entered effective _____, 2021 by and between **PUBLIC MANAGEMENT, INC.**, a Texas corporation, of Houston, Harris County, Texas (“Consultant”) and the **CITY OF STEPHENVILLE**, (“Client”) for the purpose of retaining Consultant to render **Application and Administration Services** to the Client for Texas Community Development Block Grant Program (TxCDBG) – Downtown Revitalization / Main Street Program, administered by the Texas Department of Agriculture.

Client and Consultant agree that Consultant will provide services to Client on the terms and conditions outlined in this Contract.

I.

Consultant will provide Client with administrative services as follows:

PRE- FUNDING SERVICES:

Application Preparation: The Team will prepare the application as directed by the Client to apply for available funding sources adherent to the state and federal agencies guidelines. The Team will coordinate all activities and other service providers with regard to the preparation of the application, including, but not limited to:

- Review of proposed project for program compliance and will work with Client staff to provide an overview;
- Advise on important deadlines and procedures;
- Schedule project meetings with client staff to evaluate proposed project and timeframes.
- Prepare project description in conjunction with staff and project engineer;
- Evaluate project objective and develop timelines/milestones;
- Prepare project maps in ArcGIS and PDF format;
- Prepare necessary preliminary Environmental Compliance documentation;
- Conduct public hearings (as applicable) for application submission and attend Client meeting to address application development;
- Package complete application with all pertinent supplemental documentation for client to review prior to submission;
- Identify and document beneficiaries;
- Advise client on funding availability, anticipated scoring, selection and award process.

POST FUNDING SERVICES

GENERAL ADMINISTRATION SERVICES

Administrative Duties: The Team will coordinate, as necessary, between Client and any other appropriate service providers (i.e. Engineer, Environmental, etc.), contractor, subcontract and/or administrative agency to effectuate the services requested.

- Oversee the project and achieve all of the project goals within the constraints given by the funding agency;
- Develop and implement project phases to plan, budget, oversee, and document all aspects of the specific project;
- Coordinate all activities related to the project’s successful completion with all other professionals and organizations associated with this project.

Recordkeeping: The Team will assist the Client with maintaining all records generated by the program. This includes all records required by the funding agency and the Client (i.e. program management records).

- Complete filing system will be developed and maintained at Client's office;
- Both physical and electronic form of records will be developed and accessible;
- Records will be updated as necessary to ensure compliance with funding source and administrative agency;
- Records will be retained for the appropriate period of time as dictated by the funding agency, with electronic records available for perpetuity.

Financial Management: The Team will assist the Client in keeping the general journal, general ledger, cash receipts journal and all other necessary financial documents, as well as monitor the Client's financial system.

- Utilize and assist with the agency's system of record to complete milestones, submit documentation, reports, draws, change requests, etc.;
- Request fund expenditure in-line with project milestones;
- Develop a detailed Contract Ledger;
- Establish a filing system that accurately and completely reflects the financial expenditures of the program and project(s).
- Keep track of disbursement of funds and ensure that the vendors are paid within the required timeframe set out by the funding agency.

Construction Management: The Team will coordinate and supervise the project to ensure designated activities are realizing the intended outcomes as stated in contract documents. We will oversee specialized contractors and other personnel and allocate necessary resources.

- Assist the Client in submitting/setting up project applications in the Agency's system of record;
- Coordinate the development, completion, and execution of contract documents to ensure supporting documentation is in order;
- Conduct regular on-site visitations and assessments;
- Development and maintenance of construction management status log;
- Recommendation and development of scope realignments as prescribed by the project's complexities.

CONTRACT ADMINISTRATION SERVICES

Administrative Duties: The Team will work with the Client's staff to provide the necessary administrative and planning services to see the project to completion. The Team will meet with officials on a regular basis to review progress on the objectives of the project and then take actions to see that those objectives are met.

- Act as the Client's liaison to the funding agency in all matters concerning the project;
- Coordinate communication via email, conference call, facsimile, and direct meetings to ensure the project is on schedule and all parties are properly informed;
- Prepare and submit any necessary reports required by the funding agency during the course of the project (i.e. Monthly/Quarterly Progress Reports, Project Monitoring Reports, Project Completion Reports, etc.);

- Provide Client staff specific instructions on the necessary administrative procedures that will assure a successful project;
- Establish and maintain record keeping systems;
- Assist with resolving monitoring and audit findings.

Real Property Acquisition (as applicable): The Team will assist the Client in the preliminary acquisition assessment as well as the development and/or coordination of acquisition of real property (real property in the context of acquisition refers to permanent interest in real property as well as certain less-than-full-fee interests in real property).

- Adherence to the Uniform Act (URA) which guides the acquisition of real property that may be necessary to the needs of the project;
- ***If it is determined that property needs to be acquired, Public Management, Inc. will perform the following services according to the URA for an additional fee.***
- Development and maintenance of appropriate file materials to ensure compliance with federal, state, and program requirements;
- Administrative coordination of parcels, values, correspondence;
- Coordinate property appraisals and determine just compensation;
- Ensure easement/right of way boundaries are in line with proposed project and survey;
- Completion and/or file closure of acquired property.

Environmental Services: The Team will prepare all documents and correspondence for environmental review and clearance as well as maintain close coordination with local officials, project engineer and other members of the project team to assure appropriate level of environmental review is performed. This project element will abide by the National Environmental Policy Act (NEPA) or any other Federal, State or local regulation as applicable.

- Review each project description to ascertain and/or verify the level of environmental review required: Exempt, Categorical Exclusion not Subject to 58.5, Categorical Exclusion Subject to 58.5, Environmental Assessment, and Environmental Impact Statements;
- Prepare and maintain a written environmental review record;
- Consult and coordinate with oversight/regulatory agencies to facilitate environmental clearance;
- Conduct site-visits as necessary to ensure environmental compliance;
- Prepare all responses to comments received during comment phase of the environmental review, including State/Federal Agency requiring further studies and/or comments from public or private entities during public comment period;
- Provide documentation of clearance for Parties Known to be Interested as required by 24 CFR 58.43;
- Advise and complete environmental re-evaluations per 24 CFR 58.47 when evidence of further clearance or assessment is required;
- Assist in compliance with flood plain and wetlands management review guidelines;
- ***Not included in this service are archeological, engineering, or other special service costs mandated by environmental review record compliance agencies.***

Civil Rights Requirements: The Team will structure the program so that all procurement procedures, contracts, and polices will be in accordance with state and federal regulations associated thereto. Ensure that the contractors make affirmative efforts to employ Section 3 Residents and Business Concerns, Minority Business Enterprises, Small Business Enterprises and Women Business Enterprises.

- Set up Civil Rights & Citizen Participation File;
- Designate a Civil Rights Officer (CRO);
- Adopt policies and grievance procedures regarding Citizen Participation;
- Adopt Policies and Pass Resolution/Proclamation/Ordinances regarding Civil Rights;
- Publish Citizen Participation and Civil Rights Notices;
- Place necessary documentation in Bid Packets for Contractors;
- Include required clauses in Construction Contracts between Grant Recipient and Contractor;
- Take action to Affirmatively Further Fair Housing;
- The Team will be diligent and consistent in implementing the project's civil rights responsibilities and will undertake further action and reporting requirements.

Procurement/Bidding/Contracting: Procurement is the process through which an entity obtains goods and services from vendors. The Team will assist the Client in following appropriate procurement procedures to obtain professional and construction services necessary to complete the project.

- Provide assistance to ensure compliance with Local Government Code Chapter 252 as applicable to goods and services;
- Provide assistance to ensure compliance with 2 CFR 200.320 (Methods of Procurement to be Followed).

Labor Standards Monitoring: The Team will ensure that all labor standards laws and regulations are observed during the course of the project. The Team will structure the program so that all procurement procedures and contracts will meet equal opportunity requirements. The Team will also ensure that the contractors make affirmative efforts to employ minority persons and minority subcontractors. Ensure compliance with laws regarding Labor Standards, which include:

- Davis-Bacon Act (40 USC Chapter 31, Subchapter IV);
- Contract Work Hours & Safety Standards Act (CWHSSA);
- Copeland (Anti-Kickback) Act (18 USC 874; 40 USC 3145);
- Fair Labor Standards Act.

Force Account (as applicable): The Team will assist the Client in preparing force account documentation for the project, if necessary, and will consolidate this information for suitable presentation to funding agency. ***Public Management, Inc. may consider an additional fee for these services depending upon the scope of Force Account activities.***

- Develop and maintain documentation of all associated costs;
- Using appropriate recordkeeping forms required by funding agency;
- Submit documentation upon completion of necessary milestones.

Contract Close-out Assistance: The Team will prepare any necessary reports required by the funding agency to close out the project. The Team will work with the Client in preparing the annual audits and necessary actions to ensure the project reaches the "Administratively Closed" status.

- Ensure projects outcomes are in line with contract documents and funding agency's goals and objectives;
- Ensure project beneficiaries are appropriately documented and reported;
- Develop, complete, and submit project completion report(s) and any other necessary administrative completion documents.

It is specifically agreed and understood that Consultant will not provide either personally or by contract any professional or technical services requiring a license by the State of Texas in any phase or aspect of the foregoing. Rather, Consultant will advise Client of the need of such services in furtherance of the planned objectives of Client's Program.

Client acknowledges that Consultant is providing Administrative Services only to Client and that Consultant is not responsible for any procurement activities for or on behalf of the Client. That is, Client, not Consultant, will advertise for and procure the services of any third party required to fulfill Program requirements. By way of example only, Client, not Consultant, must timely and properly post any advertisements necessary to fulfill Program requirements and Client, not Consultant, will enter into any required contracts with third parties necessary to fulfill Program requirements.

Client Initials _____

Consultant Initials _____

II.

Consultant hereby agrees that in the implementation of this Contract, Consultant will comply with the terms and conditions of **Attachment III**, which document is attached hereto and incorporated herein for all purposes, as if set out herein verbatim.

III.

Client is awarding this contract in accordance with the State of Texas Government Code 2254, Professional and Consulting Services.

IV.

It is agreed by the parties hereto that Consultant will, in the discharge of services herein, be considered as an Independent Contractor as that term is used and understood under the laws of the State of Texas and further for the purposes of governing Consultant's fees under the Procurement Standards of Title 2 CFR Part 200.

V.

For work associated to the **Texas Community Development Block Grant Program (TxCDBG)** and in consideration of the foregoing, Client agrees to pay Consultant a fee not to exceed **ZERO DOLLARS (\$0.00)** for **Application Preparation Services**.

For work associated to **Texas Community Development Block Grant Program (TxCDBG)** and in consideration of the foregoing, Client agrees to pay Consultant a fee not to exceed the maximum project costs on the table below. *The fee will be based on final grant award amount. Consultant reserves the right to renegotiate fees based on the type of project being pursued:*

<u>TxCDBG Grant Amount</u>	<u>Percentage Factor</u>	<u>Fee Not to Exceed</u>
\$0 - \$299,000	12.00%	\$35,880.00
\$300,000 - \$500,000	10.00%	\$50,000.00
\$501,000 - 750,000	9.50%	\$71,250.00
\$751,000 - \$1,000,000	8.50%	\$85,000.00
\$1,000,001 +	6.00%	Based on Final Award Amount

VI.

It is agreed that upon determination of total funding request amount Consultant and Client will execute the **Work Authorization (Attachment I)** that will detail final contract amount and cost for services. It is also agreed that payments to such Consultant shall be subject to adjustment where monitoring reviews or audits by the agency indicate that personal services were compensated at greater than reasonable rates.

Services that fall outside the regular scope and/or are not part of the proposed scope will be billed according to the hourly rate and fee schedule defined in **Corporate Hourly Rate and Fee Schedule (Attachment II)**. Prior to Consultant performing any services which are not part of the proposed scope, Consultant shall submit to Client, per paragraph of this contract, a projected hourly schedule and projected total fee for approval.

VII.

Payment of the fees associated with (“**Part V. and VI.**”) - Payment Schedule of this Agreement – shall be contingent upon funding award. In the event that grant funds are not awarded to the Client this agreement shall be terminated by the Client.

VIII.

For purposes of this Contract, the Mayor or equivalent authorized person will serve as the Local Program Liaison and primary point of contact for Consultant. All required progress reports and communication regarding the project shall be directed to this liaison and other local personnel as appropriate.

IX.

This Contract shall extend and be in full force until the Program has been fully closed out by the agency. Notwithstanding the foregoing, this Contract may be terminated by Consultant, with or without cause, on forty-five (45) days’ written notice to Client.

X.

Termination for Cause by Client: If Consultant fails to fulfill in a timely and proper manner its obligations under this Contract, or if Consultant violates any of the covenants, conditions, contracts, or stipulations of this Contract, Client shall have the right to terminate this Contract by giving written notice to Consultant of such termination and specifying the effective date thereof, which shall be at least five (5) days before the effective date of such termination. In the event of termination for cause, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by Consultant pursuant to this Contract shall, at the option of Client, be turned over to Client and become the property of Client. In the event of termination for cause, Consultant shall be entitled to receive reasonable compensation for any necessary services actually and satisfactorily performed prior to the date of termination.

Termination for Convenience by Client: Client may at any time and for any reason terminate Consultant's services and work at Client's convenience upon providing written notice to the Consultant specifying the extent of termination and the effective date. Upon receipt of such notice, Consultant shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement. Upon such termination, Consultant shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs actually incurred by Consultant as are permitted by the prime contract and approved by Client; (3) plus ten percent (10%) of the cost of the work referred to in subparagraph above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Consultant prior to the date of the termination of this Agreement. Consultant shall not be entitled to any claim or claim of lien against Client for any additional compensation or damages in the event of such termination and payment.

Resolution of Program Non-Compliance and Disallowed Costs: In the event of any dispute, claim, question, or disagreement arising from or relating to this Contract, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or Program requirements, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith within thirty (30) days of receipt of a written notice of the dispute or invitation to negotiate, and attempt to reach a just and equitable solution satisfactory to both parties. If the matter is not resolved by negotiation within thirty (30) days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Contract and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally. If the matter is not resolved through such mediation within sixty (60) days of the initiation of that procedure, either party may proceed to file suit.

XI.

Client, the agency, the U.S. Department of Housing and Urban Development (HUD), Inspectors General, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of Consultant which are directly pertinent to this Program, for the purpose of making audit, examination, excerpts, and transcriptions, and to close

out the Client's contract. Consultant agrees hereby to maintain all records made in connection with the Program for a period of three (3) years after Client makes final payment and all other pending matters are closed. All subcontracts of Consultant shall contain a provision that Client, the agency, and the Texas State Auditor's Office, or any successor agency or representative, shall have access to all books, documents, papers and records relating to subcontractor's contract with Consultant for the administration, construction, engineering or implementation of the Program between the agency and Client.

XII.

If, by reason of force majeure, either party hereto shall be rendered unable, wholly or in part, to carry out its obligations under this Contract, then if such party shall give notice and full particulars of such force majeure in writing to the other party within a reasonable time after the occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

The term "force majeure" as employed herein shall mean acts of God, acts of public enemy, orders of any governmental entity of the United States or of the State of Texas, or any civil or military authority, and any other cause not reasonably within the control of the party claiming such inability.

XIII.

This document embodies the entire Contract between Consultant and Client. Client may, from time to time, request changes in the services Consultant will perform under this Contract. Such changes, including any increase or decrease in the amount of Consultant's compensation, must be agreed to by all parties and finalized through a signed, written amendment to this Contract.

XIV.

If a portion of this Contract is illegal or is declared illegal, the validity of the remainder and balance of the Contract will not be affected thereby.

XV.

Any provision of this Contract which imposes upon Consultant or Client an obligation after termination or expiration of this Contract will survive termination or expiration of this Contract and be binding on Consultant or Client.

XVI.

No waiver of any provision of this Contract will be deemed, or will constitute, a waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver. No waiver will be binding unless executed in writing by the party making the waiver.

XVII.

This Contract will be governed by and construed in accordance with the laws of the State of Texas.

XVIII.

Any dispute between Consultant and Client related to this contract which is not resolved through informal discussion will be submitted to a mutually agreeable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

XIX.

The party who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney fees and all costs of such proceeding.

XX.

Consultant and Client, each after consultation with an attorney of its own selection (which counsel was not directly or indirectly identified, suggested, or selected by the other party), both voluntarily waive a trial by jury of any issue arising in an action or proceeding between the parties or their successors, under or connected with this contract or its provisions. Consultant and Client acknowledge to each other that Consultant and Client are not in significantly disparate bargaining positions.

PATRICK K. WILTSHIRE
President/CEO

Client

Chief Elected Official

ATTEST:

**Attachment I
Work Authorization**

For work associated to _____, and in consideration of the foregoing, Client agrees to pay Consultant a fee not to exceed:

_____ (\$ _____)

The fees are payable upon receipt of invoice from Consultant in accordance with the following schedule for Administrative Services.

ADMINISTRATIVE SERVICES	
Preliminary Administrative Requirements	\$
Environmental Review	\$
Start of Construction	\$
Construction Completion	\$
Closeout Documents	\$
TOTAL FEE	\$

It is also agreed that payments to such Consultant shall be subject to adjustment where monitoring reviews or audits by the client indicate that personal services were compensated at greater than reasonable rates.

PATRICK K. WILTSHIRE
President/CEO

Chief Elected Official

ATTEST:

**Attachment II
Corporate Hourly Rate & Fee Schedule**

PUBLIC MANAGEMENT, INC.
2020 Hourly Rate

Principal Consultant	\$200.00/HR
Project Manager	\$185.00/HR
Planner	\$185.00/HR
Assistant Project Manager	\$150.00/HR
GIS Technician	\$140.00/HR
Executive Assistant	\$110.00/HR

Hourly rates for personnel not listed will be billed at direct payroll cost

REIMBURSABLE EXPENSES

- Travel (vehicle miles traveled) at allowable IRS rate per mile, or at actual out-of-pocket cost.
- Actual cost of subsistence and lodging.
- Actual cost of long-distance telephone calls, expenses, charges, delivery charges, and postage.
- Actual invoiced cost of materials required for the job and used in drafting and allied activities, including printing and reproduction.

This rate schedule will be applicable through December 31, 2020. In January, 2021, if increases are necessary due to increases in wages or other salary related costs, the rates shown will be adjusted accordingly.

ATTACHMENT III
TERMS AND CONDITIONS

I.

Equal Employment Opportunity

During the performance of this Contract, Consultant agrees as follows:

a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor; state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

c) The Contractor will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employees essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

d) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

e) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, "Equal Employment Opportunity" and of the rules, regulations, and relevant orders of the Secretary of Labor.

f) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for

purposes of investigation to ascertain compliance with such rules, regulations, and orders.

g) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

h) The Contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

II.

Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

III.

Section 109 of the Housing and Community Development Act of 1974

The Contractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

IV.

Section 504 Rehabilitation Act of 1973, as Amended

The Contractor agrees that no otherwise qualified individual with disabilities shall, solely by reason of his/her disability, be denied the benefits of, or be subjected to discrimination, including

discrimination in employment, under any program or activity receiving federal financial assistance.

V.

Age Discrimination Act of 1975

The Contractor shall comply with the Age Discrimination Act of 1975 which provides that no person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

VI.

"Section 3" Compliance in the Provision of Training, Employment and Business Opportunities (limited to contracts greater than \$100,000)

a) The work to be performed under this contract is subject to the requirements of section 3 of the Federal Emergency Management Administration Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by FEMA assistance or FEMA-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of FEMA assistance for housing.

b) The parties to this contract agree to comply with FEMA's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

c) The Contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

d) The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an

e) applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The Contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

f) The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

g) Noncompliance with FEMA's regulations in 24 CFR part 135 may result in sanctions, termination of this Agreement for default, and debarment or suspension from future FEMA assisted contracts.

h) With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this Agreement. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Agreement that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

VII.

Section 503 of the Rehabilitation Act (the "Act") - Handicapped Affirmative Action for Handicapped Workers

a) Consultant will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. Consultant agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising layoff or termination rates of pay or other forms of compensation, and selection for training, including apprenticeship.

b) Consultant agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

c) In the event of Consultant's non-compliance with requirements of this clause, actions for non-compliance may be taken in accordance with rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

d) Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

e) Consultant will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973 and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

f) Consultant will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary Issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor with respect to any subcontract or purchase order as the director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

VIII.

Interest of Members of Client

No member of the governing body of Client and no other officer, employee, or agent of Client who exercises any functions or responsibilities in connection with the planning and carrying out of the Program, shall have any personal financial interest, direct or indirect, in this Contract and Consultant shall take reasonably appropriate steps to assure compliance.

IX.

Interest of Other Local Public Officials

No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connections with the planning and carrying out of the Program, shall have any personal financial interest, direct or indirect, in this Contract; and Consultant shall take appropriate steps to assure compliance.

X.

Interest of Consultant and Employees

Consultant covenants that he presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of its services hereunder. Consultant further covenants that in the performance of this Contract, no person having any such interest shall be employed.

XI.

Debarment and Suspension (Executive Orders 12549 and 12689)

The Consultant certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, or otherwise excluded from or ineligible for participation in federally-assisted programs under Executive Orders 12549 (1986) and 12689 (1989). The term "principal" for purposes of this Agreement is defined as an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Consultant. The

Consultant understands that it must not make any award or permit any award (or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

XII.

Copyrights and Rights in Data

FEMA has no regulations pertaining to copyrights or rights in data as provided in 24 CFR 85.36. FEMA requirements, Article 45 of the General Conditions to the Contract for Construction (form FEMA-5370) requires that contractors pay all royalties and license fees. All drawings and specifications prepared by the Design Professional pursuant to this contract will identify any applicable patents to enable the general contractor to fulfill the requirements of the construction contract.

XIII.

Clean Air and Water.

(Applicable to contracts in excess of \$100,000)

Due to 24 CFR 85.36(i)(12) and federal law, the Design Professional shall comply with applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. § 1857h-4 transferred to 42 USC § 7607, section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15), on all contracts, subcontracts, and sub grants of amounts in excess of \$100,000.

XIV.

Energy Efficiency

Pursuant to Federal regulations (24 C.F.R 85.36(i)(13)) and Federal law, except when working on an Indian housing authority Project on an Indian reservation, the Design Professional shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163 codified at 42 U.S.C.A. § 6321 et. seq.).

XV.

Retention and Inspection of Records

Pursuant to 24 CFR 85.26(i)(10) and (11), access shall be given by the Design Professional to the Owner, FEMA, the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records of the Design Professional which are directly pertinent to that specific Contract for the purpose of making an audit, examination, excerpts, and transcriptions. All required records shall be retained for three years after the Owner or Design Professional and other sub grantees make final payments and all other pending matters are closed.

RESOLUTION NO. 2021-R-__**A RESOLUTION OF THE CITY OF STEPHENVILLE, TEXAS, AUTHORIZING PROFESSIONAL SERVICE PROVIDER SELECTION FOR A TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT - DOWNTOWN REVITALIZATION / MAIN STREET PROGRAM – COMMUNITY DEVELOPMENT FUND (CDBG-DRP/MS) THROUGH THE TEXAS DEPARTMENT OF AGRICULTURE (TDA).**

WHEREAS, participation in the CDBG requires implementation by professionals experienced in the administration/project delivery of federally-funded projects and creation of planning documents;

WHEREAS, in order to identify qualified and responsive providers for these services a Request for Proposals (RFP) process for administration services has been completed in accordance with the TDA requirements;

WHEREAS, the proposals received by the due date have been reviewed to determine the most qualified and responsive provider for the professional service giving consideration to ability to perform successfully under the terms and conditions of the proposed procurement, integrity, compliance with public policy, record of past performance, and financial and technical resources

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STEPHENVILLE, TEXAS:**SECTION 1.**

That Public Management, Inc. is selected to provide application and project-related administration/project delivery services for a 2021/2022 CDBG-DRP/MS grant for the City.

SECTION 2.

That a cost-price analysis has been conducted and determined the proposed fee to be appropriate and reasonable based upon program requirements and rules.

SECTION 3.

That any and all project-related services contracts or commitments made with the above-named service provider(s) are dependent on the successful negotiation of a contract with the service provider(s).

PASSED AND APPROVED this 5th day of January 2021.

Doug Svien, Mayor

ATTEST:

Staci L. King, City Secretary

Reviewed by Allen L. Barnes,
City Manager

Approved as to form and legality by
Randy Thomas, City Attorney



STAFF REPORT

SUBJECT: Case No.: RZ2020-012

Applicant Marc Pace is requesting a rezone of property located at 1601 Swan, Lot 7, and 8, Block 7, of the South Side Addition, to the City of Stephenville, Erath County, Texas, from (I) Industrial to (R-3) Multi-family.

DEPARTMENT: Development Services

STAFF CONTACT: Steve Killen

RECOMMENDATION:

The Comprehensive Plan for future land use designates this property to be Commercial. Future zoning for most of the surrounding properties is multifamily.

The applicant's request was received for the November meeting. The application provided legal descriptions for the rezone request of three properties; however, only one physical address was noted. Consequently, only one of the three properties were listed in the legal notice for the November meeting. Staff is bringing the remaining properties back for approval in an effort to correct the administrative oversight.

The Planning and Zoning Commission convened on December 16th and by a unanimous vote of 6:0, "recommended the City Council approve the request with the condition that the railroad be informed of all procedural issues that may or may not affect them."

BACKGROUND:

APPLICANT REQUEST:

1. If approved, several mobile homes will be removed which are currently located in a legal, non-conforming mobile home park.

CURRENT ZONING:

(I) Industrial

FUTURE LAND USE:

Commercial

DESCRIPTION OF REQUESTED ZONING

Sec. 154.05.6. - Multiple family residential district (R-3).

5.6.A Description. This residential district provides for medium to high-density city neighborhood development. The primary land use allows for single-family dwellings, two-to-four family dwelling units, and multiple family housing buildings and complexes. All R-3 zoning will be appropriate to a city-style neighborhood. Recreational, religious and educational uses are also permitted so as to contribute to the natural elements of a convenient, balanced and attractive neighborhood. Development within this district is intended to be protected from the

encroachment of land activities that do not contribute to the esthetic and functional well being of the intended district environment.

5.6.B Permitted Uses.

- (1) Single-family detached dwelling, limited to occupancy by a family having no more than three individuals who are unrelated by blood, legal adoption, marriage or conservatorship. The owner and any agent of the owner shall be legally responsible for directly or indirectly allowing, permitting, causing, or failing to prohibit residential use of a dwelling in this district by more than three unrelated individuals;
- (2) Two-to-four family dwellings, with each family limited as in division (1) above;
- (3) Townhouse dwellings, with each family limited as in division (1) above;
- (4) Condominium dwellings, with each family limited as in division (1) above;
- (5) Multiple family dwellings, with each family limited as in division (1) above;
- (6) Assisted living center;
- (7) Convalescent, nursing or long term-care facility;
- (8) Retirement housing complex;
- (9) Accessory buildings;
- (10) Churches, temples, mosques and related facilities;
- (11) Community home;
- (12) Park or playground;
- (13) SISD school—public;
- (14) Bed and breakfast/boarding house;
- (15) Group day care home;
- (16) Registered family home;
- (17) Day care center; and
- (18) Fraternity or sorority house.

5.6.C Conditional Uses.

- (1) Home occupation;
- (2) Common facilities as the principal use of one or more platted lots in a subdivision;
- (3) Adult and/or children's day care centers;
- (4) Foster group home; and
- (5) Residence hall.

WATER:

The property is served by a 12" city water main that traverses the property.

SEWER:

The property currently is served by a 6" sanitary sewer main that traverses the property.

STREET:

The property is served by city street

ZONING AND LAND USE:

Location	Zoning	Future Land Use
Subject Site	Industrial	Commercial
North	Industrial	Multi family
South	Multi family	Multi family
East	Multi family	Multi family
West	Industrial	Commercial

FACTORS TO CONSIDER:

- Compliance with Comprehensive Plan?
- Is application consistent with Plan?
- If not, have conditions changed or new information been offered to support change?
- Surrounding Zoning and Land Use
- Infrastructure Impacts
- Size and Location of Parcel - is land large enough and in proper location for proposed use?
- Reasonable Use of Property - does proposed change provide reasonable use of property?
- Zoning has great discretion - deny if applicant has not proven it is in the best interest of City to rezone

ALTERNATIVES

- 1) Accept the recommendation of the Commission and approve the rezoning request with the stated condition.
- 2) Modify the recommendation of the Commission with an alternative zoning designation and/or removing the stated condition.
- 3) Reject the recommendation of the Commission and deny the request for rezoning.

ZONING AMENDMENT APPLICATION

CITY OF STEPHENVILLE

1. **APPLICANT/OWNER:** BROWN PACE DEVELOPMENT CO., LLC
First Name _____ Last Name _____
- ADDRESS:** 819 OLD ANNETTA RD. 817-501-9812
Street/P.O. Box _____ Phone No. _____
- ALZOO TX 76008
City _____ State _____ Zip Code _____
2. **PROPERTY DESCRIPTION:** 422 S. LILLIAN ST.
Street Address _____
3. **LEGAL DESCRIPTION:** TRACT 1: 5, 6, 7, 8 8 SOUTH SIDE ADD.
Lot(s) _____ Block(s) _____ Addition _____
- TRACT 2: LOTS 7+8, BLOCK 7, + TRACT 3: LOT 5, BLOCK 14, SOUTH SIDE
4. **PRESENT ZONING:** R3 MULTIFAMILY/MOBILE HOME
Zoning District _____ Title _____
- PROPOSED ZONING:** PLANNED DEVELOPMENT
Zoning District _____ Title _____
5. **APPLICANTS REQUEST FOR ZONING CHANGE IS AS FOLLOWS:** I WOULD LIKE TO BE ABLE TO SELL INDIVIDUAL TOWNHOMES IN ORDER TO PROVIDE HOUSING FOR UNDER \$200,000.

(Attach an additional sheet if necessary)

[Signature]
Signature of Applicant

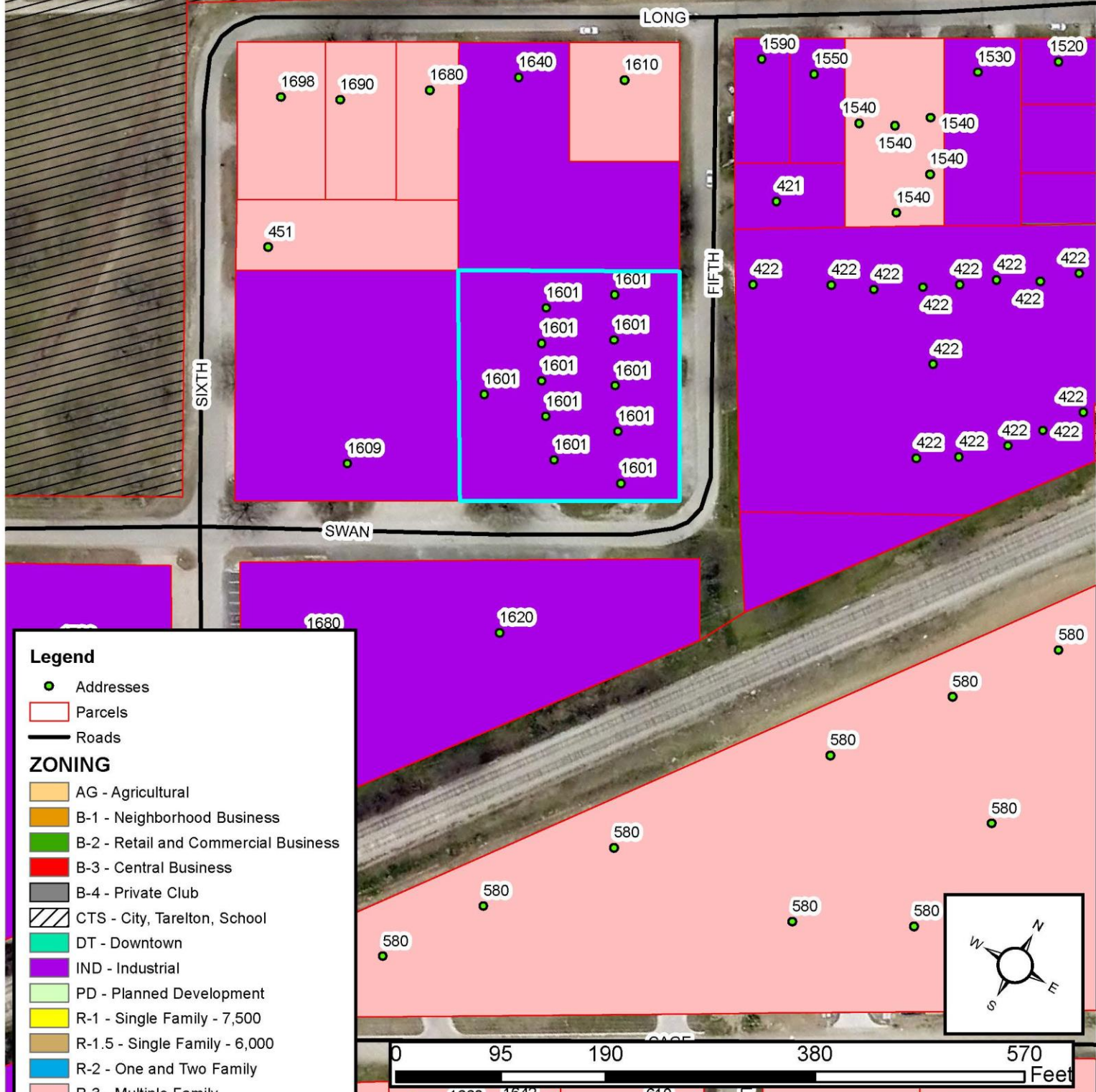
9/15/2020
Date

Signature of City Official Received

Date Received

1601 W Swan Current Zoning - IND Industrial

Item 5.



Legend

- Addresses
- ▭ Parcels
- Roads

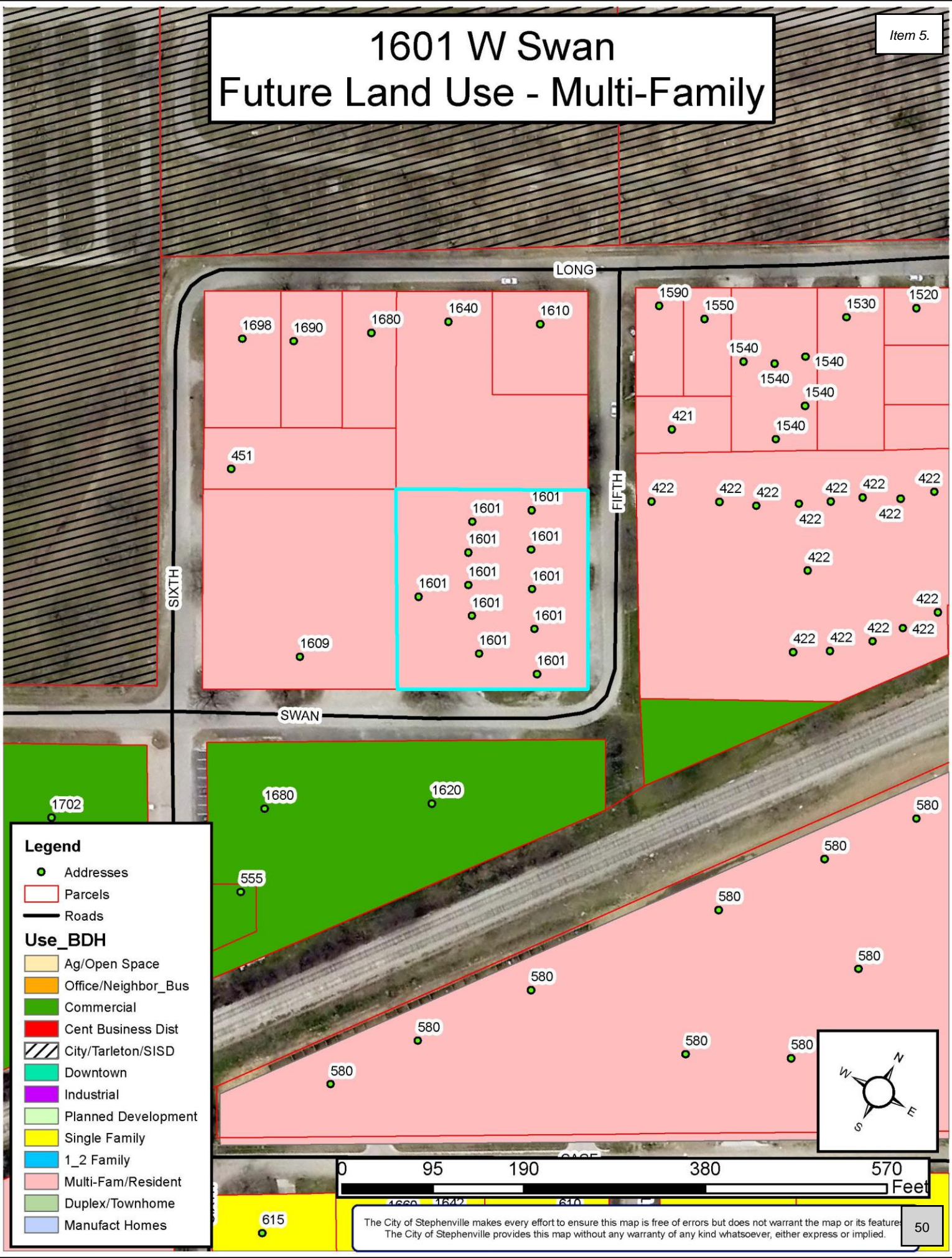
ZONING

- AG - Agricultural
- B-1 - Neighborhood Business
- B-2 - Retail and Commercial Business
- B-3 - Central Business
- B-4 - Private Club
- ▨ CTS - City, Tareyton, School
- DT - Downtown
- IND - Industrial
- PD - Planned Development
- R-1 - Single Family - 7,500
- R-1.5 - Single Family - 6,000
- R-2 - One and Two Family
- R-3 - Multiple Family
- RE - Single Family - 1 Acre

The City of Stephenville makes every effort to ensure this map is free of errors but does not warrant the map or its features. The City of Stephenville provides this map without any warranty of any kind whatsoever, either express or implied.

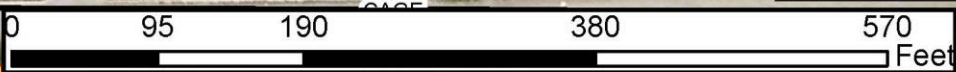
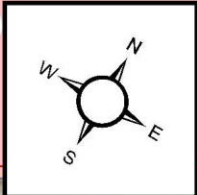
1601 W Swan Future Land Use - Multi-Family

Item 5.



Legend

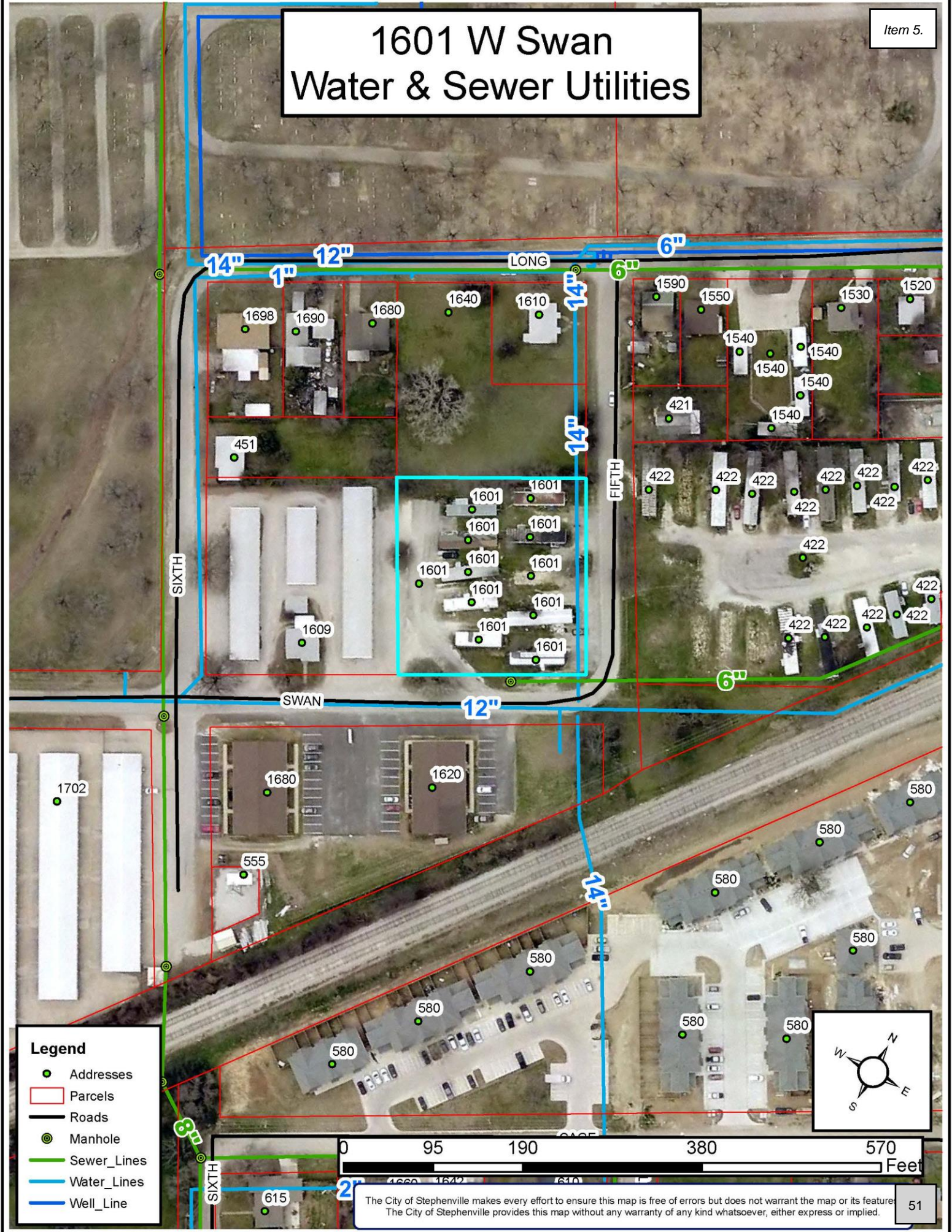
- Addresses
- Parcels
- Roads
- Use_BDH**
- Ag/Open Space
- Office/Neighbor_Bus
- Commercial
- Cent Business Dist
- City/Tarleton/SISD
- Downtown
- Industrial
- Planned Development
- Single Family
- 1_2 Family
- Multi-Fam/Resident
- Duplex/Townhome
- Manufact Homes



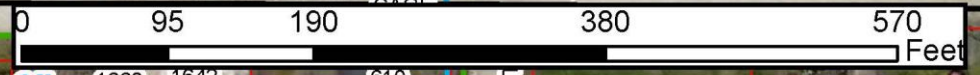
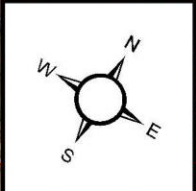
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1601 W Swan Water & Sewer Utilities

Item 5.



- Legend**
- Addresses
 - ▭ Parcels
 - Roads
 - ⊙ Manhole
 - Sewer_Lines
 - Water_Lines
 - Well_Line



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1601 W Swan Addresses

Parcel ID	Parcel Address	Parcel Owner	Owner Address	City	State	Zip Code
R000033511	1640 LONG	BACHUS JAMES O	PO BOX 552	STEPHENVILLE	TX	76401-0000
R000033512	1609 W SWAN	BACHUS JAMES O FAMILY TRUST	PO BOX 552	STEPHENVILLE	TX	76401-0552
R000033517	1540 W LONG	BENHAM JODY BLAKE	1630 CR510	STEPHENVILLE	TX	76401
R000033515	421 FIFTH	BLEDSE BRENT & MARCELLA LOWE	1207 PRAIRIE WIND	STEPHENVILLE	TX	76401
R000033564	1600 W SWAN	BROWN PACE DEVELOPMENT COMPANY LLC	819 OLD ANNETTA RD	ALEDO	TX	76008
R000033513	1601 W SWAN	BROWN PACE DEVELOPMENT COMPANY LLC	819 OLD ANNETTA RD	ALEDO	TX	76008
R000033522	422 S LILLIAN	BROWN PACE DEVELOPMENT COMPANY LLC	819 OLD ANNETTA RD	ALEDO	TX	76008
R000033516	1550 LONG	BYRD SAM & KRISSEY	115 BRIDAL PATH	STEPHENVILLE	TX	76401
R000014966	0 N PADDOCK & VANDERBILT	FORT WORTH & WESTERN RAILROAD	6300 RIDGLEA PLACE STE 1200	FORT WORTH	TX	76116-5738
R000033509	1680 LONG	GAUTIER JENNY M	1680 LONG	STEPHENVILLE	TX	76401
R000033506	1698 LONG	HOLLIFIELD JERRY W & BETTY J (ENHANCED LIFE ESTATE	1698 W LONG	STEPHENVILLE	TX	76401
R000033507	451 SIXTH	KUHLMANN LARRY T & DOROTHY A	610 HILL TOP WAY	STEPHENVILLE	TX	76401-7785
R000033510	1610 LONG	LOWERY CLINTON ALAN	1610 W LONG	STEPHENVILLE	TX	76401
R000033508	1690 LONG	MANZANARES FRANCISCO & ELOISA	1690 W LONG	STEPHENVILLE	TX	76401
R000033514	1590 LONG	RIOJAS RAFAEL & ROSA	3133 BOB WHITE	STEPHENVILLE	TX	76401-0000
R000033562	1680 W SWAN	WV RENTALS PROPERTIES LLC	PO BOX 1353	STEPHENVILLE	TX	76401



STAFF REPORT

SUBJECT: Case No.: RZ2020-013
Applicant Marc Pace is requesting a rezone of properties located at 1600 W Swan, Part of Lot 5, Block 14, South Side Addition, to the City of Stephenville, Erath County, Texas, from (I) Industrial to (R-3) Multi-Family.

DEPARTMENT: Development Services

STAFF CONTACT: Steve Killen

RECOMMENDATION:

The Comprehensive Plan for future land use designates this property to be Commercial. Future zoning for most of the surrounding properties is multifamily.

The applicant's request was received for the November meeting. The application provided legal descriptions for the rezone request of three properties; however, only one physical address was noted. Consequently, only one of the three properties were listed in the legal notice for the November meeting. Staff is bringing the remaining properties back for approval in an effort to correct the administrative oversight.

The Planning and Zoning Commission convened on December 16th and by a unanimous vote of 6:0, "recommended the City Council approve the request with the condition that the railroad be informed of all procedural issues that may or may not affect them."

BACKGROUND:

APPLICANT REQUEST:

1. If approved, several mobile homes will be removed which are currently located in a legal, non-conforming mobile home park.

CURRENT ZONING:

(I) Industrial

FUTURE LAND USE:

Multifamily

DESCRIPTION OF REQUESTED ZONING

Sec. 154.05.6. - Multiple family residential district (R-3).

5.6.A Description. This residential district provides for medium to high-density city neighborhood development. The primary land use allows for single-family dwellings, two-to-four family dwelling units, and multiple family housing buildings and complexes. All R-3 zoning will be appropriate to a city-style neighborhood. Recreational, religious and educational uses are also permitted so as to contribute to the natural elements of a convenient, balanced and attractive neighborhood. Development within this district is intended to be protected from the

encroachment of land activities that do not contribute to the esthetic and functional well being of the intended district environment.

5.6.B Permitted Uses.

- (1) Single-family detached dwelling, limited to occupancy by a family having no more than three individuals who are unrelated by blood, legal adoption, marriage or conservatorship. The owner and any agent of the owner shall be legally responsible for directly or indirectly allowing, permitting, causing, or failing to prohibit residential use of a dwelling in this district by more than three unrelated individuals;
- (2) Two-to-four family dwellings, with each family limited as in division (1) above;
- (3) Townhouse dwellings, with each family limited as in division (1) above;
- (4) Condominium dwellings, with each family limited as in division (1) above;
- (5) Multiple family dwellings, with each family limited as in division (1) above;
- (6) Assisted living center;
- (7) Convalescent, nursing or long term-care facility;
- (8) Retirement housing complex;
- (9) Accessory buildings;
- (10) Churches, temples, mosques and related facilities;
- (11) Community home;
- (12) Park or playground;
- (13) SISD school—public;
- (14) Bed and breakfast/boarding house;
- (15) Group day care home;
- (16) Registered family home;
- (17) Day care center; and
- (18) Fraternity or sorority house.

5.6.C Conditional Uses.

- (1) Home occupation;
- (2) Common facilities as the principal use of one or more platted lots in a subdivision;
- (3) Adult and/or children's day care centers;
- (4) Foster group home; and
- (5) Residence hall.

WATER:

The property is served by a 12" city water main in Swan.

SEWER:

The property currently is served by a 6" sanitary sewer main that traverses the property.

STREET:

The property is served by city street

ZONING AND LAND USE:

Location	Zoning	Future Land Use
Subject Site	Industrial	Multifamily
North	Industrial	Multi family
South	Multi family	Industrial
East	Multi family	Multifamily
West	Industrial	Multifamily

FACTORS TO CONSIDER:

- Compliance with Comprehensive Plan?
- Is application consistent with Plan?
- If not, have conditions changed or new information been offered to support change?
- Surrounding Zoning and Land Use
- Infrastructure Impacts
- Size and Location of Parcel - is land large enough and in proper location for proposed use?
- Reasonable Use of Property - does proposed change provide reasonable use of property?
- Zoning has great discretion - deny if applicant has not proven it is in the best interest of City to rezone

ALTERNATIVES

- 1) Accept the recommendation of the Commission and approve the rezoning request with the stated condition.
- 2) Modify the recommendation of the Commission with an alternative zoning designation and/or removing the stated condition.
- 3) Reject the recommendation of the Commission and deny the request for rezoning.

ZONING AMENDMENT APPLICATION

CITY OF STEPHENVILLE

1. **APPLICANT/OWNER:** BROWN PACE DEVELOPMENT CO., LLC
First Name _____ Last Name _____
- ADDRESS:** 819 OLD ANNETTA RD. 817-501-9812
Street/P.O. Box _____ Phone No. _____
- ALZOO TX 76008
City _____ State _____ Zip Code _____
2. **PROPERTY DESCRIPTION:** 422 S. LILLIAN ST.
Street Address _____
3. **LEGAL DESCRIPTION:** TRACT 1: 5, 6, 7, 8 8 SOUTH SIDE ADD.
Lot(s) _____ Block(s) _____ Addition _____
- TRACT 2: LOTS 7 + 8, BLOCK 7, + TRACT 3: LOT 5, BLOCK 14, SOUTH SIDE
4. **PRESENT ZONING:** R3 MULTIFAMILY/MOBILE HOME
Zoning District _____ Title _____
- PROPOSED ZONING:** PLANNED DEVELOPMENT
Zoning District _____ Title _____
5. **APPLICANTS REQUEST FOR ZONING CHANGE IS AS FOLLOWS:** I WOULD LIKE TO BE ABLE TO SELL INDIVIDUAL TOWNHOMES IN ORDER TO PROVIDE HOUSING FOR UNDER \$200,000.

(Attach an additional sheet if necessary)

[Signature]
Signature of Applicant

9/15/2020
Date

Signature of City Official Received

Date Received

JBO SURVEYING

TBPLS LICENSE NO. 10193930
4104 CR 180
STEPHENVILLE, TEXAS 76401
PHONE 817-579-7551
EMAIL JBO55590@SBCGLOBAL.NET

NORTH

SCALE 1" = 80'
ACCORDING TO THE FIRM PREPARED BY FEMA THIS PROPERTY IS NOT IN THE FLOOD ZONE, COMMUNITY PANEL NUMBER 481450A, DATED NOVEMBER 16, 2011 (UES WITHIN ZONE X)

I DO HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED SURVEYOR IN THE STATE OF TEXAS. I AM NOT PROVIDING ANY GUARANTEE OF ACCURACY FOR THIS SURVEY. THE USER OF THIS SURVEY SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF THIS SURVEY FOR THEIR OWN PURPOSES. THIS SURVEY IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF JBO SURVEYING. THE USER OF THIS SURVEY SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF THIS SURVEY FOR THEIR OWN PURPOSES. THIS SURVEY IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF JBO SURVEYING.



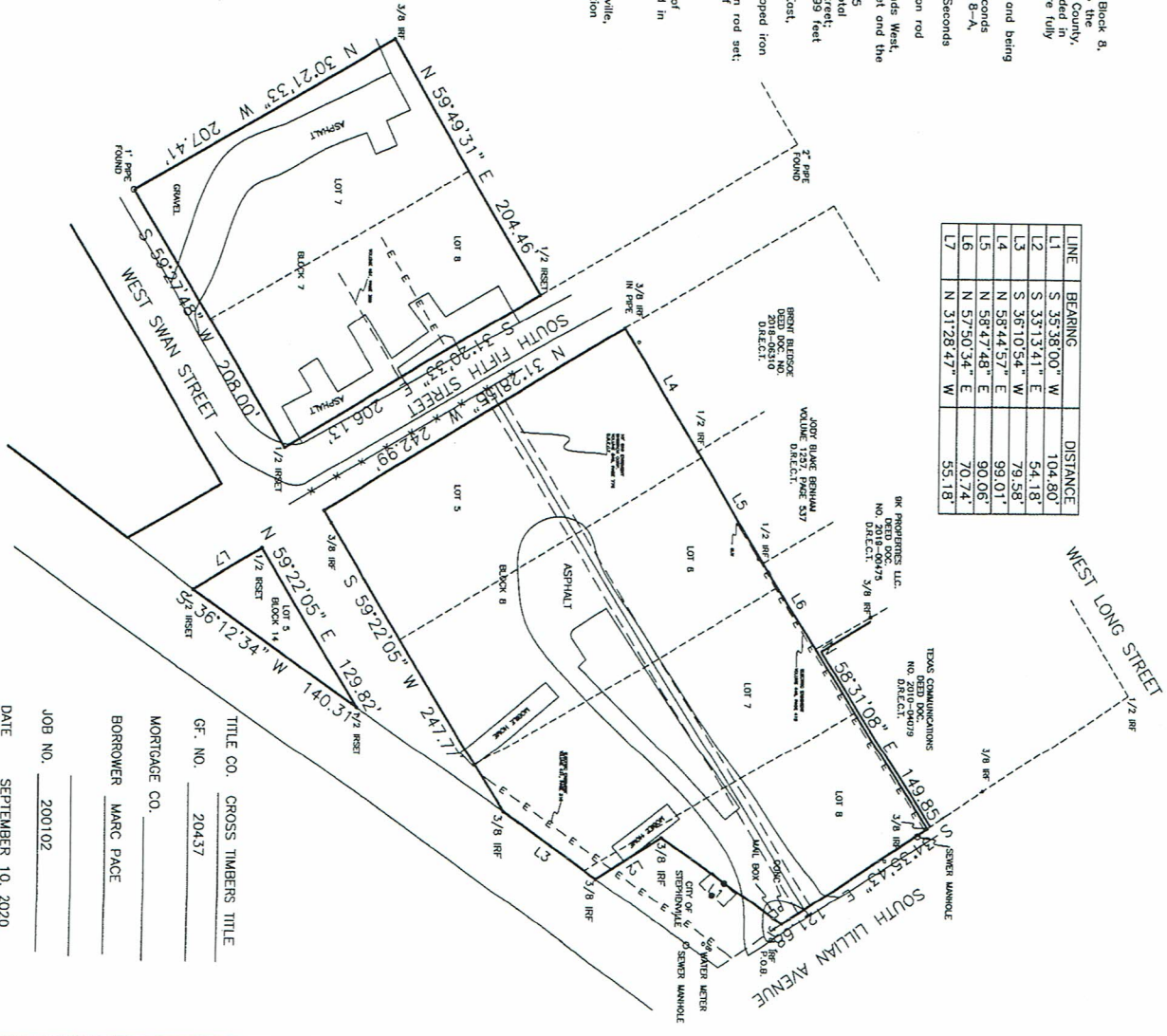
IMPROVEMENTS NOT SHOWN

TRACT ONE
Being all that certain lot, tract or parcel of land lying and being Lots 5, 6, 7, 8, Block 8, SOUTH SIDE ADDITION, to the City of Stephenville, Erath County, Texas, according to the King's Revised 1956 Map recorded in Volume 381, Page 105, Deed Records, Erath County, Texas and also being that same tract conveyed to Lillian Port, L.L.C., by deed recorded in Deed Doc. Number 2015-04024, Deed Records, Erath County, Texas and being more fully described by metes and bounds:

TRACT TWO
Lots 7 and 8, in Block 7, of the SOUTH SIDE ADDITION to the Addition to the City of Stephenville, Erath County, Texas, according to King's 1956 Map of said as recorded in Volume 381, Page 105, Deed Records of Erath County, Texas.

TRACT THREE
Lot 5, Block No. Fourteen (14), of the SOUTH SIDE ADDITION to the City of Stephenville, Erath County, Texas, according to King's 1956 Map of the City of Stephenville adoption thereof recorded in Volume 381, Page 105, Deed Records, Erath County, Texas.

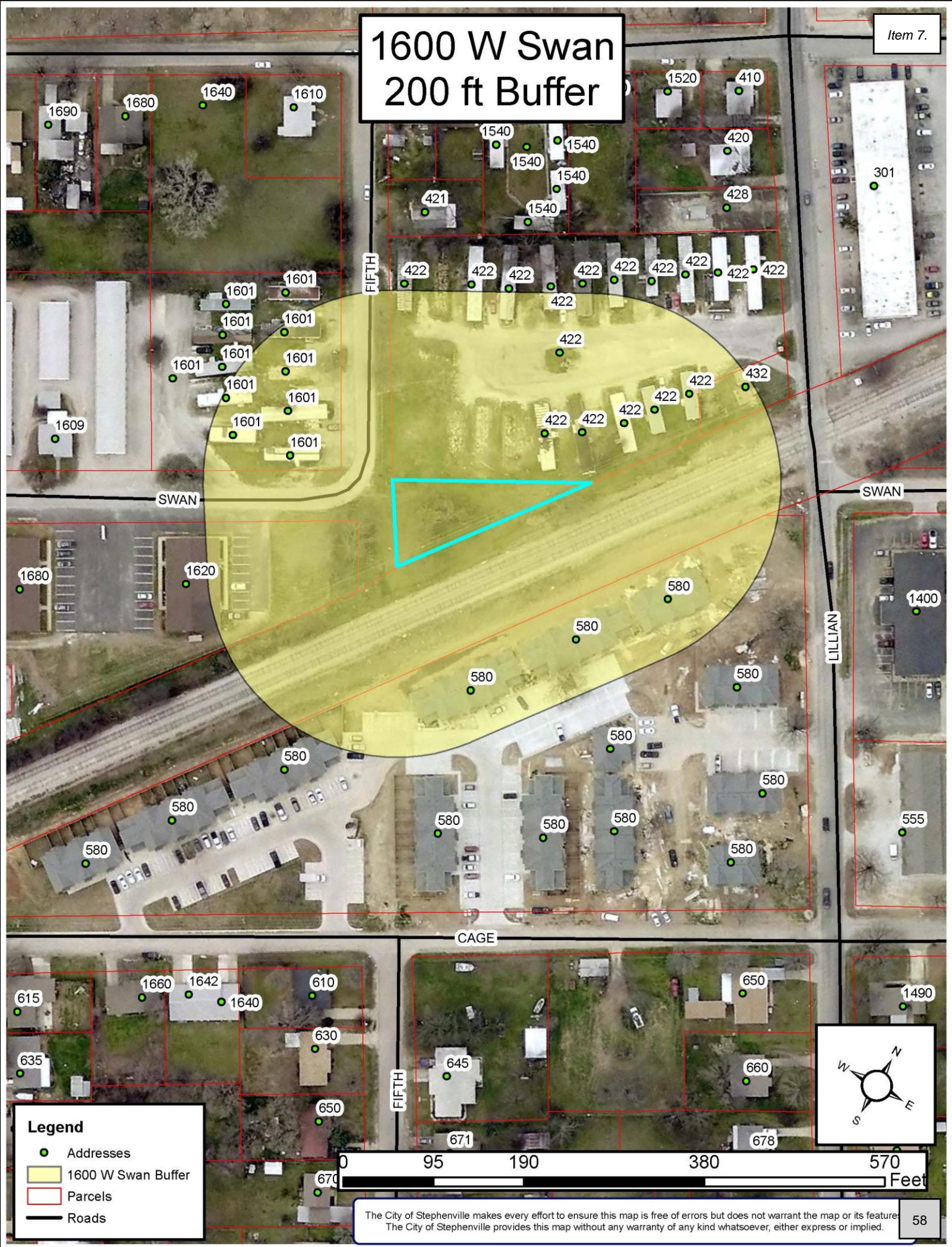
Table with 3 columns: LINE, BEARING, DISTANCE. Contains survey data for lines L1 through L7.



TITLE CO. CROSS TIMBERS TITLE
GF. NO. 20437
MORTGAGE CO.
BORROWER MARC PACE
JOB NO. 200102
DATE SEPTEMBER 10, 2020

1600 W Swan 200 ft Buffer

Item 7.



Legend

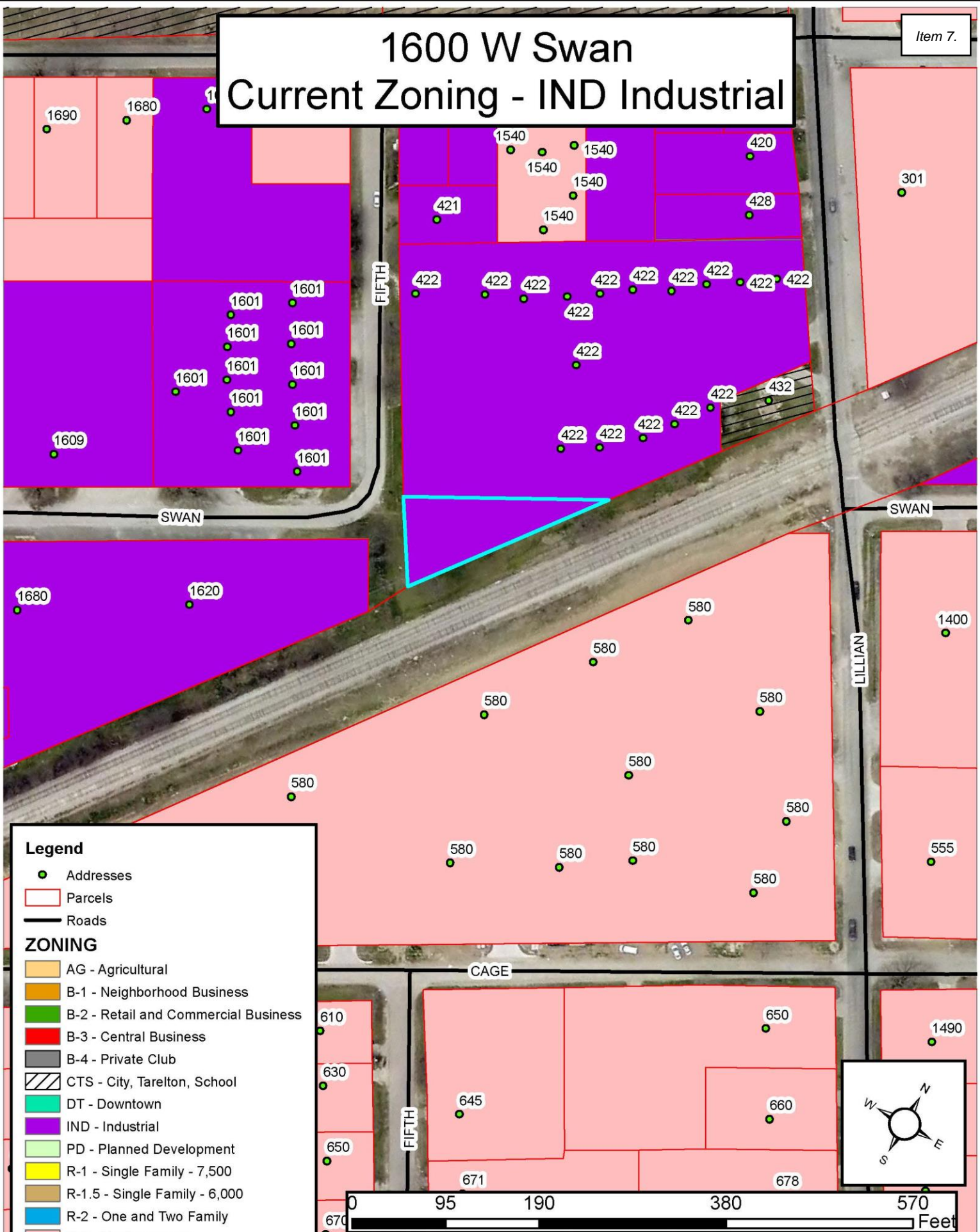
- Addresses
- 1600 W Swan Buffer
- ▭ Parcels
- Roads

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1600 W Swan

Current Zoning - IND Industrial

Item 7.

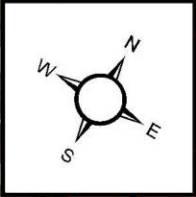


Legend

- Addresses
- Parcels
- Roads

ZONING

- AG - Agricultural
- B-1 - Neighborhood Business
- B-2 - Retail and Commercial Business
- B-3 - Central Business
- B-4 - Private Club
- CTS - City, Tareyton, School
- DT - Downtown
- IND - Industrial
- PD - Planned Development
- R-1 - Single Family - 7,500
- R-1.5 - Single Family - 6,000
- R-2 - One and Two Family
- R-3 - Multiple Family
- RE - Single Family - 1 Acre

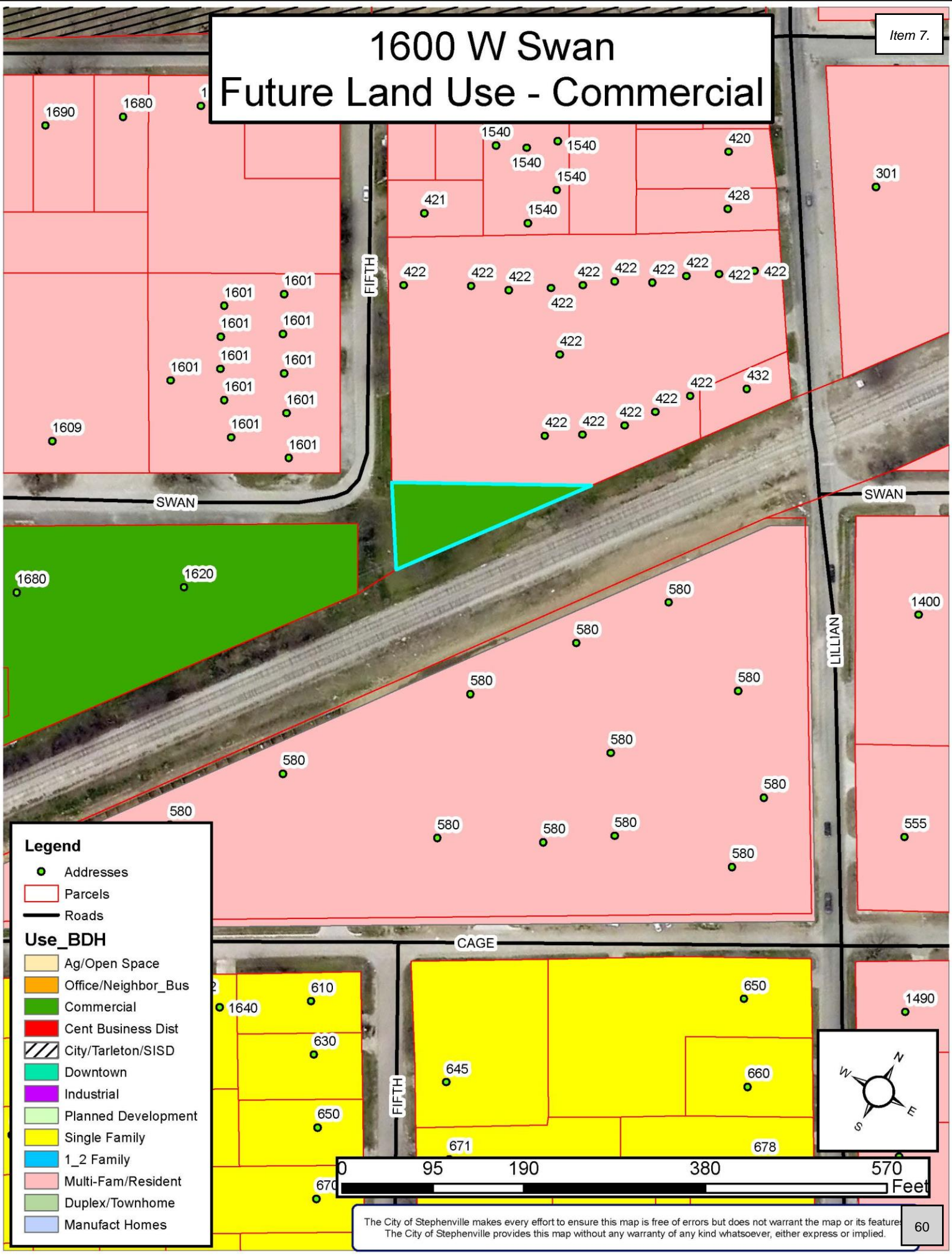


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1600 W Swan

Future Land Use - Commercial

Item 7.



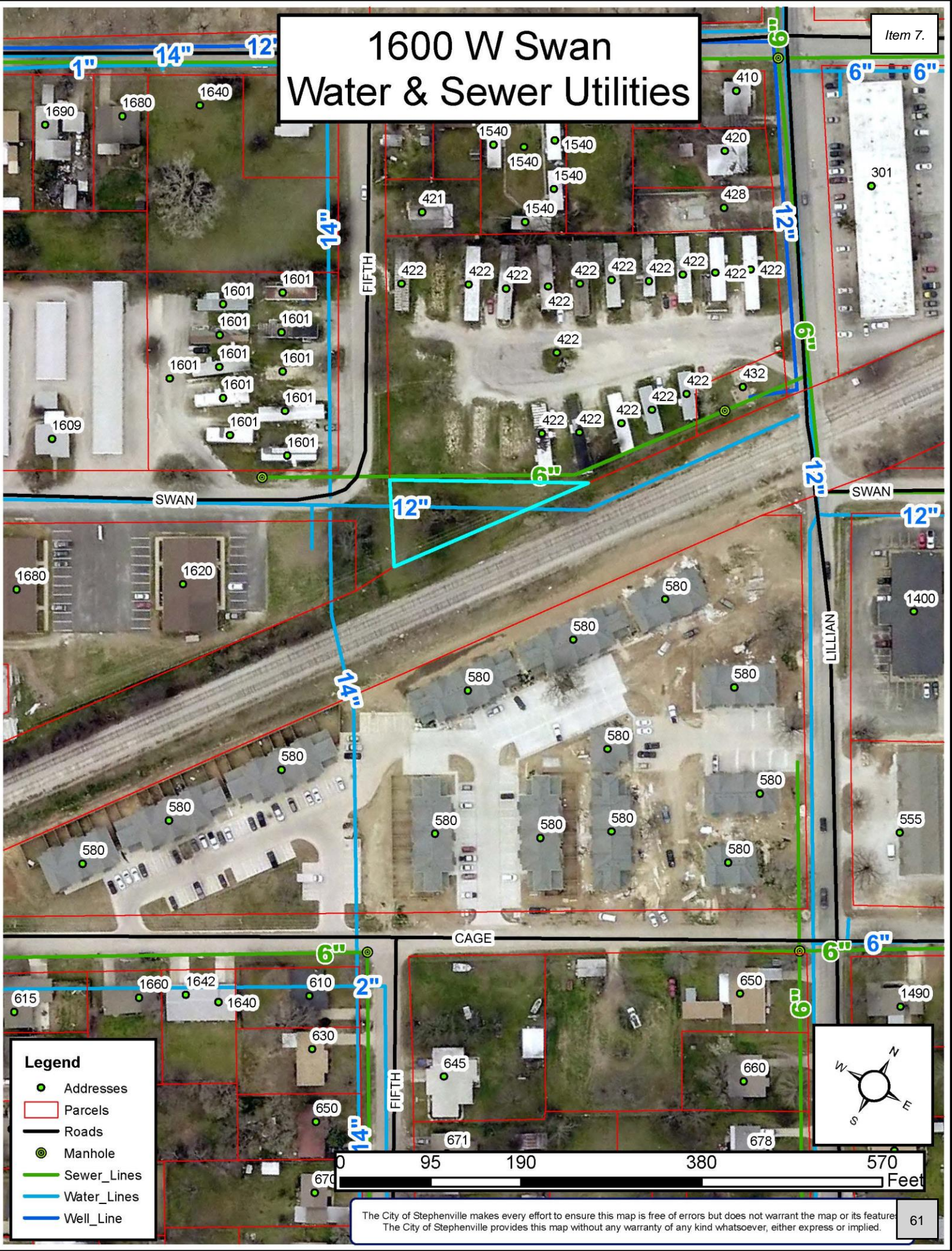
Legend

- Addresses
 - Parcels
 - Roads
- ### Use_BDH
- Ag/Open Space
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 - Commercial
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 - City/Tarleton/SISD
 - Downtown
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 - Single Family
 - 1_2 Family
 - Multi-Fam/Resident
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 - Manufact Homes

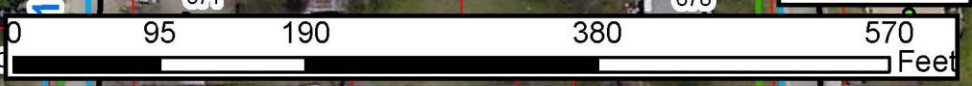
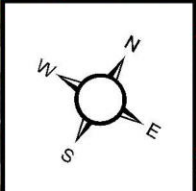
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1600 W Swan Water & Sewer Utilities

Item 7.



- Legend**
- Addresses
 - ▭ Parcels
 - Roads
 - ⊙ Manhole
 - Sewer_Lines
 - Water_Lines
 - Well_Line



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1600 W Swan Addresses

Parcel ID	Parcel Address	Parcel Owner	Owner Address	City	State	Zip Code
R000033564	1600 W SWAN	BROWN PACE DEVELOPMENT COMPANY LLC	819 OLD ANNETTA RD	ALEDO	TX	76008
R000033523	432 S LILLIAN	CITY OF STEPHENVILLE	298 W WASHINGTON	STEPHENVILLE	TX	76401-4257
R000033513	1601 W SWAN	BROWN PACE DEVELOPMENT COMPANY LLC	819 OLD ANNETTA RD	ALEDO	TX	76008
R000033522	422 S LILLIAN	BROWN PACE DEVELOPMENT COMPANY LLC	819 OLD ANNETTA RD	ALEDO	TX	76008
R000033562	1680 W SWAN	WV RENTALS PROPERTIES LLC	PO BOX 1353	STEPHENVILLE	TX	76401
R000033563	580 S LILLIAN	D818 LLC	PO BOX 1827	STEPHENVILLE	TX	76401
R000014966	0 N PADDOCK & VANDERBILT	FORT WORTH & WESTERN RAILROAD	6300 RIDGLEA PLACE STE 1200	FORT WORTH	TX	76116-5738



City of Stephenville
298 W. Washington
Stephenville, TX 76401
(254) 918-1213

Item 9.

NO. _____

ZONING AMENDMENT APPLICATION

CITY OF STEPHENVILLE

1. APPLICANT/OWNER: PHUONG HOANG
First Name Last Name

ADDRESS: 1125 Alexander Rd
Street/P.O. Box Phone No.
Stephenville TX 76401
City State Zip Code

2. PROPERTY DESCRIPTION: 1125 Alexander Rd Stephenville TX 76401
Street Address

3. LEGAL DESCRIPTION: _____
Lot(s) Block(s) Addition

4. PRESENT ZONING: R1 Singh Family
Zoning District Title

PROPOSED ZONING: R3 -
Zoning District Title

5. APPLICANTS REQUEST FOR ZONING CHANGE IS AS FOLLOWS: _____

I'm want to build The Townhome

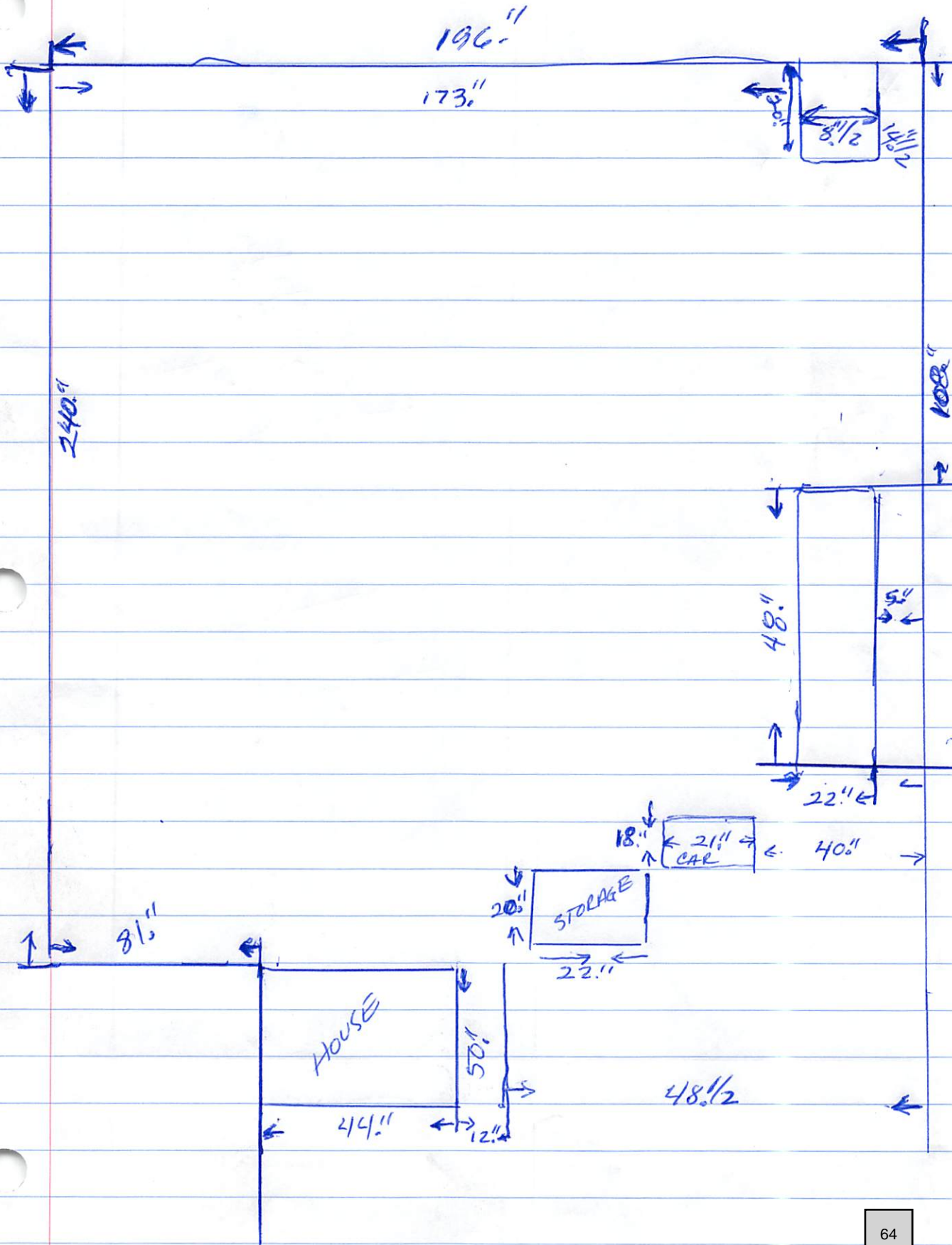
(Attach an additional sheet if necessary)

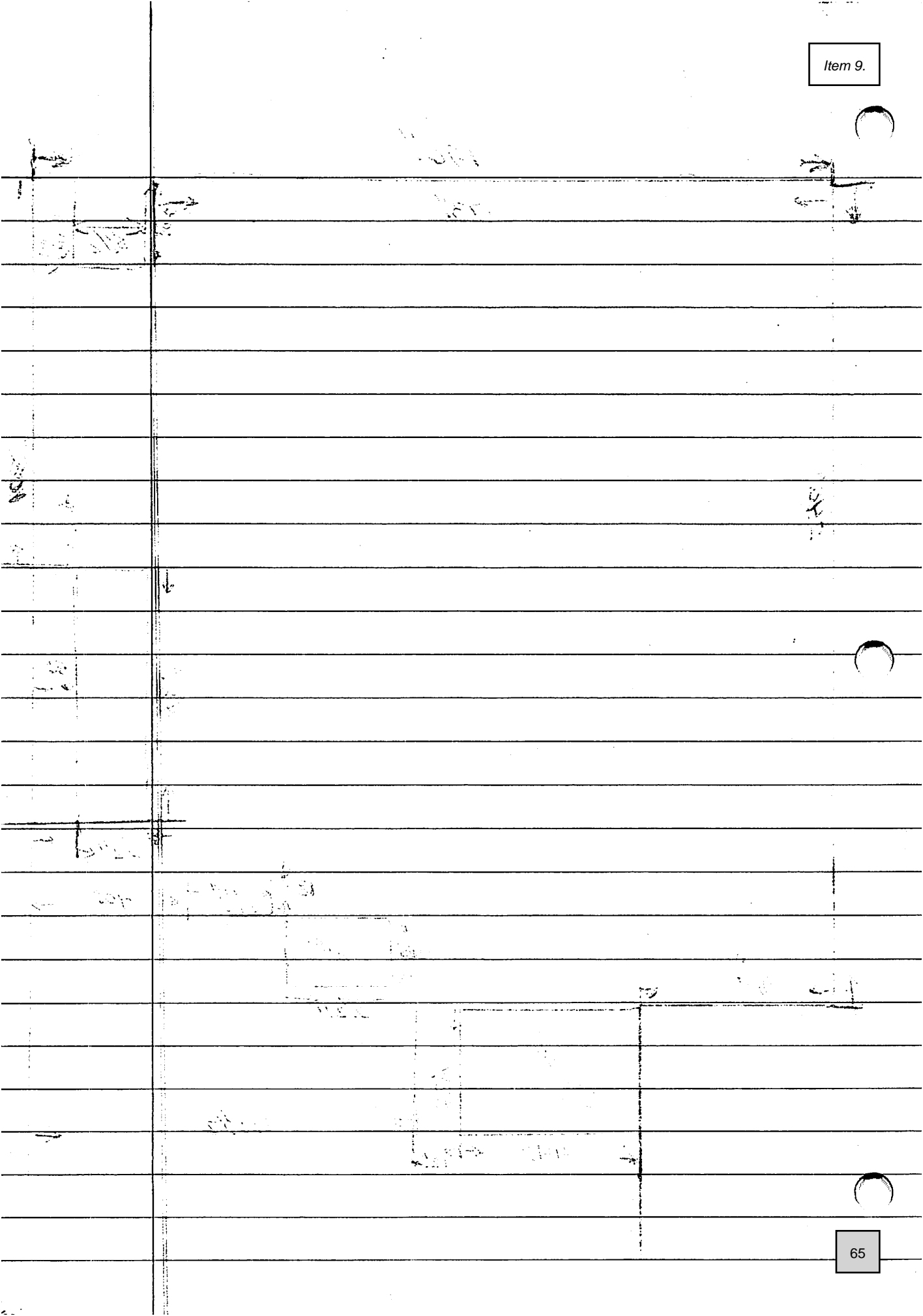
[Signature]
Signature of Applicant

11/16/20
Date

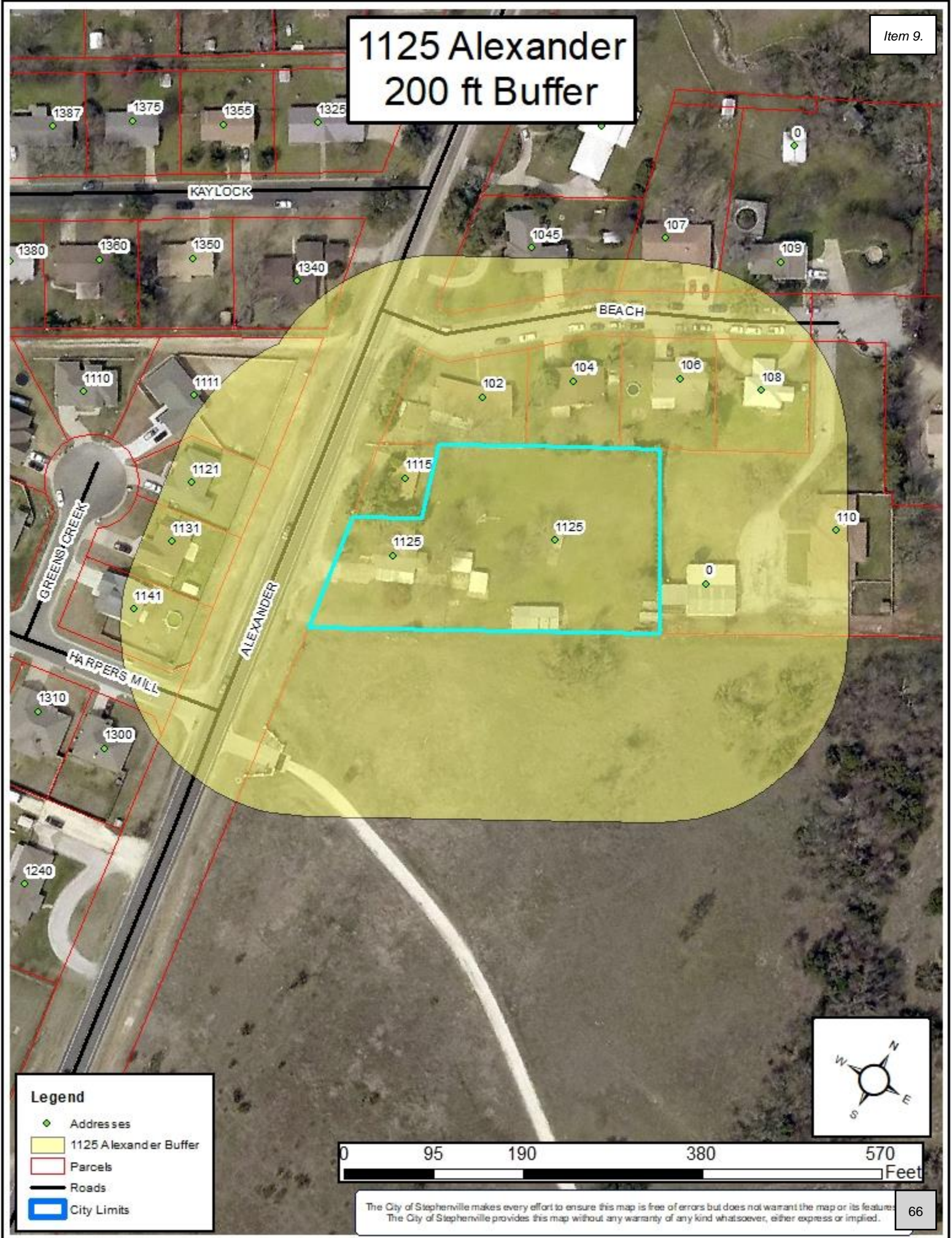
Signature of City Official Received

Date Received



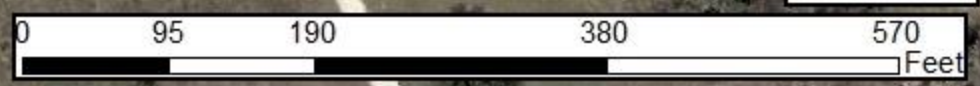


1125 Alexander 200 ft Buffer



Legend

- ◆ Addresses
- 1125 Alexander Buffer
- Parcels
- Roads
- City Limits



The City of Stephenville makes every effort to ensure this map is free of errors but does not warrant the map or its features. The City of Stephenville provides this map without any warranty of any kind whatsoever, either express or implied.

1125 Alexander Current Zoning - R1 Single Family

Item 9.



Legend

- Addresses
- Parcels
- Roads
- City Limits

ZONING

- AG - Agricultural
- B-1 - Neighborhood Business
- B-2 - Retail and Commercial Business
- B-3 - Central Business
- B-4 - Private Club
- CTS - City, Tareyton, School
- DT - Downtown
- IND - Industrial
- PD - Planned Development
- R-1 - Single Family - 7,500
- R-1.5 - Single Family - 6,000
- R-2 - One and Two Family
- R-3 - Multiple Family
- RE - Single Family - 1 Acre



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1125 Alexander Future Land Use - Single Family

Item 9.



Legend

- ◆ Addresses
- Parcels
- Roads

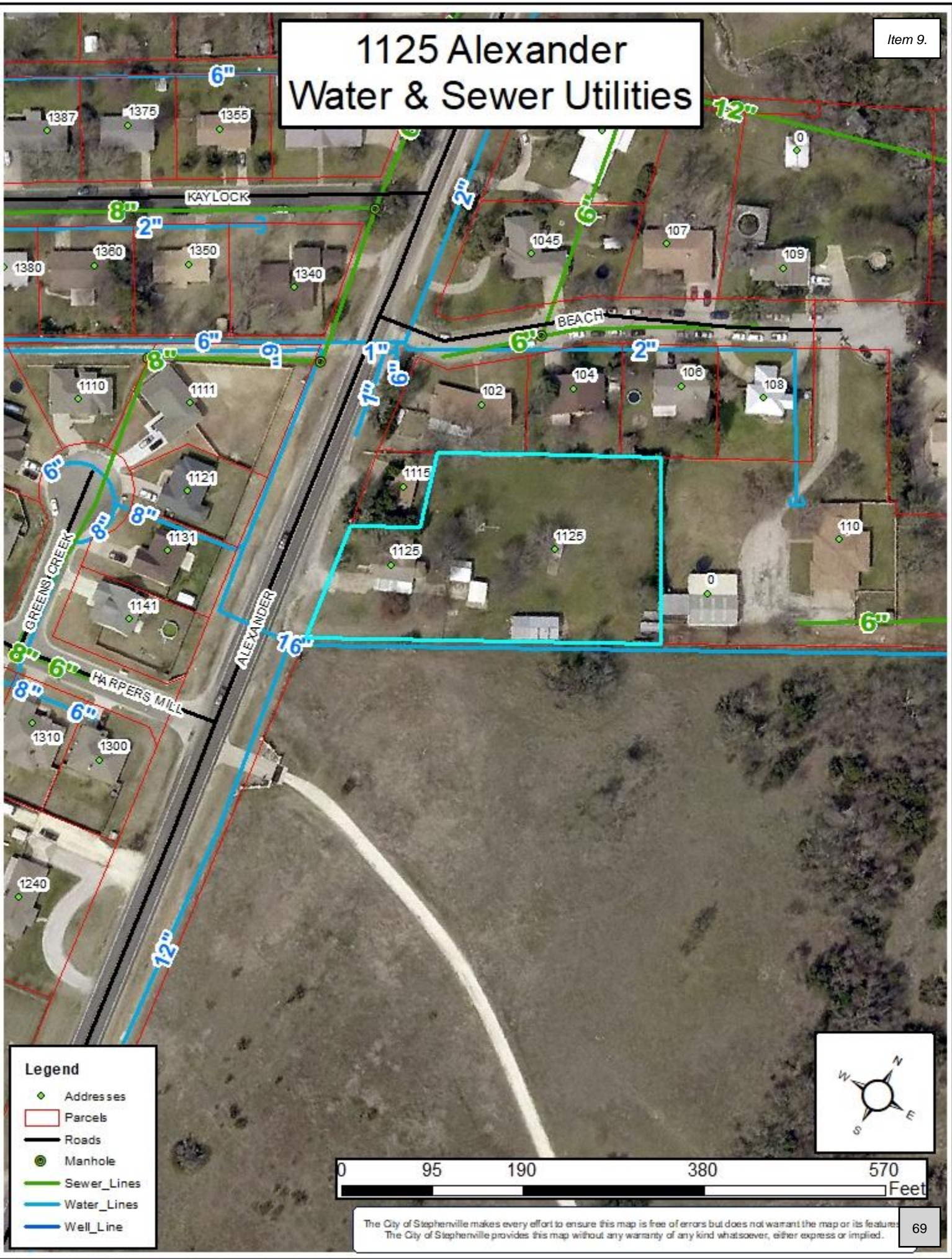
Use_BDH

- Ag/Open Space
- Office/Neighbor_Bus
- Commercial
- Cent Business Dist
- City/Tarleton/SISD
- Downtown
- Industrial
- Planned Development
- Single Family
- 1_2 Family
- Multi-Fam/Resident
- Duplex/Townhome
- Manufact Homes
- City Limits



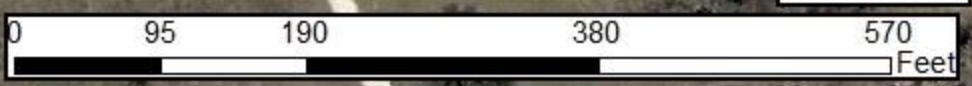
The City of Stephenville makes every effort to ensure this map is free of errors but does not warrant the map or its features. The City of Stephenville provides this map without any warranty of any kind whatsoever, either express or implied.

1125 Alexander Water & Sewer Utilities



Legend

- ◆ Addresses
- ▭ Parcels
- Roads
- Manhole
- Sewer_Lines
- Water_Lines
- Well_Line



The City of Stephenville makes every effort to ensure this map is free of errors but does not warrant the map or its features. The City of Stephenville provides this map without any warranty of any kind whatsoever, either express or implied.

1125 Alexander Addresses

Parcel ID	Parcel Address	Parcel Owner	Owner Address	City	State	Zip Code
R000073444	1300 HARPERS MILL RD	BRAND JONI & FRANK	3251 HWY 2486	GUSTINE	TX	76455
R000073478	1121 GREENS CREEK CIRCLE	BRIDGES BARBARA M REVOCABLE TRUST	PO BOX 1532	WILSON	WY	83014
R000032398	109 BEACH DR	BULLION BETHANY & CLAYTON BULLION	109 BEACH DR	STEPHENVILLE	TX	76401
R000073443	0 HARPERS MILL RD	CITY OF STEPHENVILLE	298 W WASHINGTON	STEPHENVILLE	TX	76401-4257
R000032394	104 BEACH DR	COCHRAN JASON V	104 BEACH DR	STEPHENVILLE	TX	76401-5200
R000032393	102 BEACH DR	CRAIG NORMAN A JR	102 BEACH DR	STEPHENVILLE	TX	76401-0000
R000017570	1255 ALEXANDER RD	ELLIOTT STEPHANY L	PO BOX 18	STEPHENVILLE	TX	76401
R000017554	110 BEACH DR	EVANS WILLIAM R & NANETTE V	112 BEACH DR	STEPHENVILLE	TX	76401-0000
R000017555	112 BEACH DR	EVANS WILLIAM R & NANETTE V	112 BEACH DR	STEPHENVILLE	TX	76401-0000
R000073479	1131 GREENS CREEK CIRCLE	HARMON MATTHEW TAYLOR	1131 GREENS CREEK CIRCLE	STEPHENVILLE	TX	76401
R000032499	1340 KAYLOCK	HERRINGTON LAWRENCE W & JENNIFER R	1340 KAYLOCK	STEPHENVILLE	TX	76401-0000
R000017553	1125 ALEXANDER RD	J & S FAMILY HOLDINGS LLC	PO BOX 1201	STEPHENVILLE	TX	76401
R000073480	1141 GREENS CREEK CIRCLE	LESLEY BRIAN & JENNIFER LESLEY	1141 GREENS CREEK CIR	STEPHENVILLE	TX	76401-5176
R000073477	1111 GREENS CREEK CIRCLE	MAGNUS JOHN & MELODY	1111 GREENS CREEK CIRCLE	STEPHENVILLE	TX	76401
R000017558	1045 ALEXANDER RD	MCCLENDON ANDREA	1045 ALEXANDER RD	STEPHENVILLE	TX	76401
R000017611	1115 ALEXANDER RD	MURRAY ANGIE	1395 MELISSA	STEPHENVILLE	TX	76401
R000032397	107 BEACH DR	SCHRAMM KRISTI & APPOLLO	107 BEACH	STEPHENVILLE	TX	76401
R000032396	108 BEACH DR	SHIPP LEE D	306 PR881	STEPHENVILLE	TX	76401-9318
R000032395	106 BEACH DR	TRAFALGAR HOMES OF TEXAS LLC	PO BOX 65	STEPHENVILLE	TX	76401



STAFF REPORT

SUBJECT: Case No.: RZ2020-014

Applicant Phuong Huang is requesting a rezone of properties located at 1125 S Alexander, A0196 Dupuy John B, to the City of Stephenville, Erath County, Texas, from (R-1) Single Family to (R-3) Multi-Family.

DEPARTMENT: Development Services

STAFF CONTACT: Steve Killen

RECOMMENDATION:

The Comprehensive Plan for future land use designates this property to be Single Family.

BACKGROUND:

APPLICANT REQUEST:

The applicant recently purchased the property with the intentions to continue to use the existing single family home as a single family residence and build apartments on the back side of the property. The applicant met with staff last week. Several items were discussed in regards to the intended project, including access, setback requirements, demolition of existing accessory structures to provide space for the construction of the multifamily units and the need to replat, contingent upon the outcome of the request to rezone.

On December 16th, the Planning and Zoning Commission heard the case. Three persons spoke in opposition, one citizen submitted a letter of opposition and one citizen, requesting anonymity, submitted a letter in opposition. The Commission recommended the City Council deny the request by a vote of 5:0:1 with one member abstaining.

CURRENT ZONING:

Single Family

FUTURE LAND USE:

Single Family

CURRENT AND REQUESTED ZONING REQUIREMENTS

DESCRIPTION OF Sec. 154.05.3. - Single-family residential district (R-1) (7,500 ft).

5.3.A Description. This residential district provides for a generally lesser density city neighborhood development. The primary land use allows for single-family dwelling development appropriate to a city-style neighborhood. Other uses within this district shall contribute to the nature of the neighborhood. Development within this district is intended to be separate from and protected from the encroachment of land activities that do not contribute to the esthetic and functional well being of the intended district environment.

5.3.B Permitted Uses.

(1) Single-family detached dwelling, limited to occupancy by a family having no more than three individuals who are unrelated by blood, legal adoption, marriage or conservatorship. The owner and any agent of the owner shall be legally responsible for directly or indirectly allowing, permitting, causing or failing to prohibit residential use of a dwelling in this district by more than three unrelated individuals;

(2) Accessory buildings;

(3) Churches, temple, mosques and related facilities;

(4) Community home;

(5) Park or playground; and

(6) SISD school—public.

5.3.C Conditional Uses.

(1) Home occupation;

(2) Common facilities as the principal use of one or more platted lots in a subdivision; and

(3) Child care—registered family home.

5.3.D Height, Area, Yard and Lot Coverage Requirements.

(1) Maximum density: one dwelling unit per lot.

(2) Minimum lot area: 7,500 ft².

(3) Minimum lot width and lot frontage: 75 feet.

(4) Minimum lot depth: 100 feet.

(5) Minimum depth of front setback: 25 feet.

(6) Minimum depth of rear setback: 25 feet.

(7) Minimum width of side setback:

(a) Internal lot: seven feet.

(b) Corner lot: 25 feet from intersecting side street.

(8) Building size:

(a) Maximum main building coverage as a percentage of lot area: 40%.

(b) Minimum area of main building: 1,500 ft².

(9) Accessory buildings:

(a) Maximum accessory buildings coverage of rear yard: 30%.

(b) Maximum number of accessory buildings: two.

(c) Minimum depth of side setback: five feet.

(d) Minimum depth of rear setback: five feet.

(e) Minimum depth from the edge of the main building: 12 feet.

(10) Maximum height of structures: 35 feet.

(11) Public, semi-public or public service buildings, hospitals, institutions or schools may not exceed a height of 60 feet. Churches, temples and mosques may not exceed 75 feet, if the building is set back from each yard line at least one foot for each two feet additional height above the height limit in this district.

5.3.E Parking Regulations. A Single-Family, R-1 District lot shall provide a minimum of two vehicle parking spaces, with a driveway connecting the parking spaces with a street or alley, and meet all the pertinent requirements contained in this ordinance, Section 11, Parking Regulations of this ordinance.

5.3.F Type of Construction.

(1) The exterior walls of all new dwellings to the top plate, shall be constructed exclusively of primary materials, excluding doors, windows, and porches. See Section 10.E(1): Exterior Building Material Standard—Primary Materials.

(2) Existing dwellings expanding the total square footage of the building 50% or less, or modifying the exterior walls, may use the same exterior construction material as the existing primary building. If the material is not available, similar material may be used if approved by the Community Development Director.

(3) Existing dwellings expanding the total square footage of the building by more than 50%, or proposing to use a material consistent with the primary structure for any expansion must use primary materials, Section 10.E(1): Exterior Building Material Standard—Primary Materials, for the expansion area.

5.3.F Exterior Building Material Standards

(Ord. 2011-26, passed 12-6-2011)

Sec. 154.05.6. - Multiple family residential district (R-3).

5.6.A Description. This residential district provides for medium to high-density city neighborhood development. The primary land use allows for single-family dwellings, two-to-four family dwelling units, and multiple family housing buildings and complexes. All R-3 zoning will be appropriate to a city-style neighborhood. Recreational, religious and educational uses are also permitted so as to contribute to the natural elements of a convenient, balanced and attractive neighborhood. Development within this district is intended to be protected from the encroachment of land activities that do not contribute to the esthetic and functional well being of the intended district environment.

5.6.B Permitted Uses.

(1) Single-family detached dwelling, limited to occupancy by a family having no more than three individuals who are unrelated by blood, legal adoption, marriage or conservatorship. The owner and any agent of the owner shall be legally responsible for directly or indirectly allowing, permitting, causing, or failing to prohibit residential use of a dwelling in this district by more than three unrelated individuals;

(2) Two-to-four family dwellings, with each family limited as in division (1) above;

(3) Townhouse dwellings, with each family limited as in division (1) above;

(4) Condominium dwellings, with each family limited as in division (1) above;

- (5) Multiple family dwellings, with each family limited as in division (1) above;
- (6) Assisted living center;
- (7) Convalescent, nursing or long term-care facility;
- (8) Retirement housing complex;
- (9) Accessory buildings;
- (10) Churches, temples, mosques and related facilities;
- (11) Community home;
- (12) Park or playground;
- (13) SISD school—public;
- (14) Bed and breakfast/boarding house;
- (15) Group day care home;
- (16) Registered family home;
- (17) Day care center; and
- (18) Fraternity or sorority house.

5.6.C Conditional Uses.

- (1) Home occupation;
- (2) Common facilities as the principal use of one or more platted lots in a subdivision;
- (3) Adult and/or children's day care centers;
- (4) Foster group home; and
- (5) Residence hall.

5.6.D Height, Area, Yard and Lot Coverage Requirements.

- (A) Single family dwelling.
 - (1) Minimum lot area: 5,000 ft².
 - (2) Minimum lot width and lot frontage: 50 feet.
 - (3) Minimum lot depth: 100 feet.
 - (4) Minimum depth of front setback: 25 feet.
 - (5) Minimum depth of rear setback: 25 feet.
 - (6) Minimum width of side setback:
 - (a) Internal lot: five feet.
 - (b) Corner lot: 25 feet from intersecting side street.

- (7) Building size:
 - (a) Maximum coverage as a percentage of lot area: 40%.
 - (b) Single family dwelling: 1,000 ft².
- (8) Accessory buildings:
 - (a) Maximum accessory buildings coverage of rear yard: 20%.
 - (b) Maximum number of accessory buildings: one.
 - (c) Minimum depth of side setback: five feet.
 - (d) Minimum depth of rear setback: five feet.
 - (e) Minimum depth from the edge of the main building: 12 feet.
- (9) Maximum height of structures: 35 feet.
- (10) Public, semi-public or public service buildings, hospitals, institutions or schools may not exceed a height of 60 feet. Churches, temples and mosques may not exceed 75 feet, if the building is set back from each yard line at least one foot for each two feet additional height above the height limit in this district.

Height, Area, Yard and Lot Coverage Requirements

Single-Family Dwelling

5.6.E Parking Regulations. A Single-Family, R-3 District lot shall provide a minimum of two vehicle parking spaces per dwelling unit, with a driveway connecting the parking spaces with a street or alley, and meet all the pertinent requirements contained in this ordinance, Section 11, Parking Regulations of this ordinance.

- (B) Two-to-four family.
 - (1) Minimum lot area: 7,500 ft² for two dwelling units, plus 1,000 ft² for each additional dwelling unit.
 - (2) Minimum lot width and lot frontage: 75 feet.
 - (3) Minimum lot depth: 100 feet.
 - (4) Minimum depth of front setback: 25 feet.
 - (5) Minimum depth of rear setback: 25 feet.
 - (6) Minimum width of side setback:
 - (a) Internal lot: six feet.
 - (b) Corner lot: 25 feet from intersecting side street.
- (7) Building size:
 - (a) Maximum coverage as a percentage of lot area: 40%.
 - (b) Minimum area of each dwelling unit: 800 ft².
- (8) Accessory buildings:

- (a) Maximum accessory building coverage of rear yard: 20%.
- (b) Maximum area of each accessory building: 200 ft².
- (c) Maximum number of accessory buildings: one per unit.
- (d) Minimum depth of side setback: five feet.
- (e) Minimum depth of rear setback: five feet.
- (f) Minimum depth from the edge of the main building: 12 feet.
- (9) Maximum height of structures: 35 feet.
- (10) Public, semi-public or public service buildings, hospitals, institutions or schools may not exceed a height of 60 feet. Churches, temples and mosques may not exceed 75 feet, if the building is set back from each yard line at least one foot for each two feet additional height above the height limit in this district.

Height, Area, Yard and Lot Coverage Requirements

Two-to-Four Family Dwelling

A Two to Four-Family, R-3 District lot shall provide a minimum of two vehicle parking spaces per dwelling unit, with a driveway connecting the parking spaces with a street or alley, and meet all the pertinent requirements contained in this ordinance, Section 11, Parking Regulations of this ordinance.

- (C) Townhouse/Condominium.
 - (1) Minimum lot area: 3,000 ft² per unit.
 - (2) Minimum average lot width and lot frontage: 30 feet.
 - (3) Minimum lot depth: 100 feet.
 - (4) Minimum depth of front setback: 25 feet.
 - (5) Minimum depth of rear setback: 15 feet.
 - (6) Minimum width of side setback:
 - (a) Internal lot: five feet.
 - (b) Corner lot: 25 feet from intersecting side street.
 - (7) Building size:
 - (a) Maximum building coverage as a percentage of lot area: 40%
 - (b) Minimum area of each Townhouse dwelling unit: 800 ft².
 - (c) Minimum area of each Condominium of each dwelling unit: 500 ft² for one bedroom or less, plus 125 ft² of floor area for each additional bedroom.
 - (8) Accessory buildings:
 - (a) Maximum accessory building coverage of rear yard: 20%.

- (b) Maximum area of each accessory building: 200 ft².
- (c) Maximum number of accessory buildings: one per unit.
- (d) Minimum depth of side setback: five feet.
- (e) Minimum depth of rear setback: five feet.
- (f) Minimum depth from the edge of the main building: 12 feet.
- (9) Maximum height of structures: 35 feet.
- (10) Public, semi-public or public service buildings, hospitals, institutions or schools may not exceed a height of 60 feet. Churches, temples and mosques may not exceed 75 feet, if the building is set back from each yard line at least one foot for each two feet additional height above the height limit in this district.

Height, Area, Yard and Lot Coverage Requirements

Townhouse/Condominium

A Townhouse/Condominium, R-3 District lot shall provide a minimum of two vehicle parking spaces per dwelling unit, with a driveway connecting the parking spaces with a street or alley, and meet all the pertinent requirements contained in this ordinance, Section 11, Parking Regulations of this Ordinance.

- (D) Multiple family dwellings.
 - (1) Minimum lot area: maximum density of 24 dwelling units per acre, which includes parking, access and all other area improvements.
 - (2) Minimum lot depth: 100 feet.
 - (3) Minimum depth of front setback: 25 feet.
 - (4) Minimum depth of rear setback: 20 feet.
 - (5) Minimum width of side setback:
 - (a) Internal lot: ten feet.
 - (b) Corner lot: 25 feet from intersecting side street.
 - (6) Building size: Minimum area of each dwelling unit: 500 ft² for one bedroom or less plus 125 ft² of floor area for each additional bedroom.
 - (7) Maximum height of structures: 35 feet.
 - (8) Public, semi-public or public service buildings, hospitals, institutions or schools may not exceed a height of 60 feet. Churches, temples and mosques may not exceed 75 feet, if the building is set back from each yard line at least one foot for each two feet additional height above the height limit in this district.

Height, Area, Yard and Lot Coverage Requirements

Multiple-Family Dwelling

A Multiple-Family, R-3 District lot shall provide a minimum of two vehicle parking spaces per dwelling unit, with a driveway connecting the parking spaces with a street or alley, and meet all the pertinent requirements contained in this ordinance, Section 11, Parking Regulations of this ordinance.

5.6.F Type of Construction.

(1) The exterior walls of all new dwellings to the top plate, shall be constructed of at least 80% of the total exterior walls of primary materials, excluding doors, windows, and porches. See Section 10.E(1): Exterior Building Material Standard—Primary Materials.

(2) Any remaining exterior walls of all new dwellings shall construct the remaining exterior walls of alternative materials. See Section 10.E(2): Exterior Building Material Standard—Alternative Materials.

(3) Existing dwellings expanding the total square footage of the building 50% or less, or modifying the exterior walls, may use the same exterior construction material as the existing primary building. If the material is not available, similar material may be used if approved by the Community Development Director.

(4) Existing dwellings expanding the total square footage of the building more than 50%, or proposing to use a material inconsistent with the primary structure for any expansion, must meet the 80% minimum primary materials, Section 10.E: Exterior Building Material Standard, for the total exterior walls of the structure.

5.6.F Exterior Building Material Standards

(Am. Ord. 2007-24, passed 12-4-2007; Am. Ord. 2008-13, passed 7-1-2008; Ord. 2011-26, passed 12-6-2011)

WATER:

The property is served by a 16” city water main in Alexander at the south end of this property.

SEWER:

The property is not currently served by a sanitary sewer main. However, the utility is in the vicinity.

STREET:

The property is served by a State Highway.

ZONING AND LAND USE:

Location	Zoning	Future Land Use
Subject Site	Single Family	Single Family
North	Single Family	Single Family
South	Single Family	Single Family
East	Single Family	Single family
West	Single Family	Single family

FACTORS TO CONSIDER:

- Compliance with Comprehensive Plan?

- Is application consistent with Plan?
- If not, have conditions changed or new information been offered to support change?
- Surrounding Zoning and Land Use
- Infrastructure Impacts
- Size and Location of Parcel - is land large enough and in proper location for proposed use?
- Reasonable Use of Property - does proposed change provide reasonable use of property?
- Zoning has great discretion - deny if applicant has not proven it is in the best interest of City to rezone

ALTERNATIVES

- 1) Accept the recommendation from the Planning and Zoning Commission and deny the rezoning request.
- 2) Modify the recommendation of the Planning and Zoning Commission and approve the rezoning request designating an alternate classification.
- 3) Overrule the recommendation of the Planning and Zoning Commission and approve the request for rezoning.



STAFF REPORT

SUBJECT: Case No.: RZ2020-015

Applicant Gary Lloyd is requesting a rezone of properties located at 2612 Lingleville Rd., Lot 1, Block 1, Latour Addition to the City of Stephenville, Erath County, Texas, from (B-1) Neighborhood Business to (B-2) Retail and Commercial Business.

DEPARTMENT: Development Services

STAFF CONTACT: Steve Killen

RECOMMENDATION:

The Comprehensive Plan for future land use designates this property to be Commercial.

BACKGROUND:

APPLICANT REQUEST:

The applicant did not express the purpose of the rezone request on the application. However, in a subsequent phone conversation, indicated that the business model would include covered parking facilities.

On December 16th, the Planning and Zoning Commission convened and by a unanimous vote of 6/0, recommended the City Council approve the rezoning request.

CURRENT ZONING:

B-1 – Neighborhood Business

FUTURE LAND USE:

Commercial

DESCRIPTION OF ZONING

Sec. 154.06.1. - Neighborhood business district (B-1).

6.1.A Description.

(1) The Neighborhood Business District accommodates trade and personal services facilities that meet the needs and enhance the quality of life of residential neighborhoods throughout the city.

(2) The various retail trade and service uses in the Neighborhood Business District are intended to become an integral part of the neighborhood, requirements for open space and off street parking are more restrictive and are compatible with adjacent residential areas. Spacing, air circulation, landscaping and unrestricted sight lines are included as requirements for the Neighborhood Business District to provide a harmonious relationship with other residential, educational, religious and recreational land uses.

6.1.B Permitted Uses.

(1) Accessory building to main use;

- (2) Animal grooming;
- (3) Antique shop/art gallery—sales in building;
- (4) Assisted living center;
- (5) Bakery and confectionary—products for retail only;
- (6) Banks or other financial institutions;
- (7) Bed and breakfast/boarding house;
- (8) Church, temple, mosque (and the like) and related facilities;
- (9) Cleaning and pressing—small shop, pick-up and delivery;
- (10) Clinic;
- (11) Convalescent, nursing or long term care facility;
- (12) Convenience/grocery store (without pumps);
- (13) Day care center (12 or more children);
- (14) Drapery, needlework or weaving shop;
- (15) Farmers market;
- (16) Florist;
- (17) Fraternal organizations, lodge or civic club;
- (18) Handcraft shop;
- (19) Group day care home (7-12 children);
- (20) Laundry and cleaning (self service);
- (21) Municipal facilities/state facilities/federal facilities;
- (22) Neighborhood grocery store (no fuel service);
- (23) Office—professional and general administration;
- (24) Park, playground, public community recreation center;
- (25) Personal service shop (beauty, barber and the like);
- (26) Private kindergarten;
- (27) Retail stores and shops—other than listed;
- (28) Restaurant or cafeteria—without drive-in service; and
- (29) Retirement housing complex.
- (30) Restaurant with alcoholic beverage service.

6.1.C Conditional Uses (Special Use Permit required). None.

6.1.D Height, Area, Yard and Lot Coverage Requirements.

- (1) Maximum density: There is no maximum density requirement.
- (2) Minimum lot area: There is no minimum area requirement.
- (3) Minimum lot width: There is no minimum width requirement.
- (4) Minimum lot depth: There is no minimum depth requirement.
- (5) Minimum depth of front setback: 25 feet.
- (6) Minimum depth of rear setback: There is no minimum rear setback requirement unless the lot abuts upon a Residential District, then a minimum 25 feet is required.
- (7) Minimum width of side setback:
 - (a) Internal lot: There is no minimum side setback requirement unless the lot abuts upon a Residential District, then a minimum 25 feet is required.
 - (b) Corner lot: 25 feet
- (8) Building size: There are no minimum size regulations
- (9) Maximum height of structures: 35 feet.
- (10) Public, semi-public or public service buildings, hospitals, institutions or schools may not exceed a height of 60 feet. Churches, temples and mosques may not exceed 75 feet, if the building is set back from each yard line at least one foot for each two feet additional height above the height limit in this district.

Height, Area, Yard and Lot Coverage Requirements

Note: No rear or side yard except when the lot abuts upon a Residential District, then the minimum setback is 25 feet.

6.1.E Miscellaneous Provisions. Wherever a Neighborhood Business District adjoins a residential district and is not separated by a street, a six-foot or taller solid sight-barring fence or landscape barrier will be constructed and maintained along the boundary or property line as permanent screening. All outside lighting features will be placed and reflected so as to not create annoyances, nuisances or hazards.

6.1.F Type of Construction.

- (1) At least 80% of the exterior walls of all structures visible from a public street shall be of masonry constructions, with an architectural exterior finish, exclusive of door and window openings.
- (2) The roofs of all structures shall be pitched with a slope of not less than 4/12.

6.1.G Parking Regulations. All Uses Permitted in the B-1 District: See Section 11 for Parking Regulations.

6.1.H Sign Regulation. See Section 12 for Sign Regulations.

6.1.I Exceptions to Use, Height and Area Regulations. See Section 10.

6.1.J Garbage Regulations. Neighborhood Business District businesses will provide a serviceable area specifically for refuse collection designed for refuse canisters. Each designated canister area will be nine feet wide and eight

feet deep (72 square feet), with a cement slab base. If the location of the cement slab is adjacent to a residential district, the slab must be at least five feet from the property line. The refuse area will be enclosed on three sides by a privacy fence. Approach areas will meet the requirements of Subsection 6.1.K.

6.1.K Loading and Unloading Regulations. All loading, unloading and maneuvering of vehicles connected with the activity must be on the premises and will not be permitted in any street. Loading and unloading areas must be paved with a sealed surface pavement and maintained in such a manner that no dust will be produced.

(Am. Ord. 2009-23, passed 12-1-2009; Am. Ord. 2015-03, passed 3-3-2015; Am. Ord. No. 2018-O-25 , § 1, 8-7-2018)

Sec. 154.06.2. - Retail and commercial business district (B-2).

6.2.A Description. The Retail and Commercial Business District provides areas for the grouping of retail shops and stores offering goods and services for the residents in general. These shopping areas will generally be more densely concentrated and more traffic intensive than allowed in the Neighborhood Business Districts.

6.2.B Permitted Uses.

- (1) Animal grooming;
- (2) Antique shop/art gallery—sales in building;
- (3) Assisted living center;
- (4) Athletic field;
- (5) Automobile service station and car care center;
- (6) Auto parking lot or building (commercial);
- (7) Auto parts sales;
- (8) Auto repair/mechanic garage;
- (9) Auto sales;
- (10) Automobile rental;
- (11) Bail bond service;
- (12) Bakery and confectionery—retail sales only;
- (13) Bakery and confectionery;
- (14) Banks or other financial institutions;
- (15) Boat sales;
- (16) Bottling works (wholesale);
- (17) Building material sales;
- (18) Cabinet and upholstery shop;
- (19) Car wash;

- (20) Care facility for narcotic, alcoholic or psychiatric patients;
- (21) Cemetery/mausoleum;
- (22) Church, temple or mosque;
- (23) Civic/community center;
- (24) Cleaning and pressing—small shop, pickup and delivery;
- (25) Clinic;
- (26) College or university;
- (27) Commercial amusement (indoor);
- (28) Commercial amusement (outdoor);
- (29) Convalescent, nursing or long term care facility;
- (30) Convenience/grocery store (without pumps) convenience store (with pumps);
- (31) Construction equipment rental and sales;
- (32) Construction yard (temporary);
- (33) Contractor shop and storage yard;
- (34) Department store;
- (35) Discount warehouse store;
- (36) Drapery, needlework or weaving shop;
- (37) Farmers Market;
- (38) Feed, seed and fertilizer store—no bulk storage;
- (39) Field office (temporary);
- (40) Florist;
- (41) Fraternal organization, lodge or civic club;
- (42) Furniture or appliance store;
- (43) Golf course or country club, driving range;
- (44) Greenhouse or nursery for retail plant sales with outside storage;
- (45) Handcraft shop;
- (46) Health club, weight and aerobic center;
- (47) Home improvement center;
- (48) Hospital—general acute care (human);
- (49) Hotels and motels;

- (50) Household appliance service and repair;
- (51) Kennel;
- (52) Kiosk;
- (53) Laboratory (medical);
- (54) Landscaping service;
- (55) Laundry and cleaning (self service);
- (56) Lawn equipment and small engine sales and services;
- (57) Micro brewery;
- (58) Mini storage/warehouses;
- (59) Monument retail sales (outside storage);
- (60) Mortuary or funeral home;
- (61) Moving company;
- (62) Neighborhood grocery store (no fuel service);
- (63) Office—professional and general administration;
- (64) Park, playground, public community recreation center;
- (65) Pawn shop;
- (66) Personal service shop (beauty, barber and the like);
- (67) Pet shop—small animals within building;
- (68) Plumbing shop;
- (69) Portable building sales;
- (70) Printing;
- (71) Produce stand;
- (72) Psychic/Tarot card reader;
- (73) Recreational vehicle sales;
- (74) Recycling kiosk;
- (75) Research lab (non-hazardous);
- (76) Restaurant (drive-in type);
- (77) Restaurant or cafeteria—without drive-in service;
- (78) Retail shops and stores other than listed;
- (79) Roofing and siding supply;

- (80) Schools—public, private and parochial;
- (81) Shopping center;
- (82) Storage or repair of furniture and appliances (display inside of building);
- (83) Studio (photographer, musician, artist);
- (84) Studio for radio and television;
- (85) Taxidermy;
- (86) Theater—indoor;
- (87) Tobacco shop;
- (88) Tool and equipment rental shop;
- (89) Trailer rental and sales;
- (90) Veterinary clinic or hospital; and
- (91) Veterinary services.
- (92) Restaurant with alcoholic beverage service.

6.2.C Conditional Uses (Special Use Permit required).

- (1) Day care center—12 or more children;
- (2) Flea market;
- (3) Frozen foods locker;
- (4) Scientific and research laboratories;
- (5) Theater (drive-in); and
- (6) Trade and commercial schools.

6.2.D Height, Area, Yard and Lot Coverage Requirements.

- (1) Maximum density: There is no maximum density requirement.
- (2) Minimum lot area: There is no minimum area requirement.
- (3) Minimum lot width: There is no minimum width requirement.
- (4) Minimum lot depth: There is no minimum depth requirement.
- (5) Minimum depth of front setback: 20 feet.
- (6) Minimum depth of rear setback: There is no minimum rear setback requirement unless the lot abuts upon a Residential District, then a minimum ten feet is required.
- (7) Minimum width of side setback:
 - (a) Internal lot: There is no minimum side setback requirement unless the lot abuts upon a Residential District, then a minimum five feet is required.

- (b) Corner lot: 20 feet.
- (8) Building size: There are no minimum size regulations.
- (9) Maximum height of structures: 35 feet.
- (10) Public, semi-public or public service buildings, hospitals, institutions or schools may not exceed a height of 60 feet. Churches, temples and mosques may not exceed 75 feet, if the building is set back from each yard line at least one foot for each two feet additional height above the height limit in this district.

Height, Area, Yard and Lot Coverage Requirements

Note: No rear or side yard except when the lot abuts upon a Residential District, then the minimum setback for rear yard is 10 feet and side yard is five feet.

6.2.E Parking Regulations. All uses permitted in the B-2 District: See Section 11 Parking Regulations.

6.2.F Sign Regulation. See Section 12 for Sign Regulations.

6.2.G Exceptions to Use, Height and Area Regulations. See Section 10.

6.2.H Garbage Regulations. Retail and Commercial District businesses will provide a serviceable area specifically for refuse collection designed for refuse canisters. Each designated canister area will be nine feet wide and eight feet deep (72 square feet), with a cement slab base. If the location of the cement slab is adjacent to a residential district, the slab must be at least five feet from the property line. The refuse area will be enclosed on three sides by a privacy fence. Approach areas will meet the requirements of Subsection 6.2.I.

6.2.I Loading and Unloading Regulations. All loading, unloading and maneuvering of vehicles connected with the activity must be on the premises and will not be permitted in any street. Loading and unloading areas must be paved with a sealed surface pavement and maintained in such a manner that no dust will be produced.

(Am. Ord. 2008-07, passed 5-6-2008; Am. Ord. 2009-23, passed 12-1-2009; Am. Ord. No. 2018-O-25 , § 1, 8-7-2018)

WATER:

The property is served by a 8” city water main in Lingleville Highway.

SEWER:

The property is not currently by a sanitary sewer main. However, the utility is in the vicinity.

STREET:

The property is served by a State Highway.

ZONING AND LAND USE:

Location	Zoning	Future Land Use
Subject Site	Neighborhood Business	Commercial
North	Neighborhood Business	Single family

South	Neighborhood Business	Office/Neighborhood Business
East	Neighborhood Business	Single family
West	Neighborhood Business	Single family

FACTORS TO CONSIDER:

- Compliance with Comprehensive Plan?
- Is application consistent with Plan?
- If not, have conditions changed or new information been offered to support change?
- Surrounding Zoning and Land Use
- Infrastructure Impacts
- Size and Location of Parcel - is land large enough and in proper location for proposed use?
- Reasonable Use of Property - does proposed change provide reasonable use of property?
- Zoning has great discretion - deny if applicant has not proven it is in the best interest of City to rezone

ALTERNATIVES

- 1) Accept the recommendation from the Planning and Zoning Commission and approve the rezoning request.
- 2) Modify the recommendation of the Planning and Zoning Commission and approve the rezoning request designating an alternate classification.
- 3) Overrule the recommendation of the Planning and Zoning deny the request for rezoning.

November 12, 2020

Gary Lloyd
Stephenville, Texas

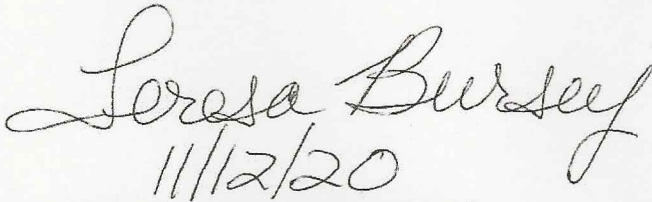
Re: Representation Authorization

To Whom it may Concern:

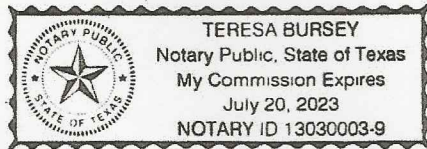
I, Vincent Latour, do hereby give my authorization to Gary Lloyd to represent me in applying for a zoning change from B1 to B2 with the City of Stephenville at the property being described as follows: A .807 acre tract out of the Jarrett Menefee Survey, Abstract 520, Erath Count, Texas, being known as the Vincent Latour Addition.



Vincent Latour



11/12/20



ZONING AMENDMENT APPLICATION

Item 11.

CITY OF STEPHENVILLE

1. **APPLICANT/OWNER:** Gary Lloyd
 First Name Last Name

ADDRESS: 119 Sandra Palmer
 Street/P.O. Box Phone No.
Stephenville Texas 76401
 City State Zip Code

2. **PROPERTY DESCRIPTION:** 2612 Lingville Rd
 Street Address

3. **LEGAL DESCRIPTION:** .807 acres out of Jarrett Menefee Survey Ab 520 Erath Co. known as Vincent Latour Add
 Lot(s) Block(s) Addition

4. **PRESENT ZONING:** B-1
 Zoning District Title

PROPOSED ZONING: B-2
 Zoning District Title

5. **APPLICANTS REQUEST FOR ZONING CHANGE IS AS FOLLOWS:** _____

(Attach an additional sheet if necessary)

Gary Lloyd
 Signature of Applicant

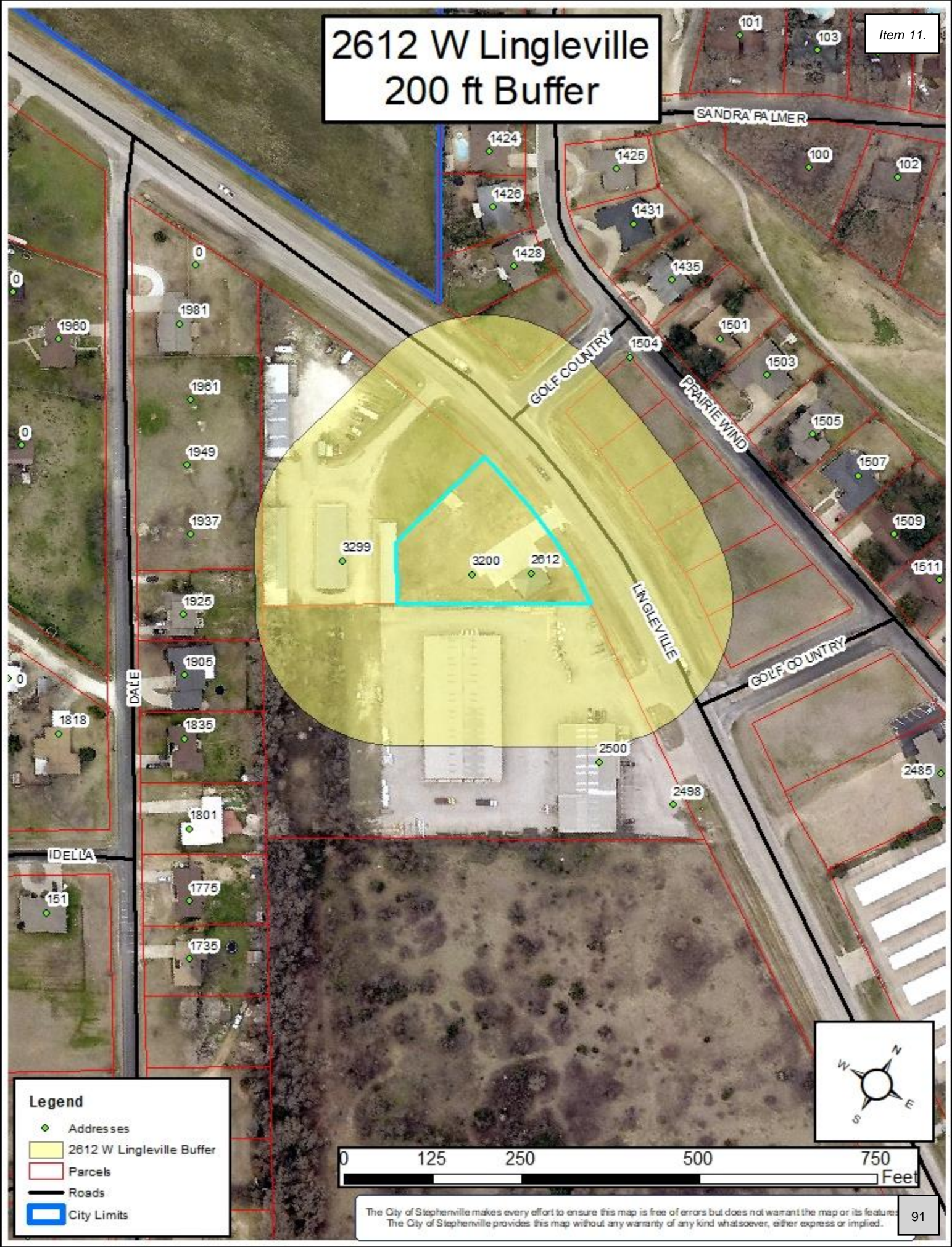
11/16/20
 Date

Karen Wikerson
 Signature of City Official Received

11-23-2020
 Date Received

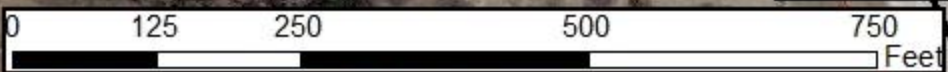
2612 W Lingleville 200 ft Buffer

Item 11.



Legend

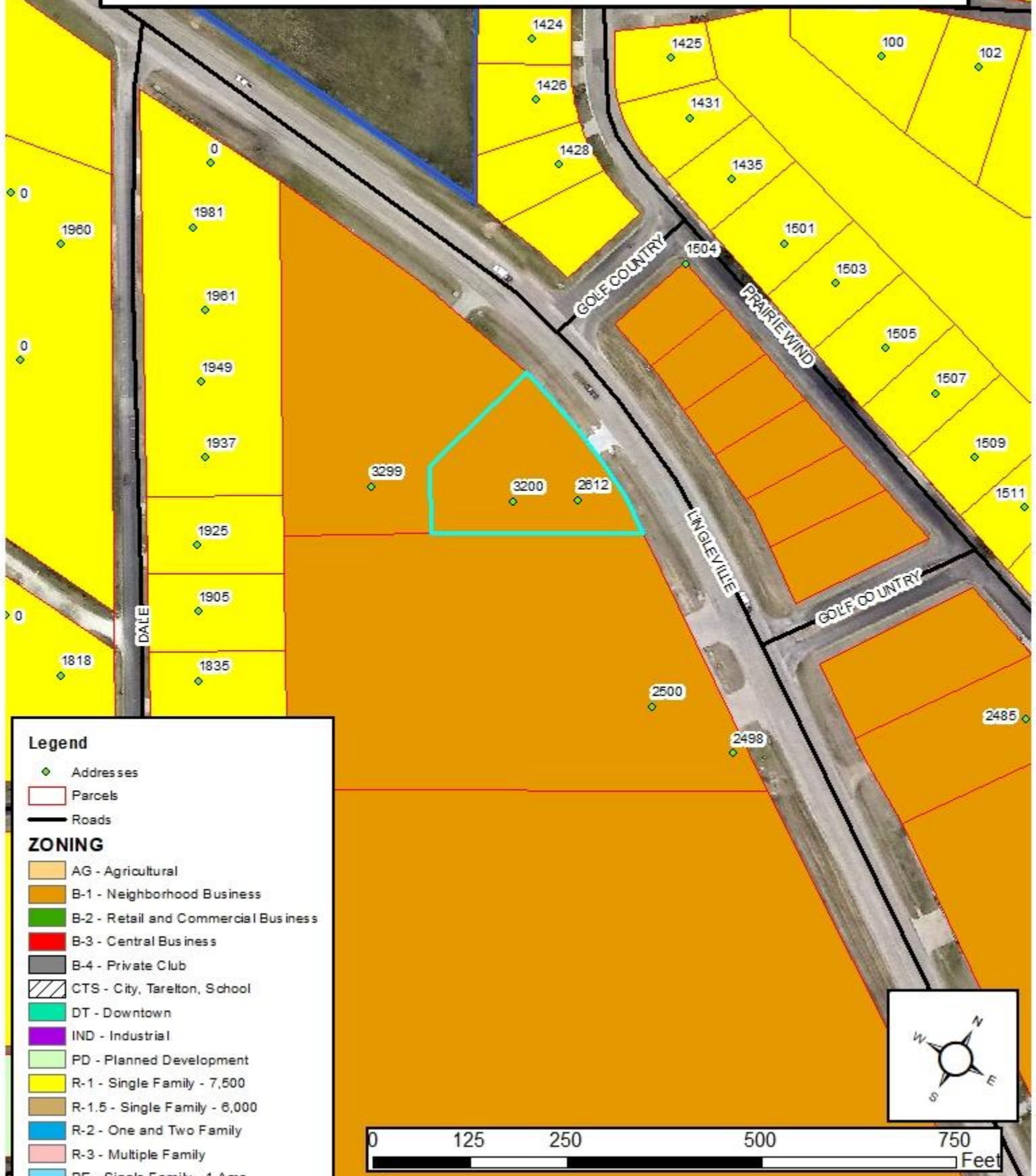
- ◆ Addresses
- 2612 W Lingleville Buffer
- ▭ Parcels
- Roads
- ▭ City Limits



The City of Stephenville makes every effort to ensure this map is free of errors but does not warrant the map or its features. The City of Stephenville provides this map without any warranty of any kind whatsoever, either express or implied.

2612 W Lingleville Current Zoning - B1 Neighborhood Business

Item 11.



Legend

- ◆ Addresses
- ▭ Parcels
- Roads

ZONING

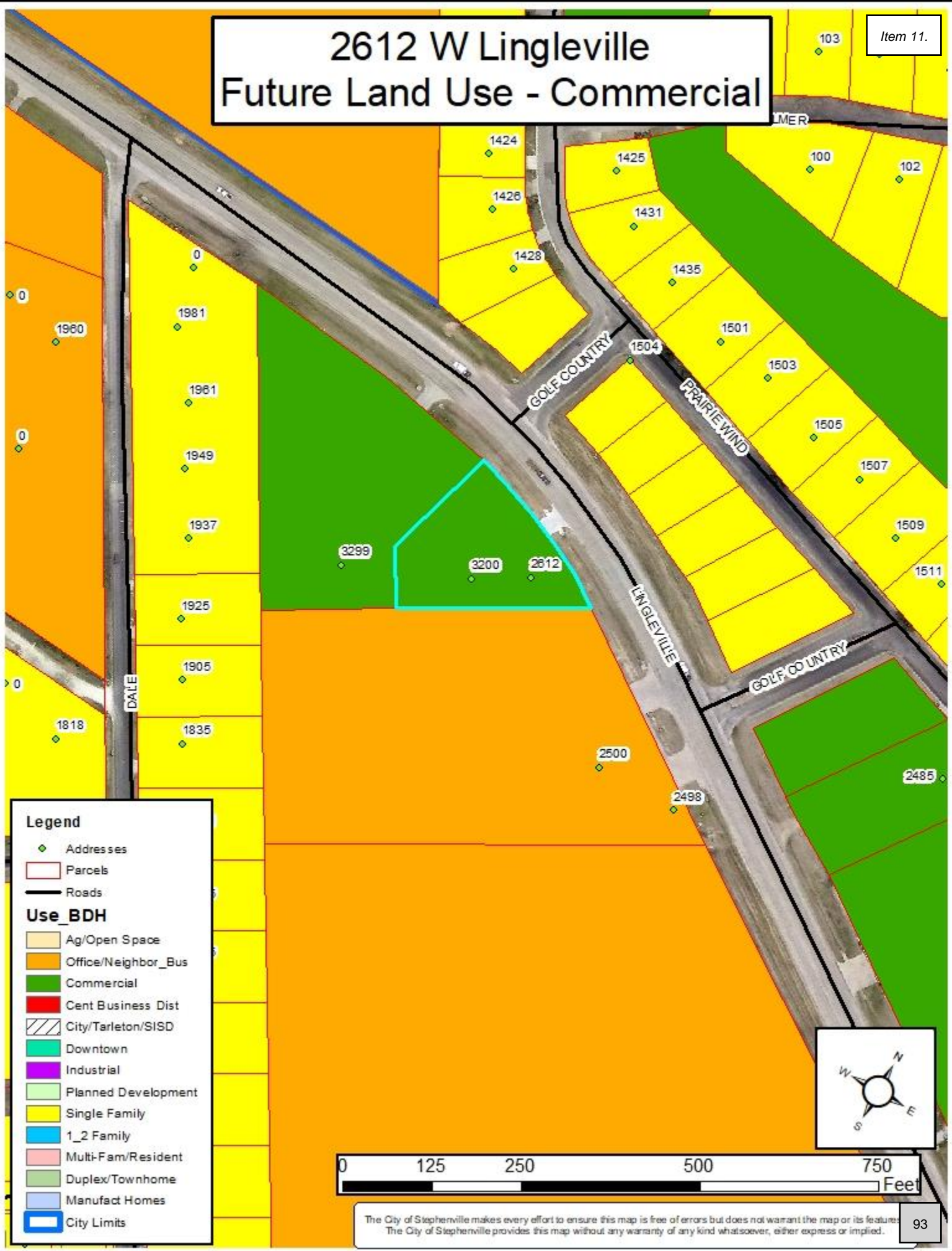
- AG - Agricultural
- B-1 - Neighborhood Business
- B-2 - Retail and Commercial Business
- B-3 - Central Business
- B-4 - Private Club
- CTS - City, Tareyton, School
- DT - Downtown
- IND - Industrial
- PD - Planned Development
- R-1 - Single Family - 7,500
- R-1.5 - Single Family - 6,000
- R-2 - One and Two Family
- R-3 - Multiple Family
- RE - Single Family - 1 Acre
- City Limits



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2612 W Lingleville Future Land Use - Commercial

Item 11.



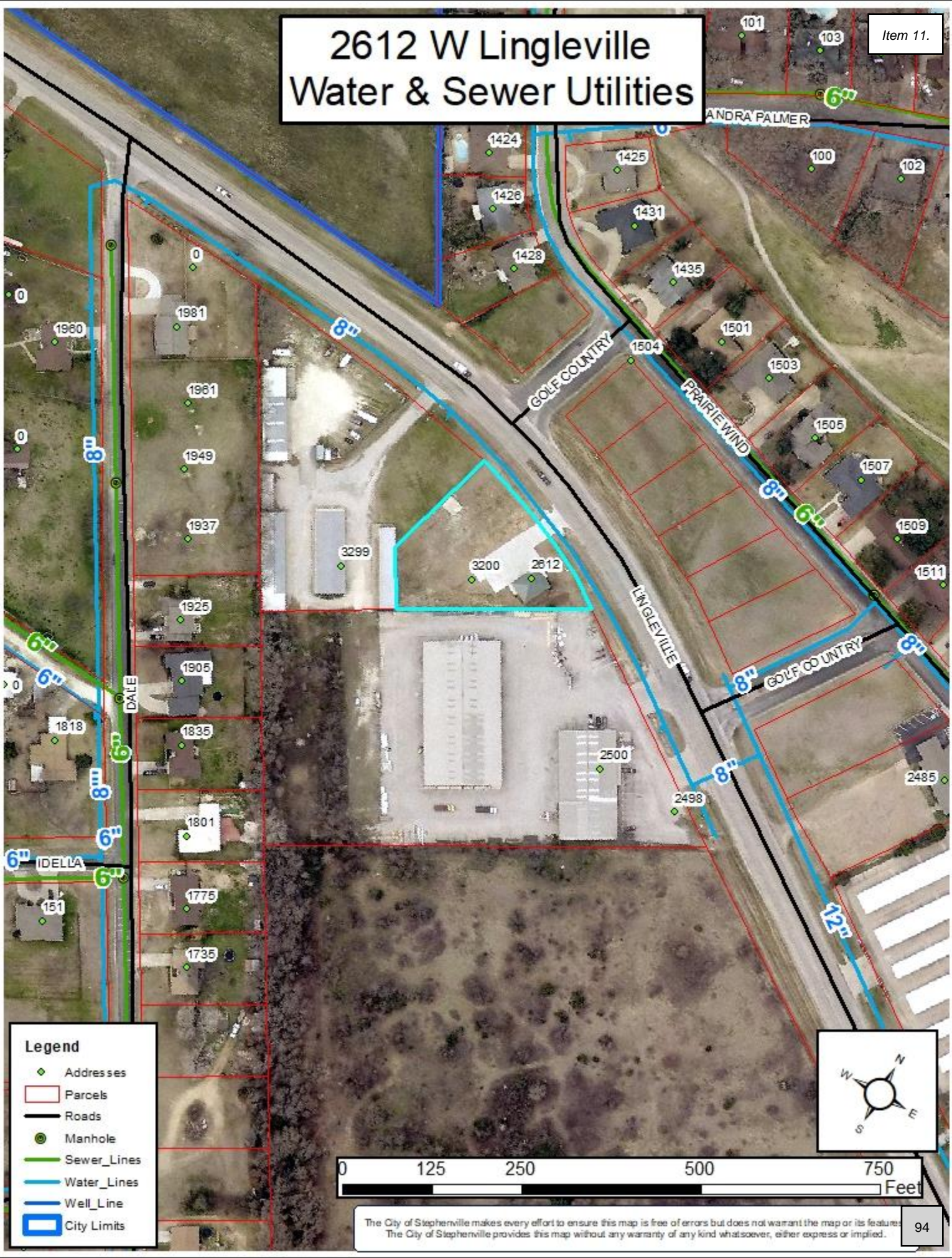
- Legend**
- ◆ Addresses
 - ▭ Parcels
 - Roads
- Use_BDH**
- Ag/Open Space
 - Office/Neighbor_Bus
 - Commercial
 - Cent Business Dist
 - City/Tarleton/SISD
 - Downtown
 - Industrial
 - Planned Development
 - Single Family
 - 1_2 Family
 - Multi-Fam/Resident
 - Duplex/Townhome
 - Manufact Homes
 - City Limits



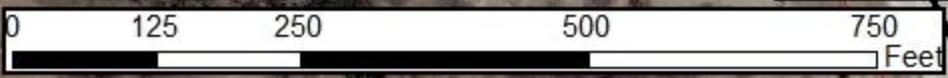
The City of Stephenville makes every effort to ensure this map is free of errors but does not warrant the map or its features. The City of Stephenville provides this map without any warranty of any kind whatsoever, either express or implied.

2612 W Lingleville Water & Sewer Utilities

Item 11.



- Legend**
- ◆ Addresses
 - Parcels
 - Roads
 - Manhole
 - Sewer_Lines
 - Water_Lines
 - Well_Line
 - City Limits



The City of Stephenville makes every effort to ensure this map is free of errors but does not warrant the map or its features. The City of Stephenville provides this map without any warranty of any kind whatsoever, either express or implied.

2612 W Lingleville Addresses

Parcel ID	Parcel Address	Owner name	Owner Address	City	State	Zip Code
R000022666	3299 W LINGLEVILLE RD	BEAM ROGER L	PO BOX 923	STEPHENVILLE	TX	76401-0923
R000031785	1981 N DALE AVE	BROWN MICHAEL JOSEPH	1981 N DALE AVE	STEPHENVILLE	TX	76401
R000031586	2509 W LINGLEVILLE RD	EQUITY CRP, LP	PO BOX 953	STEPHENVILLE	TX	76401
R000031587	2511 W LINGLEVILLE RD	EQUITY CRP, LP	PO BOX 953	STEPHENVILLE	TX	76401
R000031585	2507 W LINGLEVILLE RD	EQUITY CRP, LP	PO BOX 953	STEPHENVILLE	TX	76401
R000031583	2503 W LINGLEVILLE RD	EQUITY CRP, LP	PO BOX 953	STEPHENVILLE	TX	76401
R000031584	2505 W LINGLEVILLE RD	EQUITY CRP, LP	PO BOX 953	STEPHENVILLE	TX	76401
R000031582	2501 W LINGLEVILLE RD	EQUITY CRP, LP	PO BOX 953	STEPHENVILLE	TX	76401
R000040129	2500 W LINGLEVILLE RD	HBC LEASING CO LTD	202 W CENTRAL	COMANCHE	TX	76442
R000022665	2612 W LINGLEVILLE RD	LATOUR VINCENT	PO BOX 672	VERNON	TX	76384
R000031789	1925 N DALE AVE	WALDEN JONATHAN M & ELIZABETH G	1925 N DALE	STEPHENVILLE	TX	76401
R000031790	1905 N DALE AVE	WALL SAMMY M & JOLENE H	1905 N DALE	STEPHENVILLE	TX	76401
R000031589	1428 PRAIRIE WIND	WEIDEMANN ROGER D & PATTY C	1428 PRAIRIE WIND	STEPHENVILLE	TX	76401-0000
R000031588	1430 PRAIRIE WIND	WEIDEMANN ROGER D & PATTY C	1428 PRAIRIE WIND	STEPHENVILLE	TX	76401-0000



COMMITTEE REPORT

REPORT TYPE: Parks and Leisure Services Committee Report

MEETING: December 15, 2020

Present: Nick Robinson, Chair; Justin Haschke, Brandon Huckabee (via videoconference), Alan Nix

Absent:

DEPARTMENT: Parks and Leisure Services

STAFF CONTACT: Tom Henry, Interim Director

REC HALL WINDOW REPLACEMENT

In previous discussions regarding replacement of windows in the Rec Hall, concerns were raised regarding the possibility that water was infiltrating the building through the exterior masonry. The issue was discovered to be with roof of the Rec Hall, which has been remedied. The funding for replacing the windows has already been budgeted.

Motion by Alan Nix, second by Brandon Huckabee, to make a positive recommendation to full council to approve the expenditure to replace the windows at the Rec Hall. Motion carried by unanimous vote.

Stephenville Windows

Construction Allowance	\$5,000.00	\$5,000.00	windows	price/window
Windows	\$51,637.50		54	\$956.25
	\$979.68		1	\$979.68
	\$775.97		1	\$775.97
	\$2,241.62		2	\$1,120.81
	\$2,567.32		2	\$1,283.66
	\$10,764.39		7	\$1,537.77
	\$16,750.00	labor	67	\$250.00
Total	\$85,716.48			
Abatement	\$25,850.00		Bid	
Painting	\$10,000.00		allowance	
Dumpster	\$2,500.00		allowance	
Mason	\$1,500.00		allowance	
Total	<u>\$130,566.48</u>		67 windows	

Window Proposals

Proposals

3/19/2019	\$33,868.80	Originally just the top 24 windows
8/25/2020	\$87,260.15	67 windows
9/10/2020	\$87,260.15	67 windows \$108,251.09 67 windows plus 3 sets of double doors
12/7/2020	\$85,716.48	67 windows plus manufacturer price increase no doors in this project, labor price reduced due to abatement work

All windows come primed on the interior and exterior

Exclusions from all quotes:

- Painting
- Dumpster
- Masonry Work

Stephenville Recreation Hall

Project name: **Asbestos Abatement**
 Bid due date: 12/30/2020
 Base Bid SOW: Abatement

Legend:

Low Bidder
Consulting Fees
DSHS Fees

	Contractor	Abatement	Secure Opening	Total
1	Southside	\$16,000.00	\$2,200.00	\$18,200.00
2	Impact	\$17,640.00	\$2,100.00	\$19,740.00
3	Affordable	\$27,000.00	\$8,100.00	\$35,100.00
	ESEI	\$6,800.00	\$0.00	\$6,800.00
	DSHS (State Fees)	\$850.00	\$0.00	\$850.00
	Total Budget			\$25,850.00



Seth Johnson
301 S Main
Ferris Tx
75125

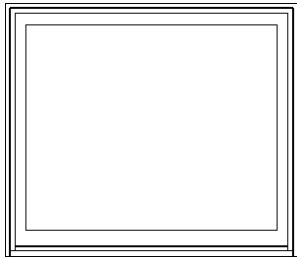
QUOTE BY : Seth Johnson
SOLD TO :
PO# : 378 West Long
Ship Via : Ground

QUOTE # : JW2009008SX - Version 0
SHIP TO :
PROJECT NAME: additional
REFERENCE :

U-Factor Weighted Average: 0.27

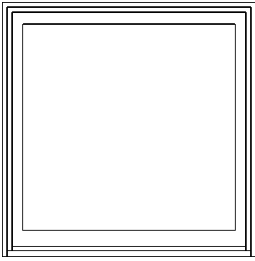
SHGC Weighted Average: 0.17

LINE	LOCATION SIZE INFO	BOOK CODE DESCRIPTION	NET UNIT PRICE	QTY	EXTENDED PRICE
Line 1	Rough Opening : 46 1/8 X 40 1/8	Frame Size : 45 3/8 X 39 3/8 (Outside Casing Size: 48 X 42 1/2), Sitrine Double Hung Product, Sash Back (Picture) Wood Fixed Auralast Pine, Primed Exterior, Primed Interior, Brickmould, 2" Sill Nosing, Vinyl DripCap, 6 9/16 Jamb, 4/4 Thick, US National-WDMA/ASTM, PG 35, Insulated Low-E 366 Tempered Glass, Protective Film, Black Spacer, Argon Filled, Traditional Glz Bd, Primed Wood SDL, Combination SDL Trad'l. Bead Int BAR, (2-5/16" Putty SDL Horizontal / 7/8" Putty SDL - Vertical) Light Bronze Shadow Bar, Uneven 4 Wide 2 High (8 Rect Lite) Product Warranty Covers Accidental* Glass Breakage *Refer to the JELD-WEN warranty for additional information, *Custom-Height*, GlassThick=0.726, U-Factor: 0.27, SHGC: 0.17, VLT: 0.39, Energy Rating: 16.00, CR: 63.00, CPD: JEL-N-887-05446-00001 Drawing Number: --Required! PEV 2020.4.0.3225/PDV 6.295 (12/12/20)NW	\$956.25	54	\$51,637.50



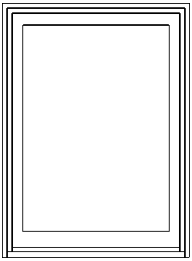
Viewed from Exterior. 1/2" =1'

LINE	LOCATION SIZE INFO	BOOK CODE DESCRIPTION	NET UNIT PRICE	QTY	EXTE PRICE
Line 2	Rough Opening : 40 1/8 X 40 1/8	<p>Frame Size : 39 3/8 X 39 3/8 (Outside Casing Size: 42 X 42 1/2), Sitrine Double Hung Product, Sash Back (Picture) Wood Fixed Auralast Pine, Primed Exterior, Primed Interior, Brickmould, 2" Sill Nosing, Vinyl DripCap, 6 9/16 Jamb, 4/4 Thick, US National-WDMA/ASTM, PG 35, Insulated Low-E 366 Tempered Glass, Protective Film, Black Spacer, Argon Filled, Traditional Glz Bd, Primed Wood SDL, Combination SDL Trad'l. Bead Int BAR, (2-5/16" Putty SDL Horizontal / 7/8" Putty SDL - Vertical) Light Bronze Shadow Bar, Uneven 4 Wide 2 High (8 Rect Lite) Product Warranty Covers Accidental* Glass Breakage *Refer to the JELD-WEN warranty for additional information, *Custom-Width*, *Custom-Height*, GlassThick=0.726, U-Factor: 0.27, SHGC: 0.17, VLT: 0.39, Energy Rating: 16.00, CR: 63.00, CPD: JEL-N-887-05446-00001 Drawing Number: --Required! PEV 2020.4.0.3225/PDV 6.295 (12/12/20)NW</p>	\$979.68	1	\$979.68

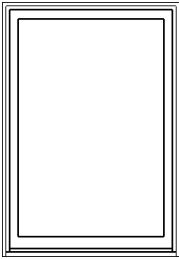
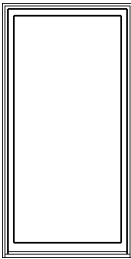


Viewed from Exterior. 1/2" =1'

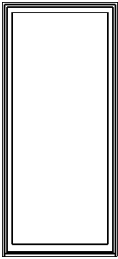
Line 3	Rough Opening : 29 3/4 X 40 1/8	<p>Frame Size : 29 X 39 3/8 (Outside Casing Size: 31 5/8 X 42 1/2), Sitrine Double Hung Product, Sash Back (Picture) Wood Fixed Auralast Pine, Primed Exterior, Primed Interior, Brickmould, 2" Sill Nosing, Vinyl DripCap, 6 9/16 Jamb, 4/4 Thick, US National-WDMA/ASTM, PG 35, Insulated Low-E 366 Tempered Glass, Protective Film, Black Spacer, Argon Filled, Traditional Glz Bd, Primed Wood SDL, Combination SDL Trad'l. Bead Int BAR, (2-5/16" Putty SDL Horizontal / 7/8" Putty SDL - Vertical) Light Bronze Shadow Bar, Uneven 2 Wide 2 High (4 Rect Lite) Product Warranty Covers Accidental* Glass Breakage *Refer to the JELD-WEN warranty for additional information, *Custom-Width*, *Custom-Height*, GlassThick=0.726, U-Factor: 0.27, SHGC: 0.17, VLT: 0.39, Energy Rating: 16.00, CR: 63.00, CPD: JEL-N-887-05446-00001 Drawing Number: --Required! PEV 2020.4.0.3225/PDV 6.295 (12/12/20)NW</p>	\$775.97	1	\$775.97
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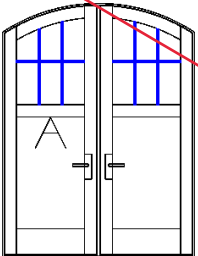
Viewed from Exterior. 1/2" =1'

LINE	LOCATION SIZE INFO	BOOK CODE DESCRIPTION	NET UNIT PRICE	QTY	EXTE PRICE	
Line 4	Rough Opening : 36 5/8 X 52 1/8	 <p>Viewed from Exterior. 1/2" =1'</p>	<p>Frame Size : 35 7/8 X 51 3/8 (Outside Casing Size: 38 1/2 X 54 1/2), Sitrine Double Hung Product, Sash Back (Picture) Wood Fixed Auralast Pine, Primed Exterior, Primed Interior, Brickmould, 2" Sill Nosing, Vinyl DripCap, 6 9/16 Jamb, 4/4 Thick, US National-WDMA/ASTM, PG 35, Insulated Low-E 366 Tempered Glass, Protective Film, Black Spacer, Argon Filled, Traditional Glz Bd, Primed Wood SDL, Combination SDL Trad'l. Bead Int BAR, (2-5/16" Putty SDL Horizontal / 7/8" Putty SDL - Vertical) Light Bronze Shadow Bar, Uneven 3 Wide 4 High (12 Rect Lite) Product Warranty Covers Accidental* Glass Breakage *Refer to the JELD-WEN warranty for additional information, *Custom-Width*, *Custom-Height*, GlassThick=0.726, U-Factor: 0.27, SHGC: 0.17, VLT: 0.39, Energy Rating: 16.00, CR: 63.00, CPD: JEL-N-887-05446-00001 Drawing Number: --Required! PEV 2020.4.0.3225/PDV 6.295 (12/12/20)NW</p>	\$1,120.81	2	\$2,241.62
Line 5	Rough Opening : 36 5/8 X 70 5/8	 <p>Viewed from Exterior. 1/2" =1'</p>	<p>Frame Size : 35 7/8 X 69 7/8 (Outside Casing Size: 38 1/2 X 73), Sitrine Double Hung Product, Sash Back (Picture) Wood Fixed Auralast Pine, Primed Exterior, Primed Interior, Brickmould, 2" Sill Nosing, Vinyl DripCap, 6 9/16 Jamb, 4/4 Thick, US National-WDMA/ASTM, PG 35, Insulated Low-E 366 Tempered Glass, Protective Film, Black Spacer, Argon Filled, Traditional Glz Bd, Primed Wood SDL, Combination SDL Trad'l. Bead Int BAR, (2-5/16" Putty SDL Horizontal / 7/8" Putty SDL - Vertical) Light Bronze Shadow Bar, Uneven 3 Wide 4 High (12 Rect Lite) Product Warranty Covers Accidental* Glass Breakage *Refer to the JELD-WEN warranty for additional information, *Custom-Width*, *Custom-Height*, GlassThick=0.726, U-Factor: 0.27, SHGC: 0.17, VLT: 0.39, Energy Rating: 16.00, CR: 63.00, CPD: JEL-N-887-05446-00001 Drawing Number: --Required! PEV 2020.4.0.3225/PDV 6.295 (12/12/20)NW</p>	\$1,283.66	2	\$2,567.32

LINE	LOCATION SIZE INFO	BOOK CODE DESCRIPTION	NET UNIT PRICE	QTY	EXTE PRICE
Line 6	Rough Opening : 38 5/8 X 84 1/8	<p>Frame Size : 37 7/8 X 83 3/8 (Outside Casing Size: 40 1/2 X 86 1/2), Sitrine Double Hung Product, Sash Back (Picture) Wood Fixed Auralast Pine, Primed Exterior, Primed Interior, Brickmould, 2" Sill Nosing, Vinyl DripCap, 6 9/16 Jamb, 4/4 Thick, US National-WDMA/ASTM, PG 35, Insulated Low-E 366 Tempered Glass, Protective Film, Black Spacer, Argon Filled, Traditional Glz Bd, Primed Wood SDL, Combination SDL Trad'l. Bead Int BAR, (2-5/16" Putty SDL Horizontal / 7/8" Putty SDL - Vertical) Light Bronze Shadow Bar, Uneven 3 Wide 4 High (12 Rect Lite) Product Warranty Covers Accidental* Glass Breakage *Refer to the JELD-WEN warranty for additional information, *Custom-Width*, *Custom-Height*, GlassThick=0.726, U-Factor: 0.27, SHGC: 0.17, VLT: 0.39, Energy Rating: 16.00, CR: 63.00, CPD: JEL-N-887-05446-00001 Drawing Number: --Required! PEV 2020.4.0.3225/PDV 6.295 (12/12/20)NW</p>	\$1,537.77	7	\$10,764.39
Line 7		<p>Installation - removal, block for screws, install, foam interior, trim interior with 1x6, caulk exterior where able (need dumpster provided-need mason to follow up and mortar exterior gaps as the stone will cause them to be uneven)</p>	\$250.00	70	\$17,500.00
Line 8	RO Size : 73 1/2 X 86 1/8 X 97 1/8	<p>(Outside Casing Size: 76 X 87) Custom Wood Outswing Radius 2-Pnl French Door Rad Sector Auralast Pine Asmbld Right Inac Actual Frame Size: 72 3/4 -in B: 85 3/8 -in C: 96 3/8 -in Prm FRM Primed Sash 2-1/4" Thick Pnl, Natural Interior. Brickmould 6 9/16 Jamb Width. 5/4 No Casing No Strike Plates No Hdl Set No Bore Stn Nkl BB Hinges Hndcap Sill , 11" Btm/Crftsmn Opt 1 Horz Lk Rails, 55 Top Lck Rail Ht (Ctr of rail) Glass: Glass in Top Section Only, Raised Panel(s) (PNL), 4-5/8" Lock Rail, Ins Wet Int Glz Low-E 366 Tempered Neat Black Spacer, Argon Filled, Traditional Glz Bd, Primed Alum , 1 1/8 Putty SDL Trad'l. Bead Int BAR, Lt Brz Shadow Bar Colonial (Even Rect Lites) 3 W 2 H (12 Rect Lts) ,Product Warranty Covers Accidental Glass Breakage,, Doors w/Handicap Sills Not Rated for Water Infiltration.(3 hinges per operating panel) Drawing Number: --Required! PEV 2020.4.0.3241/PDV 6.381 (12/12/20)PW</p>	\$7,072.30	3	\$21,216.90




Viewed from Exterior. 1/2" =1'



Viewed from Exterior. 1/2" =1'

\$16,750.00

LINE	LOCATION SIZE INFO	BOOK CODE DESCRIPTION	NET UNIT PRICE	QTY	EXTD	Item 14.
						\$85,716.48
						\$107,683.38
						\$7,440.13
						Net Total: \$115,123.51
						Total Units: 140

 Protect yourself when you choose JELD-WEN AuraLast pine products backed by a limited lifetime warranty against wood rot and termite damage.

For CA Title 24 applications, refer to weighted average U-Factor and SHGC, and discuss with California energy consultant to ensure compliance with code.

Public Works Committee
COMMITTEE REPORT



MEETING: Council Committee Meetings – 15 Dec 2020
Present: P6 Alan Nix, Chair; P1 Mark McClinton; P3 Nick Robinson; P8 Brandon Huckabee
Absent: None
DEPARTMENT: Public Works
STAFF CONTACT: Nick Williams

Agenda Item 1: Call to Order

Agenda Item 2: Reactivating Personnel

Discussion: The background of the Construction Supervisor and Construction Technician positions was discussed. It was noted that the positions were frozen temporarily specifically to hire outside personnel for the construction oversight of the Eastside Sewer Lift Station project, which has been completed on budget and has been accepted.

It was confirmed the finances are available to re-fund the existing positions from the increase in the utility rate structure that was approved this fiscal year after adoption of the current budget.

Committee Action: Following discussion, a motion was made by Mr. Robinson, seconded by Mr. McClinton, to recommend to the full council the reactivation of the personnel as presented.

Recommendation: The committee voted unanimously to recommend reactivation of the positions as presented.



COMMITTEE REPORT

REPORT TYPE: Nominations Committee Report

MEETING: Nominations Committee – December 15, 2020

Present: Gerald Cook, Chair; Justin Haschke, Alan Nix, Ricky Thurman

Absent:

DEPARTMENT: Administration

STAFF CONTACT: Staci L. King

INTERVIEW APPLICANTS FOR PLANNING AND ZONING COMMISSION, BOARD OF ADJUSTMENT, AND STEPHENVILLE TYPE B ECONOMIC DEVELOPMENT AUTHORITY

The committee interviewed Rita Cook, who applied for the SEDA Board of Directors. All other applicants had been interviewed at the June committee meeting.

ANNUAL NOMINATIONS TO CITIZEN BOARDS AND COMMISSIONS

The Committee made the following recommendations

BOARD OF ADJUSTMENT

- Reappoint Jeanette Cochran to Place 5
- Reappoint Adam Cash to Alternate 1
- Move Darrell Brown from Alternate 3 to Place 1
- Move David Baskett from Alternate 2 to Place 3

STEPHENVILLE TYPE B ECONOMIC DEVELOPMENT AUTHORITY

- Reappoint Wendell Hollingsworth to Place 1
- Reappoint Casey Hogan to Place 3
- Reappoint Marion Cole to Place 5
- Appoint Lori Beatty to Place 4
- Appoint Matt Underwood to Place 7

PLANNING AND ZONING COMMISSION

- Reappoint Lisa LaTouche to Place 3
- Reappoint Todd McEvoy to Place 7
- Move Bruce Delater from Alternate 1 to Place 1

Appoint Rita Cook to Place 5

PARKS AND RECREATION ADVISORY BOARD

Reappoint Shanon Hunt to Place 1

Reappoint Contessa Harrision to Place 3

Reappoint Daron Trussell to Place 5

Reappoint Dennis Jones to Place 7

AIRPORT ADVISORY BOARD

Reappoint Tracy Gifford to Place 1

Reappoint Shannon Truesdell to Place 3

Reappoint Colby Sims to Place 5

Reappoint Chris Williams to Place 7

SENIOR CITIZEN ADVISORY BOARD

Reappoint Sheryl Wells to Place 1

Reappoint Judith Meador to Place 3

Reappoint Joanna Lay to Place 5

Reappoint Marlene Dupas to Place 7

LIBRARY ADVISORY BOARD

Reappoint JoAnn Phillips to Place 5

Appoint Jennie Shafer to Place 1

BUILDING BOARD

Reappoint Toby O'Neal to Place 1

Reappoint Danny Phillips to Place 3

Reappoint Brent Virgin to Place 5

MECHANICAL BOARD

Reappoint James Walker to Place 3

Reappoint Steven Deviney to Place 5

TOURISM AND VISITORS BUREAU ADVISORY BOARD

Reappoint Chelsea Brown to Place 1

Reappoint Belle Dowell to Place 3 (Retail)

Reappoint Charles Howard to Place 5 (TSU)

Appoint Tina Marchbanks to Place 7 (Hotel)

ERATH COUNTY APPRAISAL DISTRICT BOARD

Reappoint David Tomlinson

No recommendations were made for the Electrical Board or Plumbing Board due to lack of response from current members.

AIRPORT ADVISORY BOARD

Place 1 – Tracy Gifford
Place 3 – Shannon Truesdell
Place 5 – Colby Sims
Place 7 – Chris Williams

BOARD OF ADJUSTMENT

Place 1 – Darrell Brown
Place 3 – David Baskett
Place 5 – Jeanette Cochran
Alternate 1 – Adam Cash

BUILDING BOARD

Place 1 – Toby O’Neal
Place 3 – Danny Phillips
Place 5 – Brent Virgin

ELECTRICAL BOARD

No recommendations

ERATH COUNTY APPRAISAL DISTRICT BOARD

David Tomlinson

LIBRARY ADVISORY BOARD

Place 1 – Jennie Shafer
Place 5 – JoAnn Phillips

MECHANICAL BOARD

Place 3 – James Walker
Place 5 – Steven Deviney

PARKS AND RECREATION ADVISORY BOARD

Place 1 – Shanon Hunt
Place 3 – Contessa Harrison
Place 5 – Daron Trussell
Place 7 – Dennis Jones

PLANNING AND ZONING COMMISSION

Place 1 – Bruce Delater
Place 3 – Lisa LaTouche
Place 5 – Rita Cook
Place 7 – Todd McEvoy

PLUMBING BOARD

No recommendations

SENIOR CITIZEN ADVISORY BOARD

Place 1 – Sheryl Wells

Place 3 – Judith Meador

Place 5 – Joanna Lay

Place 7 – Marlene Dupas

STEPHENVILLE TYPE B ECONOMIC DEVELOPMENT AUTHORITY

Place 1 – Wendell Hollingsworth

Place 3 – Casey Hogan

Place 4 – Lori Beatty

Place 5 – Marion Cole

Place 7 – Matt Underwood

TOURISM AND VISITORS BUREAU ADVISORY BOARD

Place 1 – Chelsea Brown

Place 3 (Retail) – Belle Dowell

Place 5 (TSU) – Charles Howard

Place 7 (Hotel) – Tina Marchbanks



COMMITTEE REPORT

REPORT TYPE: Finance Committee Report

MEETING: December 29, 2020

Present: Mark McClinton Chair, Justin Haschke PI 2, Brady Pendleton PI 4, Brandon Huckabee PI 8

Absent: None

DEPARTMENT: Finance

STAFF CONTACT: Monica Harris

AMBULANCE FINANCIAL HARDSHIP APPLICATION:

Staff presented the Ambulance Financial Hardship Application information received for accounts 20-8853 and 20-11740. Justin Haschke made the motion, which was seconded and approved unanimously, to write-off \$265.00 for account 20-8853 and \$265.00 for account 20-11740.

HAMPTON INN REQUEST FOR WAIVER OF HOTEL OCCUPANCY TAX REPORT PENALTY AND INTEREST:

Staff presented Hampton Inn's request to waive the 15% penalty of \$3,732.31 and interest of \$1,537.92 assessed on the Hotel Occupancy Tax Report for quarter ending March 31, 2020 due to their New York corporate office closure for COVID during this time. The report was due by April 30, 2020, but not submitted until October 30, 2020. The unpaid taxes were subject to the 15% penalty on July 31, 2020 and interest starting May 1, 2020.

Brandon Huckabee made the motion to waive the 15% penalty, but require the interest payment of \$1,537.92. Justin Haschke seconded the motion, and the committee approved, by unanimous vote, forwarding the item to Council for approval.

DEFERRED COMPENSATION PLAN UPDATE AND ADOPTION AGREEMENT:

Staff presented the Deferred Compensation Adoption Agreement and updated plan document, which adds the City match up to 1% of base pay.

Justin Haschke made the motion to approve the Deferred Compensation Adoption Agreement and plan document. Brandon Huckabee seconded the motion, and the committee approved, by unanimous vote, forwarding the item to Council for approval.

PROPOSALS FOR BENEFITS CONSULTANT SERVICES:

Staff presented the proposals received for benefits consultant services. The proposal evaluators' recommendation was to award the contract to Wellspring Insurance Agency, Inc. for \$30,000 per year plus 10% commission on voluntary insurance products.

Brady Pendleton made the motion to recommend awarding the contract for benefits consultant services to Wellspring Insurance Agency, Inc. to the Council for approval. Justin Haschke seconded the motion, and the committee approved, by unanimous vote, forwarding the item to Council for approval.



STAFF REPORT

SUBJECT: Hampton Inn Request for waiver of HOT report penalty and interest

DEPARTMENT: Finance

STAFF CONTACT: Monica Harris

RECOMMENDATION:

Staff recommends waiver of penalty only for Hampton Inn's Hotel Occupancy Tax report for period ending March 31, 2020.

BACKGROUND:

The Hotel Occupancy Tax report for period ending March 31, 2020 was due on or before April 30, 2020. Interest on the tax due accrued at 1% per month once the report was late. A penalty of 15% of the tax due was assessed since not paid before July 31, 2020.

Hampton Inn did not file and pay the Hotel Occupancy Tax Report for period ending March 31, 2020 until October 30, 2020, so interest of \$1,537.92 and penalty of \$3,732.31 was assessed. Hampton Inn's corporate office in New York, which was closed due to COVID-19, files the report and pays the taxes for the local Hampton Inn. Hampton Inn has requested a waiver for the penalty and interest.

FISCAL IMPACT SUMMARY:

The Tourism Department in the HOT Fund will not receive the income.

ALTERNATIVES

Waive both the penalty and interest.

Not waive penalty nor interest.



STAFF REPORT

SUBJECT: Review and consider Deferred Compensation Plan update and Adoption Agreement

DEPARTMENT: Finance

STAFF CONTACT: Monica Harris

RECOMMENDATION:

Staff recommends approving the deferred compensation plan update and adoption agreement and forwarding to Council for approval.

BACKGROUND:

With the adoption of the FY 2019-2020 budget, Council approved matching contributions in the 457(b) deferred compensation plan up to 1% up base pay. Staff was directed to request proposals for a retirement plan advisor. In November 2019, the request was advertised and no proposals were received. In February 2020, the request was advertised again with only one proposal received from Allen Financial Management/Empower. After reviewing options with the current provider Nationwide and those proposed by Allen Financial Management/Empower, the Finance and Personnel Committees made the decision to proceed with Nationwide.

Nationwide prepared an adoption agreement and updated deferred compensation plan document for review.

FISCAL IMPACT SUMMARY:

There is no additional fiscal impact, as the 1% match is included in the current personnel budgets.

ALTERNATIVES

Approve the documents with amendments.

Not approve the documents.

**ADOPTION AGREEMENT FOR
ELIGIBLE GOVERNMENTAL 457 PLAN**

The undersigned Employer, by executing this Adoption Agreement, establishes an Eligible 457 Plan ("Plan"). The Employer, subject to the Employer's Adoption Agreement elections, adopts fully the Plan provisions. This Adoption Agreement, the basic plan document and any attached Appendices, amendments, or agreements permitted or referenced therein, constitute the Employer's entire plan document. *All "Election" references within this Adoption Agreement or the basic plan document are Adoption Agreement Elections. All "Article" or "Section" references are basic plan document references. Numbers in parentheses which follow election numbers are basic plan document references.* Where an Adoption Agreement election calls for the Employer to supply text, the Employer may lengthen any space or line, or create additional tiers. When Employer-supplied text uses terms substantially similar to existing printed options, all clarifications and caveats applicable to the printed options apply to the Employer-supplied text unless the context requires otherwise. The Employer makes the following elections granted under the corresponding provisions of the basic plan document.

1. **EMPLOYER (1.11).**

Name: City of Stephenville

Address: 298 W Washington St

Street

Stephenville Texas 76401-4257

City

State

Zip

Telephone: (254) 918-1228

Taxpayer Identification Number (TIN): 75-6000677

2. **PLAN NAME.**

Name: City of Stephenville 457(b) Deferred Compensation Plan

3. **PLAN YEAR (1.25).** Plan Year means the 12 consecutive month period (except for a short Plan Year) ending every (Choose one of a. or b. and choose c. if applicable): [Note: Complete any applicable blanks under Election c. with a specific date, e.g., "June 30" OR "the last day of February" OR "the first Tuesday in January." In the case of a Short Plan Year or a Short Limitation Year, include the year, e.g., "May 1, 2013."]

a. **December 31.**

b. **Plan Year:** ending: _____.

c. **Short Plan Year:** commencing: _____ and ending: _____.

4. **EFFECTIVE DATE (1.08).** The Employer's adoption of the Plan is a (Choose one of a. or b. Complete c. if new plan OR complete c. and d. if an amendment and restatement. Choose e. if applicable):

a. **New Plan.**

b. **Restated Plan.** The Plan is a substitution and amendment of an existing 457 plan.

Initial Effective Date of Plan

c. April 26, 1995 (enter month day, year; hereinafter called the "Effective Date" unless 4d is entered below)

Restatement Effective Date (If this is an amendment and restatement, enter effective date of the restatement.)

d. January 1, 2021 (enter month day, year)

Special Effective Dates: (optional)

e. **Describe:** _____.

5. **CONTRIBUTION TYPES.** (If this is a frozen Plan (i.e., all contributions have ceased), choose a. only):

Frozen Plan

a. **Contributions cease.** All Contributions have ceased or will cease (Plan is frozen).

1. **Effective date of freeze:** _____ [Note: Effective date is optional unless this is the amendment or restatement to freeze the Plan.]

Contributions. The Employer and/or Participants, in accordance with the Plan terms, make the following Contribution Types to the Plan (Choose one or more of b. through d. if applicable):

- b. **Pre-Tax Elective Deferrals.** The dollar or percentage amount by which each Participant has elected to reduce his/her Compensation, as provided in the Participant's Salary Reduction Agreement (Choose one or more as applicable.):

And will Matching Contributions be made with respect to Elective Deferrals?

1. **Yes.** See Question 16.

2. **No.**

And will **Roth Elective Deferrals** be made?

3. **Yes.** [Note: The Employer may not limit Deferrals to Roth Deferrals only.]

4. **No.**

- c. **Nonelective Contributions.** See Question 17.

- d. **Rollover Contributions.** See Question 30.

6. **EXCLUDED EMPLOYEES (1.10).** The following Employees are Excluded Employees and are not eligible to participate in the Plan (Choose one of a. or b.):

- a. **No exclusions.** All Employees are eligible to participate.

- b. **Exclusions.** The following Employees are Excluded Employees (Choose one or more of 1. through 4.):

1. **Part-time Employees.** The Plan defines part-time Employees as Employees who normally work less than _____ hours per week.

2. **Hourly-paid Employees.**

3. **Leased Employees.** The Plan excludes Leased Employees.

4. **Specify:** _____.

7. **INDEPENDENT CONTRACTOR (1.16).** The Plan (Choose one of a., b. or c.):

- a. **Participate.** Permits Independent Contractors to participate in the Plan.

- b. **Not Participate.** Does not permit Independent Contractors to participate in the Plan.

- c. **Specified Independent Contractors.** Permits the following specified Independent Contractors to participate: _____.

[Note: If the Employer elects to permit any or all Independent Contractors to participate in the Plan, the term Employee as used in the Plan includes such participating Independent Contractors.]

8. **COMPENSATION (1.05).** Subject to the following elections, Compensation for purposes of allocation of Deferral Contributions means:

Base Definition (Choose one of a., b., c. or d.):

- a. Wages, tips and other compensation on Form W-2.

- b. Code §3401(a) wages (wages for withholding purposes).

- c. 415 safe harbor compensation.

- d. Alternative (general) 415 Compensation.

[Note: The Plan provides that the base definition of Compensation includes amounts that are not included in income due to Code §§401(k), 125, 132(f)(4), 403(b), SEP, 414(h)(2), & 457. Compensation for an Independent Contractor means the amounts the Employer pays to the Independent Contractor for services, except as the Employer otherwise specifies below.]

Modifications to Compensation definition. The Employer elects to modify the Compensation definition as follows (Choose one of e. or f.):

- e. **No modifications.** The Plan makes no modifications to the definition.

- f. **Modifications** (Choose one or more of 1. through 5.):

1. **Fringe benefits.** The Plan excludes all reimbursements or other expense allowances, fringe benefits (cash and noncash), moving expenses, deferred compensation and welfare benefits.

2. **Elective Contributions.** [1.05(E)] The Plan excludes a Participant's Elective Contributions.

3. **Bonuses.** The Plan excludes bonuses.
4. **Overtime.** The Plan excludes overtime.
5. **Specify:** _____.

Compensation taken into account. For the Plan Year in which an Employee first becomes a Participant, the Plan Administrator will determine the allocation of matching and nonelective contributions by taking into account (*Choose one of g. or h.*):

- g. **Plan Year.** The Employee's Compensation for the entire Plan Year. (*N/A if no matching or nonelective contributions*)
- h. **Compensation while a Participant.** The Employee's Compensation only for the portion of the Plan Year in which the Employee actually is a Participant. (*N/A if no matching or nonelective contributions*)
9. **POST-SEVERANCE COMPENSATION (1.05(F)).** Compensation includes the following types of Post-Severance Compensation paid within any applicable time period as may be required (*Choose one of a. or b.*):
- a. **None.** The Plan does not take into account Post-Severance Compensation as to any Contribution Type except as required under the basic plan document.
- b. **Adjustments.** The following Compensation adjustments apply (*Choose one or more*):
1. **Regular Pay.** Post-Severance Compensation will include Regular Pay and it will apply to all Contribution Types.
 2. **Leave-Cashouts.** Post-Severance Compensation will include Leave Cashouts and it will apply to all Contribution Types.
 3. **Nonqualified Deferred Compensation.** Post-Severance Compensation will include Deferred Compensation and it will apply to all Contribution Types.
 4. **Salary Continuation for Disabled Participants.** Post-Severance Compensation will include Salary Continuation for Disabled Participants and it will apply to all Contribution Types.
 5. **Differential Wage Payments.** Post-Severance Compensation will include Differential Wage Payments (military continuation payments) and it will apply to all Contribution Types.
 6. **Describe alternative Post-Severance Compensation definition, limit by Contribution Type, or limit by Participant group:** _____.
10. **NORMAL RETIREMENT AGE (1.20).** A Participant attains Normal Retirement Age under the Plan (*Choose one of a. or b.*):
- a. **Plan designation.** [Plan Section 3.05(B)] When the Participant attains age _____. [*Note: The age may not exceed age 70 1/2. The age may not be less than age 65, or, if earlier, the age at which a Participant may retire and receive benefits under the Employer's pension plan, if any.*]
- b. **Participant designation.** [Plan Section 3.05(B) and (B)(1)] When the Participant attains the age the Participant designates, which may not be earlier than age 65 and may not be later than age 70 1/2. [*Note: The age may not exceed age 70 1/2.*]

Special Provisions for Police or Fire Department Employees (*Choose c. and/or d. as applicable*):

- c. **Police department employees.** [Plan Section 3.05(B)(3)] (*Choose 1. or 2.*):
1. **Plan designation.** [Plan Section 3.05(B)] When the Participant attains age _____. [*Note: The age may not exceed age 70 1/2 and may not be less than age 40.*]
 2. **Participant designation.** [Plan Section 3.05(B) and (B)(1)] When the Participant attains the age the Participant designates, which may not be earlier than age 40 (no earlier than age 40) and may not be later than age 70 1/2. [*Note: The age may not exceed age 70 1/2.*]
- d. **Fire department employees.** [Plan Section 3.05(B)(3)] (*Choose 1. or 2.*):
1. **Plan designation.** [Plan Section 3.05(B)] When the Participant attains age _____. [*Note: The age may not exceed age 70 1/2 and may not be less than age 40.*]
 2. **Participant designation.** [Plan Section 3.05(B) and (B)(1)] When the Participant attains the age the Participant designates, which may not be earlier than age 40 (no earlier than age 40) and may not be later than age 70 1/2. [*Note: The age may not exceed age 70 1/2.*]

11. **ELIGIBILITY CONDITIONS (2.01).** (*Choose one of a. or b.*):

- a. **No eligibility conditions.** The Employee is eligible to participate in the Plan as of his/her first day of employment with the employer.
- b. **Eligibility conditions.** To become a Participant in the Plan, an Eligible Employee must satisfy the following eligibility conditions (*Choose one or more of 1., 2. or 3.*):
1. **Age.** Attainment of age _____.

2. **Service.** Service requirement (*Choose one of a. or b.*):
- a. **Year of Service.** One year of Continuous Service.
- b. **Months of Service.** _____ month(s) of Continuous Service.
3. **Specify:** _____.

12. **PLAN ENTRY DATE (1.24).** "Plan Entry Date" means the Effective Date and (*Choose one of a. through d.*):

- a. **Monthly.** The first day of the month coinciding with or next following the Employee's satisfaction of the Plan's eligibility conditions, if any.
- b. **Annual.** The first day of the Plan Year coinciding with or next following the Employee's satisfaction of the Plan's eligibility conditions, if any.
- c. **Date of hire.** The Employee's employment commencement date with the Employer.
- d. **Specify:** _____.

13. **SALARY REDUCTION CONTRIBUTIONS (1.30).** A Participant's Salary Reduction Contributions under Election 5b. are subject to the following limitation(s) in addition to those imposed by the Code (*Choose one of a. or b.*):

- a. **No limitations.**
- b. **Limitations.** (*Choose one or more of 1., 2. or 3.*):
1. **Maximum deferral amount.** A Participant's Salary Reductions may not exceed: _____ (*specify dollar amount or percentage of Compensation*).
2. **Minimum deferral amount.** A Participant's Salary Reductions may not be less than: _____ (*specify dollar amount or percentage of Compensation*).
3. **Specify:** _____.

[*Note: Any limitation the Employer elects in b.1. through b.3. will apply on a payroll basis unless the Employer otherwise specifies in b.3.*]

Special NRA Catch-Up Contributions (3.05). The Plan (*Choose one of c. or d.*):

- c. **Permits.** Participants may make NRA catch-up contributions.
AND, Special NRA Catch-Up Contributions (*Choose one of 1. or 2.*): (*N/A if no matching contributions*)
1. will be taken into account in applying any matching contribution under the Plan.
2. will not be taken into account in applying any matching contribution under the Plan.
- d. **Does not permit.** Participants may not make NRA catch-up contributions.

Age 50 Catch-Up Contributions (3.06). The Plan (*Choose one of e. or f.*):

- e. **Permits.** Participants may make age 50 catch-up contributions.
AND, Age 50 Catch-Up Contributions (*Choose one of 1. or 2.*): (*N/A if no matching contributions*)
1. will be taken into account in applying any matching contribution under the Plan.
2. will not be taken into account in applying any matching contribution under the Plan.
- f. **Does not permit.** Participants may not make age 50 catch-up contributions.

14. **SICK, VACATION AND BACK PAY (3.02(A)).** The Plan (*Choose one of a. or b.*):

- a. **Permits.** Participants may make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay.
- b. **Does Not Permit.** Participants may not make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay.

15. **AUTOMATIC ENROLLMENT (3.02(B)).** Does the Plan provide for automatic enrollment (*Choose one of the following*) [*Note: if Eligible Automatic Contribution Arrangement (EACA), select 15c and complete Questions 31 & 32*):

- a. **Does not apply.** Does not apply the Plan's automatic enrollment provisions.

- b. **Applies.** Applies the Plan's automatic enrollment provisions. The Employer as a Pre-Tax Elective Deferral will withhold _____% from each Participant's Compensation unless the Participant elects a different percentage (including zero) under his/her Salary Reduction Agreement. The automatic election will apply to *(Choose one of 1. through 3.)*:
1. **All Participants.** All Participants who as of _____ are not making Pre-Tax Elective Deferrals at least equal to the automatic amount.
 2. **New Participants.** Each Employee whose Plan Entry Date is on or following: _____.
 3. **Describe Application of Automatic Deferrals:** _____.

- c. **EACA.** The Plan will provide an Eligible Automatic Contribution Arrangement (EACA). Complete Questions 31 & 32.

16. **MATCHING CONTRIBUTIONS (3.03).** The Employer Matching Contributions under Election 5.b.1. are made as follows *(Choose one or more of a. through d.)*:

- a. **Fixed formula.** An amount equal to _____ of each Participant's Salary Reduction Contributions.
- b. **Discretionary formula.** An amount (or additional amount) equal to a matching percentage the Employer from time to time may deem advisable of each Participant's Salary Reduction Contributions.
- c. **Tiered formula.** The Employer will make matching contributions equal to a uniform percentage of each tier of each Participant's Salary Reduction Contributions, determined as follows:

NOTE: Fill in only percentages or dollar amounts, but not both. If percentages are used, each tier represents the amount of the Participant's applicable contributions that equals the specified percentage of the Participant's Compensation (add additional tiers if necessary):

Tiers of Contributions (indicate \$ or %)	Matching Percentage
First _____	_____ %
Next _____	_____ %
Next _____	_____ %
Next _____	_____ %

- d. **Specify:** _____.

Time Period for Matching Contributions. The Employer will determine its Matching Contribution based on Salary Reduction Contributions made during each *(Choose one of e. through h.)*:

- e. **Plan Year.**
- f. **Plan Year quarter.**
- g. **Payroll period.**
- h. **Specify:** _____.

Salary Reduction Contributions Taken into Account. In determining a Participant's Salary Reduction Contributions taken into account for the above-specified time period under the Matching Contribution formula, the following limitations apply *(Choose one of i. through l.)*:

- i. **All Salary Reduction Contributions.** The Plan Administrator will take into account all Salary Reduction Contributions.
- j. **Specific limitation.** The Plan Administrator will disregard Salary Reduction Contributions exceeding _____% of the Participant's Compensation.
- k. **Discretionary.** The Plan Administrator will take into account the Salary Reduction Contributions as a percentage of the Participant's Compensation as the Employer determines.
- l. **Specify:** _____.

Allocation Conditions. To receive an allocation of Matching Contributions, a Participant must satisfy the following allocation condition(s) *(Choose one of m. or n.)*:

- m. **No allocation conditions.**
- n. **Conditions.** The following allocation conditions apply to Matching Contributions *(Choose one or more of 1. through 4.)*:
 1. **Service condition.** The Participant must complete the following number of months of Continuous Service during the Plan Year: _____.

2. **Employment condition.** The Participant must be employed by the Employer on the last day of the Plan Year.
3. **Limited Severance Exception.** Any condition specified in 1. or 2. does not apply if the Participant incurs a Severance from Employment during the Plan Year on account of death, disability or attainment of Normal Retirement Age in the current Plan Year or in a prior Plan Year.
4. **Specify:** _____.

17. **NONELECTIVE CONTRIBUTIONS (1.19).** The Nonelective Contributions under Election 5.c. are made as follows: *(Choose one)*:

- a. **Discretionary - Pro-Rata.** An amount the Employer in its sole discretion may determine.
- b. **Fixed - Pro Rata.** 1% of Compensation.
- c. **Other.** A Nonelective Contribution may be made as follows:

_____.

Allocation Conditions. (3.08). To receive an allocation of Nonelective Contributions, a Participant must satisfy the following allocation condition(s) *(Choose one of d. or e.)*:

- d. **No allocation conditions.**
- e. **Conditions.** The following allocation conditions apply to Nonelective Contributions *(Choose one or more of 1. through 4.)*:
1. **Service condition.** The Participant must complete the following number of months of Continuous Service during the Plan Year: _____.
2. **Employment condition.** The Participant must be employed by the Employer on the last day of the Plan Year.
3. **Limited Severance Exception.** Any condition specified in 1. or 2. does not apply if the Participant incurs a Severance from Employment during the Plan Year on account of death, disability or attainment of Normal Retirement Age in the current Plan Year or in a prior Plan Year.
4. **Specify:** _____.

18. **TIME AND METHOD OF PAYMENT OF ACCOUNT (4.02).** The Plan will distribute to a Participant who incurs a Severance from Employment his/her Vested Account as follows:

Timing. The Plan, in the absence of a permissible Participant election to commence payment later, will pay the Participant's Account *(Choose one of a. through e.)*:

- a. **Specified Date.** _____ days after the Participant's Severance from Employment.
- b. **Immediate.** As soon as administratively practicable following the Participant's Severance from Employment.
- c. **Designated Plan Year.** As soon as administratively practicable in the _____ Plan Year beginning after the Participant's Severance from Employment.
- d. **Normal Retirement Age.** As soon as administratively practicable after the close of the Plan Year in which the Participant attains Normal Retirement Age.
- e. **Specify:** _____.

Method. The Plan, in the absence of a permissible Participant election, will distribute the Participant's Account under one of the following method(s) of distribution *(Choose one or more of f. through j. as applicable)*:

- f. **Lump sum.** A single payment.
- g. **Installments.** Multiple payments made as follows: as elected by the Participant _____.
- h. **Installments for required minimum distributions only.** Annual payments, as necessary under Plan Section 4.03.
- i. **Annuity distribution option(s):** _____.
- j. **Specify:** Partial Lump Sum, as elected by the Participant _____.

Participant Election. [Plan Sections 4.02(A) and (B)] The Plan *(Choose one of k., l. or m.)*:

- k. **Permits.** Permits a Participant, with Plan Administrator approval of the election, to elect to postpone distribution beyond the time the Employer has elected in a. through e. and also to elect the method of distribution (including a method not described in f. through j. above).
- l. **Does not permit.** Does not permit a Participant to elect the timing and method of Account distribution.
- m. **Specify:** _____.

Mandatory Distributions. Notwithstanding any other distribution election, following Severance from Employment (*Choose n. or o.*):

- n. **No Mandatory Distributions.** The Plan will not make a Mandatory Distribution.
- o. **Mandatory Distribution.** If the Participant's Vested Account is not in excess of \$5,000 (unless a different amount selected below) as of the date of distribution, the Plan will make a Mandatory Distribution following Severance from Employment.
1. **Mandatory Distribution.** If the Participant's Vested Account is not in excess of \$ 1,000 as of the date of distribution, the Plan will make a Mandatory Distribution following Severance from Employment.

Rollovers in determination of \$5,000 threshold. Unless otherwise elected below, amounts attributable to rollover contributions (if any) will be **included** in determining the \$5,000 threshold for timing of distributions, form of distributions or consent rules.

- p. Exclude rollovers (rollover contributions will be **excluded** in determining the \$5,000 threshold)

NOTE: Regardless of the above election, if the Participant consent threshold is \$1,000 or less, then the Administrator must include amounts attributable to rollovers for such purpose. In such case, an election to exclude rollovers above will apply for purposes of the timing and form of distributions.

19. **BENEFICIARY DISTRIBUTION ELECTIONS.** Distributions following a Participant's death will be made as follows (*Choose one of a. through d.*):

- a. **Immediate.** As soon as practical following the Participant's death.
- b. **Next Calendar Year.** At such time as the Beneficiary may elect, but in any event on or before the last day of the calendar year which next follows the calendar year of the Participant's death. (*N/A if participant is restricted*)
- c. **As Beneficiary elects.** At such time as the Beneficiary may elect, consistent with Section 4.03. (*N/A if participant is restricted*)
- d. **Describe:** _____.

[*Note: The Employer under Election 19d. may describe an alternative distribution timing or afford the Beneficiary an election which is narrower than that permitted under Election 19c., or include special provisions related to certain beneficiaries, (e.g., a surviving spouse). However, any election under Election 19d. must require distribution to commence no later than the Section 4.03 required date.*]

20. **DISTRIBUTIONS PRIOR TO SEVERANCE FROM EMPLOYMENT (4.05).** A Participant prior to Severance from Employment may elect to receive a distribution of his/her Vested Account under the following distribution options (*Choose one of a. or b.*):

- a. **None.** A Participant may not receive a distribution prior to Severance from Employment.
- b. **Distributions.** Prior to Severance from Employment are permitted as follows (*Choose one or more of 1. through 4.*):
1. **Unforeseeable emergency.** A Participant may elect a distribution from his/her Account in accordance with Plan Section 4.05(A) (for the Participant, spouse, dependents or beneficiaries)
2. **De minimis exception.** [Plan Section 4.05(B)] If the Participant: (i) has an Account that does not exceed \$5,000; (ii) has not made or received an allocation of any Deferral Contributions under the Plan during the two-year period ending on the date of distribution; and (iii) has not received a prior Plan distribution under this de minimis exception, then (*Choose one of a., b. or c.*):
- a. **Participant election.** The Participant may elect to receive all or any portion of his/her Account.
- b. **Mandatory distribution.** The Plan Administrator will distribute the Participant's entire Account.
- c. **Hybrid.** The Plan Administrator will distribute a Participant's Account that does not exceed \$ _____ and the Participant may elect to receive all or any portion of his/her Account that exceeds \$ _____ but that does not exceed \$5,000.
3. **Age 70 1/2.** A Participant who attains age 70 1/2 prior to Severance from Employment may elect distribution of any or all of his/her Account.
4. **Specify:** _____.

[*Note: An Employer need not permit any in-service distributions. Any election must comply with the distribution restrictions of Code Section 457(d).*]

21. **QDRO (4.06).** The QDRO provisions (*Choose one of a., b. or c.*):

- a. **Apply.**
- b. **Do not apply.**
- c. **Specify:** _____.

22. **ALLOCATION OF EARNINGS (5.07(B))**. The Plan allocates Earnings using the following method (*Choose one or more of a. through f.*):

- a. **Daily**. See Section 5.07(B)(4)(a).
- b. **Balance forward**. See Section 5.07(B)(4)(b).
- c. **Balance forward with adjustment**. See Section 5.07(B)(4)(c). Allocate pursuant to the balance forward method, except treat as part of the relevant Account at the beginning of the Valuation Period _____% of the contributions made during the following Valuation Period: _____.
- d. **Weighted average**. See Section 5.07(B)(4)(d). If not a monthly weighting period, the weighting period is _____.
- e. **Directed Account method**. See Section 5.07(B)(4)(e).
- f. **Describe Earnings allocation method:** _____.

[*Note: The Employer under Election 22f. may describe Earnings allocation methods from the elections available under Election 22 and/or a combination thereof as to any: (i) Participant group (e.g., Daily applies to Division A Employees OR to Employees hired after "x" date. Balance forward applies to Division B Employees OR to Employees hired on/before "x" date.); (ii) Contribution Type (e.g., Daily applies as to Discretionary Nonelective Contribution Accounts. Participant-Directed Account applies to Fixed Nonelective Contribution Accounts); (iii) investment type, investment vendor or Account type (e.g., Balance forward applies to investments placed with vendor A and Participant-Directed Account applies to investments placed with vendor B OR Daily applies to Participant-Directed Accounts and balance forward applies to pooled Accounts).*]

23. **HEART ACT PROVISIONS (1.31(C)(3)/3.13)**. The Employer elects to (*Choose one of a. or b. and c. or d.*):

Continued Benefit Accruals.

- a. **Not apply the benefit accrual provisions of Section 3.13.**
- b. **Apply the benefit accrual provisions of Section 3.13.**

Distributions for deemed severance of employment (1.31(C)(3))

- c. **The Plan does NOT permit distributions for deemed severance of employment.**
- d. **The Plan permits distributions for deemed severance of employment.**

24. **VESTING/SUBSTANTIAL RISK OF FORFEITURE (5.11)**. A Participant's Deferral Contributions are [*Note: If a Participant incurs a Severance from Employment before the specified events or conditions, the Plan will forfeit the Participant's non-vested Account. Caution: if a Deferral is subject to vesting schedule or other substantial risk of forfeiture, it does not count as a deferral for purposes of the annual deferral limit until the year it is fully vested.*] (*Choose all that apply of a. through d.*):

- a. **100% Vested/No Risk of Forfeiture**. Immediately Vested without regard to additional Service and no Substantial Risk of Forfeiture. The following contributions are 100% Vested:
 - 1. **All Contributions**. (skip to 25.)
 - 2. **Only the following contributions**. (select all that apply):
 - a. **Salary Reduction Contributions**.
 - b. **Nonelective Contributions**.
 - c. **Matching Contributions**.
- b. **Forfeiture under Vesting Schedule**. Vested according to the following:

Contributions affected. The following contributions are subject to the vesting schedule (*Choose one or more of 1., 2. or 3.*):

- 1. **Salary Reduction Contributions**.
- 2. **Nonelective Contributions**.
- 3. **Matching Contributions**.
- 4. **Vesting Schedule**.

Years of Service	Vested Percentage
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%

For vesting purposes, a "Year of Service" means:

5. _____.

[Note: It is extremely rare to apply a vesting schedule to Salary Reduction Contributions.]

c. **Substantial Risk of Forfeiture.** Vested only when no longer subject to the following Substantial Risk of Forfeiture as follows:

Contributions affected. The following contributions are subject to the substantial risk of forfeiture under c. (Choose one or more of 1., 2. or 3.):

1. **Salary Reduction Contributions.**

2. **Nonelective Contributions.**

3. **Matching Contributions.**

Risk Provisions: Vested only when no longer subject to the following Substantial Risk of Forfeiture as follows (Choose one of 4. or 5.):

4. The Participant must remain employed by the Employer until _____, unless earlier Severance from Employment occurs on account of death or disability, as the Plan Administrator shall establish.

5. **Specify:** _____.

Additional Provisions (Choose d. if applicable)

d. **Specify:** _____.

FORFEITURE ALLOCATION. [Plan Sections 5.11(A) and 5.14] The Plan Administrator will allocate any Plan forfeitures as selected below. The Employer has the option to use forfeitures to pay plan expenses first and then allocate the remaining forfeitures in accordance with the selections below: (Choose one of the following):

e. **Additional Contributions.** As the following contribution type (Choose one of 1. or 2.):

1. **Nonelective.** As an additional Nonelective Contribution.

2. **Matching.** As an additional Matching Contribution.

f. **Reduce Fixed Contributions.** To reduce the following fixed contribution (Choose one of 1. or 2.):

1. **Nonelective.** To reduce the Employer's fixed Nonelective Contribution.

2. **Matching.** To reduce the Employer's fixed Matching Contribution.

g. **Specify:** _____.

25. **TRUST PROVISIONS.** The following provisions apply to Article VIII of the Plan (Choose as applicable; leave blank if not applicable):

a. **Modifications.** The Employer modifies the Article VIII Trust provisions as follows: _____. The remaining Article VIII provisions apply.

b. **Substitution.** The Employer replaces the Trust with the Trust Agreement attached to the Plan.

26. **CUSTODIAL ACCOUNT/ANNUITY CONTRACT (8.16).** The Employer will hold all or part of the Deferred Compensation in one or more custodial accounts or annuity contracts which satisfy the requirements of Code §457(g) (Choose a. or b., c. if applicable):

a. **Custodial account(s).**

b. **Annuity contract(s).**

c. **Specify:** _____.

[Note: The Employer under c. may wish to identify the custodial accounts or annuity contracts or to designate a portion of the Deferred Compensation to be held in such vehicles versus held in the Trust.]

27. **VALUATION.** In addition to the last day of the Plan Year, the Trustee (or Plan Administrator as applicable) must value the Trust Fund (or Accounts) on the following Valuation Date(s) (Choose one of a. or b.):

a. **No additional Valuation Dates.**

b. **Additional Valuation Dates.** (Choose one or more of 1., 2. or 3.):

1. **Daily Valuation Dates.** Each business day of the Plan Year on which Plan assets for which there is an established market are valued and the Trustee or Employer is conducting business.

2. **Last day of a specified period.** The last day of each _____ of the Plan Year.

3. **Specified Valuation Dates:** _____.

[Note: The Employer under Election 26b.3. may describe Valuation Dates from the elections available under Election 26b. and/or a combination thereof as to any: (i) Participant group (e.g., No additional Valuation Dates apply to Division A Employees OR to Employees hired after "x" date. Daily Valuation Dates apply to Division B Employees OR to Employees hired on/before "x" date.); (ii) Contribution Type (e.g., No additional Valuation Dates apply as to Discretionary Nonelective Contribution Accounts. The last day of each Plan Year quarter applies to Fixed Nonelective Contribution Accounts); (iii) investment type, investment vendor or Account type (e.g., No additional Valuation Dates apply to investments placed with vendor A and Daily Valuation Dates apply to investments placed with vendor B OR Daily Valuation Dates apply to Participant-Directed Accounts and no additional Valuation Dates apply to pooled Accounts).]

28. **TRUSTEE** (Select all that apply; leave blank if not applicable.):

a. Individual Trustee(s) who serve as Trustee(s) over assets not subject to control by a corporate Trustee. (Add additional Trustees as necessary.)

Name(s)	Title(s)
_____	_____
_____	_____
_____	_____
_____	_____

Address and Telephone number (Choose one of 1. or 2.):

1. Use Employer address and telephone number.

2. Use address and telephone number below:

Address: _____
Street

City State Zip

Telephone: _____

b. Corporate Trustee

Name: _____

Address: _____
Street

City State Zip

Telephone: _____

AND, the Corporate Trustee shall serve as:

c. a Directed (nondiscretionary) Trustee over all Plan assets except for the following:

d. a Discretionary Trustee over all Plan assets except for the following:

29. **PLAN LOANS (5.02(A))**. The Plan permits or does not permit Participant Loans (Choose one of a. or b.):

a. **Does not permit.**

b. **Permitted pursuant to the Loan Policy.**

30. **ROLLOVER CONTRIBUTIONS (3.09)**. The Rollover Contributions under Election 5.d. are made as follows:

Who may roll over (Choose one of a. or b.):

a. **Participants only.**

b. **Eligible Employees or Participants.**

Sources/Types. The Plan will accept a Rollover Contribution (*Choose one of c. or d.*):

- c. **All.** From any Eligible Retirement Plan and as to all Contribution Types eligible to be rolled into this Plan.
- d. **Limited.** Only from the following types of Eligible Retirement Plans and/or as to the following Contribution Types:
 From any Eligible Retirement Plan eligible to be rolled into this Plan excluding After-Tax contributions _____.

Distribution of Rollover Contributions (*Choose one of e., f. or g.*):

- e. **Distribution without restrictions.** May elect distribution of his/her Rollover Contributions Account in accordance with Plan Section 4.05(C) at any time.
- f. **No distribution.** May not elect to receive distribution of his/her Rollover Contributions Account until the Plan has a distributable event under Plan Section 4.01.
- g. **Specify:** _____

31. EACA Automatic Deferral Provisions (3.14).

Participants subject to the Automatic Deferral Provisions. The Automatic Deferral Provisions apply to Employees who become Participants after the Effective Date of the EACA (except as provided in d. below). Employees who became Participants prior to such Effective Date are subject to the following (a. – d. are optional):

- a. **All Participants.** All Participants, regardless of any prior Salary Reduction Agreement, unless and until a Participant makes an Affirmative Election after the Effective Date of the EACA.
- b. **Election of at least Automatic Deferral amount.** All Participants, except those who, on the Effective Date of the EACA, are deferring an amount which is at least equal to the Automatic Deferral Percentage.
- c. **No existing Salary Reduction Agreement.** All Participants, except those who have in effect a Salary Reduction Agreement on the effective date of the EACA regardless of the Salary Reduction Contribution amount under the Agreement.
- d. **Describe:** _____

Automatic Deferral Percentage. Unless a Participant makes an Affirmative Election, the Employer will withhold the following Automatic Deferral Percentage (select e. or f.):

- e. **Constant.** The Employer will withhold _____% of Compensation each payroll period.

Escalation of deferral percentage (select one or leave blank if not applicable)

1. **Scheduled increases.** This initial percentage will increase by _____% of Compensation per year up to a maximum of _____ of Compensation.
2. **Other** (described Automatic Deferral Percentage): _____

Automatic Deferral Optional Elections

- f. **Optional elections** (select all that apply or leave blank if not applicable)

Suspended Salary Reduction Contributions. If a Participant's Salary Reduction Contributions are suspended pursuant to a provision of the Plan (e.g., distribution due to military leave covered by the HEART Act), then a Participant's Affirmative Election will expire on the date the period of suspension begins unless otherwise elected below.

1. A Participant's Affirmative Election will resume after the suspension period.

Special Effective Date. Provisions will be effective as of the earlier of the Effective Date of the EACA provisions unless otherwise specified below.

2. Special Effective Date: _____

32. **In-Plan Roth Rollover Contributions.**

- a. **Yes, allowed.**

Effective Date (enter date)

1. In-Plan Roth Rollover Effective Date: _____

33. **In-Plan Roth Rollover Transfers.**

- a. **Yes, allowed.**

Effective Date (enter date)

1. In-Plan Roth Rollover Transfers Effective Date: _____

This Plan is executed on the date(s) specified below:

Use of Adoption Agreement. Failure to complete properly the elections in this Adoption Agreement may result in disqualification of the Employer's Plan. The Employer only may use this Adoption Agreement only in conjunction with the corresponding basic plan document.

EMPLOYER: City of Stephenville

By: _____

DATE SIGNED

**CITY OF STEPHENVILLE
457(B) DEFERRED COMPENSATION PLAN**

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ARTICLE I DEFINITIONS

1.01 "**Account**" means the separate Account(s) which the Plan Administrator or the Trustee maintains under the Plan for a Participant's Deferred Compensation. The Plan Administrator or Trustee may establish separate Accounts for multiple Beneficiaries of a Participant to facilitate required minimum distributions under Section 4.03 based on each Beneficiary's life expectancy.

1.02 "**Accounting Date**" means the last day of the Plan Year. The Plan Administrator will allocate Employer contributions and forfeitures for a particular Plan Year as of the Accounting Date of that Plan Year, and on such other dates, if any, as the Plan Administrator determines, consistent with the Plan's allocation conditions and other provisions.

1.03 "**Beneficiary**" means a person who the Plan or a Participant designates and who is or may become entitled to a Participant's Account upon the Participant's death. A Beneficiary who becomes entitled to a benefit under the Plan remains a Beneficiary under the Plan until the Plan Administrator or Trustee has fully distributed to the Beneficiary his or her Plan benefit. A Beneficiary's right to (and the Plan Administrator's or a Trustee's duty to provide to the Beneficiary) information or data concerning the Plan does not arise until the Beneficiary first becomes entitled to receive a benefit under the Plan.

1.04 "**Code**" means the Internal Revenue Code of 1986, as amended.

1.05 "**Compensation**"

(A) Uses and Context. Any reference in the Plan to Compensation is a reference to the definition in this Section 1.05, unless the Plan reference, or the Employer in the Adoption Agreement, modifies this definition. Except as the Plan otherwise specifically provides, the Plan Administrator will take into account only Compensation actually paid during (or as permitted under the Code, paid for) the relevant period. A Compensation payment includes Compensation paid by the Employer through another person under the common paymaster provisions in Code §§3121 and 3306. In the case of an Independent Contractor, Compensation means the amounts the Employer pays to the Independent Contractor for services, except as the Employer otherwise specifies in the Adoption Agreement. The Employer in the Adoption Agreement may elect to allocate contributions based on a Compensation within specified 12 month period which ends within a Plan Year.

(B) Base Definitions and Modifications. The Employer in the Adoption Agreement must elect one of the following base definitions of Compensation: W-2 Wages, Code §3401(a) Wages, or 415 Compensation. The Employer may elect a different base definition as to different Contribution Types. The Employer in the Adoption Agreement may specify any modifications thereto, for purposes of contribution allocations under Article III. If the Employer fails to elect one of the above-referenced definitions, the Employer is deemed to have elected the W-2 Wages definition.

(1) W-2 Wages. W-2 Wages means wages for federal income tax withholding purposes, as defined under Code §3401(a), plus all other payments to an Employee in the course of the Employer's trade or business, for which the Employer must furnish the Employee a written statement under Code §§6041, 6051, and 6052, but determined without regard to any rules that limit the remuneration included in wages based on the

nature or location of the employment or services performed (such as the exception for agricultural labor in Code §3401(a)(2)).

(2) Code §3401(a) Wages (income tax wage withholding). Code §3401(a) Wages means wages within the meaning of Code §3401(a) for the purposes of income tax withholding at the source, but determined without regard to any rules that limit the remuneration included in wages based on the nature or the location of the employment or the services performed (such as the exception for agricultural labor in Code §3401(a)(2)).

(3) Code §415 Compensation (current income definition/simplified compensation under Treas. Reg. §1.415(c)-2(d)(2)). Code §415 Compensation means the Employee's wages, salaries, fees for professional service and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer maintaining the Plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits and reimbursements or other expense allowances under a nonaccountable plan as described in Treas. Reg. §1.62-2(c)).

Code §415 Compensation does not include:

(a) Deferred compensation/SEP/SIMPLE. Employer contributions (other than Elective Deferrals) to a plan of deferred compensation (including a simplified employee pension plan under Code §408(k) or to a simple retirement account under Code §408(p)) to the extent the contributions are not included in the gross income of the Employee for the Taxable Year in which contributed, and any distributions from a plan of deferred compensation (whether or not qualified), regardless of whether such amounts are includible in the gross income of the Employee when distributed.

(b) Option exercise. Amounts realized from the exercise of a non-qualified stock option (an option other than a statutory option under Treas. Reg. §1.421-1(b)), or when restricted stock or other property held by an Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture under Code §83.

(c) Sale of option stock. Amounts realized from the sale, exchange or other disposition of stock acquired under a statutory stock option as defined under Treas. Reg. §1.421-1(b).

(d) Other amounts that receive special tax benefits. Other amounts that receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includible in the gross income of the Employee and are not salary reduction amounts under Code §125).

(e) Other similar items. Other items of remuneration which are similar to any of the items in Sections 1.11(B)(3)(a) through (d).

(4) Alternative (general) 415 Compensation. Under this definition, Compensation means as defined in Section 1.05(B)(3) but with the addition of: (a) amounts described in Code §§104(a)(3), 105(a), or 105(h) but only to the extent that these amounts are includible in Employee's gross income; (b) amounts paid or reimbursed by the Employer for moving expenses incurred by the Employee, but only to the extent that at the time of payment it is reasonable to believe these amounts are not deductible by the Employee under Code §217; (c) the value of a nonstatutory option (an option other than a statutory option under Treas. Reg. §1.421-1(b)) granted by the Employer to an Employee, but only to the extent that the value of the option is includible in the Employee's gross income for the Taxable Year of the grant; (d) the amount includible in the Employee's gross income upon the Employee's making of an election under Code §83(b); and (e) amounts that are includible in the Employee's gross income under Code §409A or Code §457(f)(1)(A) or because the amounts are constructively received by the Participant. [Note if the Plan's definition of Compensation is W-2 Wages or Code §3401(a) Wages, then Compensation already includes the amounts described in clause (e).]

(C) Deemed 125 Compensation. Deemed 125 Compensation means, in the case of any definition of Compensation which includes a reference to Code §125, amounts under a Code §125 plan of the Employer that are not available to a Participant in cash in lieu of group health coverage, because the Participant is unable to certify that he/she has other health coverage.

(D) Modification to Compensation. The Employer must specify in the Adoption Agreement the Compensation the Plan Administrator is to take into account in allocating Deferral Contributions to a Participant's Account. For all Plan Years other than the Plan Year in which the Employee first becomes a Participant, the Plan Administrator will take into account only the Compensation determined for the portion of the Plan Year in which the Employee actually is a Participant.

(E) Elective Contributions. Compensation under Section 1.05 includes Elective Contributions unless the Employer in the Adoption Agreement elects to exclude Elective Contributions. "Elective Contributions" are amounts excludible from the Employee's gross income under Code §§125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 403(b), 408(p) or 457, and contributed by the Employer, at the Employee's election, to a cafeteria plan, a qualified transportation fringe benefit plan, a 401(k) arrangement, a SARSEP, a tax-sheltered annuity, a SIMPLE plan or a Code §457 plan.

(F) Post-Severance Compensation. Compensation includes Post-Severance Compensation to the extent the Employer elects in the Adoption Agreement or as the Plan otherwise provides. Post-Severance Compensation is Compensation paid after a Participant's Severance from Employment from the Employer, as further described in this Section 1.05(F). As the Employer elects, Post-Severance Compensation may include any or all of regular pay, leave cash-outs, or deferred compensation paid within the time period described in Section 1.05(F)(1), and may also include salary continuation for disabled Participants, all as defined below. Any other payment paid after Severance from Employment that is not described in this Section 1.05(F) is not Compensation even if payment is made within the time period described below. Post-Severance Compensation does not include severance pay, parachute payments under Code §280G(b)(2) or payments under a nonqualified unfunded deferred compensation plan unless the payments would have

been paid at that time without regard to Severance from Employment.

(1) Timing. Post-Severance Compensation includes regular pay, leave cashouts, or deferred compensation only to the extent the Employer pays such amounts by the later of 2 1/2 months after Severance from Employment or by the end of the Limitation Year that includes the date of such Severance from Employment.

(a) Regular pay. Regular pay means the payment of regular Compensation for services during the Participant's regular working hours, or Compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, but only if the payment would have been paid to the Participant prior to a Severance from Employment if the Participant had continued in employment with the Employer.

(b) Leave cash-outs. Leave cash-outs means payments for unused accrued bona fide sick, vacation, or other leave, but only if the Employee would have been able to use the leave if employment had continued and if Compensation would have included those amounts if they were paid prior to the Participant's Severance from Employment.

(c) Deferred compensation. As used in this Section 1.05(F), deferred compensation means the payment of deferred compensation pursuant to an unfunded deferred compensation plan, if Compensation would have included the Deferred Compensation if it had been paid prior to the Participant's Severance from Employment, but only if the payment would have been paid at the same time if the Participant had continued in employment with the Employer and only to the extent that the payment is includible in the Participant's gross income.

(2) Salary continuation for disabled Participants. Salary continuation for disabled Participants means Compensation paid to a Participant who is permanently and totally disabled (as defined in Code §22(e)(3)).

(3) Differential Wage Payments. An individual receiving a Differential Wage Payment, as defined by Code §3401(h)(2), shall be treated as an employee of the employer making the payment and the Differential Wage Payment shall be treated as compensation for purposes of Code §457(b) and any other Internal Revenue Code section that references the definition of compensation under Code §415, including the definition of Includible Compensation as provided in Section 1.15.

1.06 "**Deferral Contributions**" means as the Employer elects on the Adoption Agreement, Salary Reduction Contributions, Nonelective Contributions and Matching Contributions. The Plan Administrator in applying the Code §457(b) limit will take into account Deferral Contributions in the Taxable Year in which deferred, or if later, in the Taxable Year in which the Deferral Contributions are no longer subject to a Substantial Risk of Forfeiture. The Plan Administrator in determining the amount of a Participant's Deferral Contributions disregards the net income, gain and loss attributable to Deferral Contributions unless the Deferral Contributions are subject to a Substantial Risk of Forfeiture. If a Deferral Contribution is subject to a Substantial Risk of Forfeiture, the Plan Administrator takes into the Deferral Contribution as adjusted for allocable net income, gain or loss in the Taxable Year in which the Substantial Risk of Forfeiture lapses.

1.07 "**Deferred Compensation**" means as to a Participant the amount of Deferral Contributions, Rollover Contributions and Transfers adjusted for allocable net income, gain or loss, in the Participant's Account.

1.08 "**Effective Date**" of this Plan is the date the Employer specifies in the Adoption Agreement. The Employer in the Adoption Agreement may elect special effective dates for Plan provisions the Employer specifies provided any such date(s) are permitted by the Code, by Treasury regulations, or by other applicable guidance.

1.09 "**Elective Deferrals**" means a contribution the Employer makes to the Plan pursuant to a Participant's Salary Reduction Agreement, as described in Section 3.02. The term "Elective Deferrals" includes Pre-Tax Elective Deferrals and Roth Elective Deferrals.

1.10 "**Employee**" means an individual who provides services for the Employer, as a common law employee of the Employer. The Employer in the Adoption Agreement must elect or specify any Employee, or class of Employees, not eligible to participate in the Plan (an "Excluded Employee"). See Section 1.16 regarding potential treatment of an Independent Contractor as an Employee.

1.11 "**Employer**" means the entity specified in the Adoption Agreement, any successor which shall maintain this Plan; and any predecessor which has maintained this Plan. In addition, where appropriate, the term Employer shall include any Participating Employer.

1.12 "**Employer Contribution**" means Nonelective Contributions or Matching Contributions.

1.13 "**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

1.14 "**Excess Deferrals**" means Deferral Contributions to a Governmental Eligible 457 Plan or to a Tax-Exempt Organization Eligible 457 Plan for a Participant that exceed the Taxable Year maximum limitation of Code §§457(b) and (e)(18).

1.15 "**Includible Compensation**" means, for the Employee's Taxable Year, the Employee's total Compensation within the meaning of Code §415(c)(3) paid to an Employee for services rendered to the Employer. Includible Compensation includes Deferral Contributions under the Plan, compensation deferred under any other plan described in Code §457, and any amount excludible from the Employee's gross income under Code §§401(k), 403(b), 125 or 132(f)(4) or any other amount excludible from the Employee's gross income for Federal income tax purposes. The Employer will determine Includible Compensation without regard to community property laws.

1.16 "**Independent Contractor**" means any individual who performs service for the Employer and who the Employer does not treat as an Employee or a Leased Employee. The Employer in the Adoption Agreement may elect to permit Independent Contractors to participate in the Plan. To the extent that the Employer permits Independent Contractor participation, references to Employee in the Plan include Independent Contractors and Compensation means the amounts the Employer pays to the Independent Contractor for services, except as the Employer otherwise specifies in the Adoption Agreement.

1.17 "**Leased Employee**" means an Employee within the meaning of Code §414(n).

1.18 "**Matching Contribution**" means an Employer fixed or discretionary contribution made or forfeiture allocated on account of Salary Reduction Contributions.

1.19 "**Nonelective Contribution**" means an Employer fixed or discretionary contribution not made as a result of a Salary Reduction Agreement and which is not a Matching Contribution.

1.20 "**Normal Retirement Age**" means the age the Employer specifies in the Adoption Agreement consistent with Section 3.05(B).

1.21 "**Participant**" is an Employee other than an Excluded Employee who becomes a Participant in accordance with the provisions of Section 2.01.

1.22 "**Plan**" means the 457 plan established or continued by the Employer in the form of this basic Plan and (if applicable) Trust Agreement, including the Adoption Agreement. The Employer in the Adoption Agreement must designate the name of the Plan. All section references within the Plan are Plan section references unless the context clearly indicates otherwise.

1.23 "**Plan Administrator**" is the Employer unless the Employer designates another person to hold the position of Plan Administrator. The Plan Administrator may be a Participant.

1.24 "**Plan Entry Date**" means the dates the Employer elects in Adoption Agreement.

1.25 "**Plan Year**" means the consecutive 12-month period the Employer elects in the Adoption Agreement.

1.26 "**Pre-Tax Elective Deferrals**" means a Participant's Salary Reduction Contributions which are not includible in the Participant's gross income at the time deferred and have been irrevocably designated as Pre-Tax Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Pre-Tax Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Pre-Tax Elective Deferrals.

1.27 "**Rollover Contribution**" means the amount of cash or property which an eligible retirement plan described in Code §402(c)(8)(B) distributes to an eligible Employee or to a Participant in an eligible rollover distribution under Code §402(c)(4) and which the eligible Employee or Participant transfers directly or indirectly to a Governmental Eligible 457 Plan. A Rollover Contribution includes net income, gain or loss attributable to the Rollover Contribution. A Rollover Contribution excludes after-tax Employee contributions, as adjusted for net income, gain or loss.

1.28 "**Roth Elective Deferrals**" means a Participant's Salary Reduction Contributions that are includible in the Participant's gross income at the time deferred and have been irrevocably designated as Roth Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Roth Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Roth Elective Deferrals. However, forfeitures may not be allocated to such account. The Plan must also maintain a record of a Participant's investment in the contract (i.e., designated Roth contributions that have not been distributed) and the year in which the Participant first made a Roth Elective Deferral.

1.29 "**Salary Reduction Agreement**" means a written agreement between a Participant and the Employer, by which

the Employer reduces the Participant's Compensation for Compensation not available as of the date of the election and contributes the amount as a Salary Reduction Contribution to the Participant's Account.

1.30 "**Salary Reduction Contribution**" means a contribution the Employer makes to the Plan pursuant to a Participant's Salary Reduction Agreement.

1.31 "**Service**" means any period of time the Employee is in the employ of the Employer. In the case of an Independent Contractor, Service means any period of time the Independent Contractor performs services for the Employer on an independent contractor basis. An Employee or Independent Contractor terminates Service upon incurring a Severance from Employment.

(A) **Qualified Military Service.** Service includes any qualified military service the Plan must credit for contributions and benefits in order to satisfy the crediting of Service requirements of Code §414(u). A Participant whose employment is interrupted by qualified military service under Code §414(u) or who is on a leave of absence for qualified military service under Code §414(u) may elect to make additional Salary Reduction Contributions upon resumption of employment with the Employer equal to the maximum Deferral Contributions that the Participant could have elected during that period if the Participant's employment with the Employer had continued (at the same level of Compensation) without the interruption of leave, reduced by the Deferral Contributions, if any, actually made for the Participant during the period of the interruption or leave. This right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave). The Employer shall make appropriate make-up Nonelective Contributions and Matching Contributions for such a Participant as required under Code §414(u). The Plan shall apply limitations of Article III to all Deferral Contributions under this paragraph with respect to the year to which the Deferral Contribution relates.

(B) "**Continuous Service**" as the Adoption Agreement describes means Service with the Employer during which the Employee does not incur a Severance from Employment.

(C) "**Severance from Employment.**"

(1) **Employee.** An Employee has a Severance from Employment when the Employee ceases to be an Employee of the Employer. A Participant does not incur a Severance from Employment if, in connection with a change in employment, the Participant's new employer continues or assumes sponsorship of the Plan or accepts a Transfer of Plan assets as to the Participant.

(2) **Independent Contractor.** An Independent Contractor has a Severance from Employment when the contract(s) under which the Independent Contractor performs services for the Employer expires (or otherwise terminates), unless the Employer anticipates a renewal of the contractual relationship or the Independent Contractor becoming an Employee. The Employer anticipates renewal if it intends to contract for the services provided under the expired contract and neither the Employer nor the Independent Contractor has eliminated the Independent Contractor as a potential provider of such services under the new contract. Further, the Employer intends to contract for services conditioned only upon the Employer's need for the services provided under the expired contract or the Employer's availability of funds. Notwithstanding the preceding provisions of this Section 1.31, the Plan Administrator will consider an Independent Contractor to have incurred a Severance from Employment: (a) if the Plan Administrator or Trustee will not pay any Deferred Compensation to an

Independent Contractor who is a Participant before a date which is at least twelve months after the expiration of the Independent Contractor's contract (or the last to expire of such contracts) to render Services to the Employer; and (b) if before the applicable twelve-month payment date, the Independent Contractor performs Service as an Independent Contractor or as an Employee, the Plan Administrator or Trustee will not pay to the Independent Contractor his or her Deferred Compensation on the applicable date.

(3) **Deemed Severance.** Notwithstanding Section 1.05(F), if the Employer elects in the Adoption Agreement, then if a Participant performs service in the uniformed services (as defined in Code §414(u)(12)(B)) on active duty for a period of more than 30 days, the Participant will be deemed to have a severance from employment solely for purposes of eligibility for distribution of amounts not subject to Code §412. However, the Plan will not distribute such a Participant's Account on account of this deemed severance unless the Participant specifically elects to receive a benefit distribution hereunder. If a Participant elects to receive a distribution on account of this deemed severance, then no Deferral Contributions may be made for the Participant during the 6-month period beginning on the date of the distribution. If a Participant would be entitled to a distribution on account of a deemed severance, and a distribution on account of another Plan provision, then the other Plan provision will control and the 6-month suspension will not apply.

1.32 "**State**" means (a) one of the 50 states of the United States or the District of Columbia, or (b) a political subdivision of a State, or any agency or instrumentality of a State or its political subdivision. A State does not include the federal government or any agency or instrumentality thereof.

1.33 "**Substantial Risk of Forfeiture**" exists if the Plan expressly conditions a Participant's right to Deferred Compensation upon the Participant's future performance of substantial Service for the Employer.

1.34 "**Tax-Exempt Organization**" means any tax-exempt organization other than a governmental unit or a church or qualified church-controlled organization within the meaning of Code §3121(w)(3).

1.35 "**Taxable Year**" means the calendar year or other taxable year of a Participant.

1.36 "**Transfer**" means a transfer of Eligible 457 Plan assets to another Eligible 457 Plan which is not a Rollover Contribution and which is made in accordance with Section 9.03.

1.37 "**Trust**" means the Trust created under the adopting Employer's Plan. A Trust required under a Governmental Eligible 457 Plan is subject to Article VIII. Any Trust under a Tax-Exempt Organization Eligible 457 Plan is subject to Section 5.09.

1.38 "**Trustee**" means the person or persons who as Trustee execute the Employer's Adoption Agreement, or any successor in office who in writing accepts the position of Trustee.

1.39 **Type of 457 Plan.** This Plan is an Eligible 457 Plan, which is a plan which satisfies the requirements of Code §457(b) and Treas. Reg. §§1.457-3 through -10. The Employer in the Adoption Agreement must specify whether the plan is either a Governmental Eligible 457 Plan or a Tax-Exempt Organization Eligible 457 Plan, as defined below:

(A) "**Governmental Eligible 457 Plan**" means an Eligible 457 Plan established by a State.

(B) "**Tax-Exempt Organization Eligible 457 Plan**" means an Eligible 457 Plan established by a Tax-Exempt Organization.

1.40 "**Vested**" means a Participant's Deferral Contributions that are not subject to a Substantial Risk of Forfeiture, including a vesting schedule.

ARTICLE II ELIGIBILITY AND PARTICIPATION

2.01 ELIGIBILITY. Each Employee who is not an Excluded Employee becomes a Participant in the Plan in accordance with the eligibility conditions and as of the Plan Entry Date the Employer elects in the Adoption Agreement. If this Plan is a restated Plan, each Employee who was a Participant in the Plan on the day before the Effective Date continues as a Participant in the Plan, irrespective of whether he/she satisfies the eligibility conditions in the restated Plan, unless the Employer indicates otherwise in the Adoption Agreement.

2.02 PARTICIPATION UPON RE-EMPLOYMENT. A Participant who incurs a Severance from Employment will re-enter the Plan as a Participant on the date of his or her re-employment. An Employee who satisfies the Plan's eligibility conditions but who incurs a Severance from Employment prior to becoming a Participant will become a Participant on the later of the Plan Entry Date on which he/she would have entered the Plan had he/she not incurred a Severance from Employment or the date of his or her re-employment. Any Employee who incurs a Severance from Employment prior to satisfying the Plan's eligibility conditions becomes a Participant in accordance with the Adoption Agreement.

2.03 CHANGE IN EMPLOYMENT STATUS. If a Participant has not incurred a Severance from Employment but ceases to be eligible to participate in the Plan, by reason of becoming an Excluded Employee, the Plan Administrator must treat the Participant as an Excluded Employee during the period such a Participant is subject to the Adoption Agreement exclusion. The Plan Administrator determines a Participant's sharing in the allocation of Employer Contributions by disregarding his or her Compensation paid by the Employer for services rendered in his or her capacity as an Excluded Employee. However, during such period of exclusion, the Participant, without regard to employment classification, continues to share fully in Plan income allocations under Section 5.07 and to accrue vesting service if applicable.

ARTICLE III DEFERRAL CONTRIBUTIONS/LIMITATIONS

3.01 AMOUNT.

(A) Contribution Formula. For each Plan Year, or other period the Employer specifies in the Adoption Agreement, the Employer will contribute to the Plan the type and amount of Deferral Contributions the Employer elects in the Adoption Agreement.

(B) Return of Contributions. The Employer contributes to this Plan on the condition its contribution is not due to a mistake of fact. If the Plan has a Trust, the Trustee, upon written request from the Employer, must return to the Employer the amount of the Employer's contribution (adjusted for net income, gain or loss) made by the Employer on account of a mistake of fact. The Trustee will not return any portion of the Employer's contribution under the provisions of this paragraph more than one year after the Employer made the contribution on account of a mistake of fact. In addition, if any Participant Salary Reduction Contribution is due to a mistake of fact, the Employer or the Trustee upon written request from the Employer shall return the Participant's contribution (adjusted for net income, gain or loss), within one year after payment of the contribution.

The Trustee will decrease the Employer contribution returnable for any losses attributable to it. The Trustee may require the Employer to furnish it whatever evidence the Trustee deems necessary to enable the Trustee to confirm the amount the Employer has requested be returned is properly returnable.

(C) Time of Payment of Contribution. If the Plan has a Trust, the Employer may pay its contributions for each Plan Year to the Trust in one or more installments and at such time(s) as the Employer determines, without interest. A Governmental Employer shall deposit Salary Reduction Contributions to the Trust within a period that is not longer than is reasonable for the administration of Participant Accounts.

3.02 SALARY REDUCTION CONTRIBUTIONS. The Employer in the Adoption Agreement must elect whether the Plan permits Salary Reduction Contributions, and also the Plan limitations, if any, which apply to Salary Reduction Contributions. Unless the Employer elects otherwise in the Adoption Agreement, all such limitations apply on a payroll basis.

(A) Deferral from Sick, Vacation and Back Pay. The Employer in the Adoption Agreement must elect whether to permit Participants to make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay.

(B) Automatic Enrollment. The Employer in the Adoption Agreement may provide for automatic Salary Reduction Contributions of a specified amount, subject to giving notice to affected Participants of the automatic election and of their right to make a contrary election.

A Governmental Employer under an Eligible 457 Plan may elect to provide an Eligible Automatic Contribution Arrangement ("EACA"). If the Employer elects to provide an EACA, the Employer will amend the Plan to add necessary language.

(C) Application to Leave of Absence and Disability. Unless a Participant in his or her Salary Reduction Agreement elects otherwise, the Participant's Salary Reduction Agreement shall continue to apply during the Participant's leave of absence or the Participant's disability (as the Plan Administrator shall

establish), if the Participant has Compensation other than imputed compensation or disability benefits.

(D) Post-severance deferrals limited to Post-Severance Compensation. Deferrals are permitted from an amount received following Severance from Employment only if the amount is Post-Severance Compensation.

3.03 MATCHING CONTRIBUTIONS. The Employer in the Adoption Agreement must elect whether the Plan permits Matching Contributions and, if so, the type(s) of Matching Contributions, the time period applicable to any Matching Contribution formula, and as applicable, the amount of Matching Contributions and the Plan limitations, if any, which apply to Matching Contributions. Any Matching Contributions apply to age 50 catch-up contributions, if any, and to any Normal Retirement Age catch-up contributions unless the Employer elects otherwise in the Adoption Agreement.

3.04 NORMAL LIMITATION. Except as provided in Sections 3.05 and 3.06, a Participant's maximum Deferral Contributions (excluding Rollover Contributions and Transfers) under this Plan for a Taxable Year may not exceed the lesser of:

(a) The applicable dollar amount as specified under Code §457(e)(15) (or such larger amount as the Commissioner of the Internal Revenue may prescribe), or

(b) 100% of the Participant's Includible Compensation for the Taxable Year.

3.05 NORMAL RETIREMENT AGE CATCH-UP CONTRIBUTION. If selected in the Adoption Agreement, a Participant may elect to make this catch-up election. For one or more of the Participant's last three Taxable Years ending before the Taxable Year in which the Participant attains Normal Retirement Age, the Participant's maximum Deferral Contributions may not exceed the lesser of:

(a) Twice the dollar amount under Section 3.04(a) Normal Limitation, or (b) the underutilized limitation.

(A) Underutilized Limitation. A Participant's underutilized limitation is equal to the sum of: (i) the normal limitation for the Taxable Year, and (ii) the normal limitation for each of the prior Taxable Years of the Participant commencing after 1978 during which the Participant was eligible to participate in the Plan and the Participant's Deferral Contributions were subject to the Normal Limitation or any other Code §457(b) limit, less the amount of Deferral Contributions for each such prior Taxable Year, excluding age 50 catch-up contributions.

(B) Normal Retirement Age. Normal Retirement Age is the age the Employer specifies in the Adoption Agreement provided that the age may not be: (i) earlier than the earliest of age 65 or the age at which Participants have the right to retire and receive under the Employer's defined benefit plan (or money purchase plan if the Participant is not eligible to participate in a defined benefit plan) immediate retirement benefits without actuarial or other reduction because of retirement before a later specified age; or (ii) later than age 70 1/2.

(1) Participant Designation. The Employer in the Adoption Agreement may permit a Participant to designate his or her Normal Retirement Age as any age including or between the foregoing ages.

(2) Multiple 457 Plans. If the Employer maintains more than one Eligible 457 Plan, the Plans may not permit any Participant to have more than one Normal Retirement Age under the Plans.

(3) Police and Firefighters. In a Governmental Eligible 457 Plan with qualified police or firefighter Participants within the meaning of Code §415(b)(2)(H)(ii)(I), the Employer in the Adoption Agreement may elect (or permit the qualified Participants to elect) a Normal Retirement Age as early as age 40 and as late as age 70 1/2.

(C) Pre-2002 Coordination. In determining a Participant's underutilized limitation, the Plan Administrator, in accordance with Treas. Reg. §1.457-4(c)(3)(iv), must apply the coordination rule in effect under now repealed Code §457(c)(2). The Plan Administrator also must determine the Normal Limitation for pre-2002 Taxable Years in accordance with Code §457(b)(2) as then in effect.

3.06 AGE 50 CATCH-UP CONTRIBUTION. An Employer sponsoring a Governmental Eligible 457 Plan must specify in the Adoption Agreement whether the Participants are eligible to make age 50 catch-up contributions.

If an Employer elects to permit age 50 catch-up contributions, all Employees who are eligible to make Salary Reduction Contributions under this Plan and who have attained age 50 before the close of the Taxable Year are eligible to make age 50 catch-up contributions for that Taxable Year in accordance with, and subject to the limitations of, Code §414(v). Such catch-up contributions are not taken into account for purposes of the provisions of the Plan implementing the required limitations of Code §457. If, for a Taxable Year, an Employee makes a catch-up contribution under Section 3.05, the Employee is not eligible to make age 50 catch-up contributions under this Section 3.06. A catch-up eligible Participant in each Taxable Year is entitled to the greater of the amount determined under Section 3.05 or Section 3.06 Catch-Up Amount plus the Section 3.04 Normal Limitation.

3.07 CONTRIBUTION ALLOCATION. The Plan Administrator will allocate to each Participant's Account his or her Deferral Contributions. The Employer will allocate Employer Nonelective and Matching Contributions to the Account of each Participant who satisfies the allocation conditions in the Adoption Agreement in the following manner:

(a) Fixed match. To the extent the Employer makes Matching Contributions under a fixed Adoption Agreement formula, the Plan Administrator will allocate the Matching Contribution to the Account of the Participant on whose behalf the Employer makes that contribution. A fixed Matching Contribution formula is a formula under which the Employer contributes a specified percentage or dollar amount on behalf of a Participant based on that Participant's Salary Reduction Contributions.

(b) Discretionary match. To the extent the Employer makes Matching Contributions under a discretionary Adoption Agreement formula, the Plan Administrator will allocate the Matching Contributions to a Participant's Account in the same proportion that each Participant's Salary Reduction Contributions taken into account under the formula bear to the total Salary Reduction Contributions of all Participants.

(c) Tiered match. If the Matching Contribution formula is a tiered formula, the Plan Administrator will allocate separately the Matching Contributions with respect to each tier of Salary Reduction Contributions, in accordance with the tiered formula.

(d) Discretionary nonelective. The Plan Administrator will allocate discretionary Nonelective Contributions for a Plan Year in the same ratio that each Participant's Compensation for the Plan Year bears to the total Compensation of all Participants for the Plan Year, unless the Employer elects otherwise in the Adoption Agreement.

(e) Fixed nonelective. The Plan Administrator will allocate fixed Nonelective Contributions for a Plan Year in the same ratio that each Participant's Compensation for the Plan Year bears to the total Compensation of all Participants for the Plan Year, unless the Employer elects otherwise in the Adoption Agreement.

(f) Other nonelective. The Plan Administrator will allocate Nonelective Contributions for a Plan Year as specified in the Adoption Agreement.

3.08 ALLOCATION CONDITIONS. The Plan Administrator will determine the allocation conditions applicable to Nonelective Contributions or to Matching Contributions (or to both) in accordance with the Employer's elections in the Adoption Agreement. The Plan Administrator will not allocate to a Participant any portion of an Employer Contribution (or forfeiture if applicable) for a Plan Year or applicable portion thereof in which the Participant does not satisfy the applicable allocation condition(s).

3.09 ROLLOVER CONTRIBUTIONS. If elected in the Adoption Agreement, an Employer sponsoring a Governmental Eligible 457 Plan may permit Rollover Contributions.

(A) Operational Administration. The Employer, operationally and on a nondiscriminatory basis, may elect to limit an eligible Employee's right or a Participant's right to make a Rollover Contribution. Any Participant (or as applicable, any eligible Employee), with the Employer's written consent and after filing with the Trustee the form prescribed by the Plan Administrator, may make a Rollover Contribution to the Trust. Before accepting a Rollover Contribution, the Trustee may require a Participant (or eligible Employee) to furnish satisfactory evidence the proposed transfer is in fact a "Rollover Contribution" which the Code permits an employee to make to an eligible retirement plan. The Trustee, in its sole discretion, may decline to accept a Rollover Contribution of property which could: (1) generate unrelated business taxable income; (2) create difficulty or undue expense in storage, safekeeping or valuation; or (3) create other practical problems for the Trust.

(B) Pre-Participation Rollover. If an eligible Employee makes a Rollover Contribution to the Trust prior to satisfying the Plan's eligibility conditions, the Plan Administrator and Trustee must treat the Employee as a limited Participant (as described in Rev. Rul. 96-48 or in any successor ruling). A limited Participant does not share in the Plan's allocation of any Employer Contributions and may not make Salary Reduction Contributions until he/she actually becomes a Participant in the Plan. If a limited Participant has a Severance from Employment prior to becoming a Participant in the Plan, the Trustee will distribute his or her Rollover Contributions Account to the limited Participant in accordance with Article IV.

(C) Separate Accounting. If an Employer permits Rollover Contributions, the Plan Administrator must account separately for: (1) amounts rolled into this Plan from an eligible retirement plan (other than from another Governmental Eligible 457 plan); and (2) amounts rolled into this Plan from another Governmental Eligible 457 Plan. The Plan Administrator for purposes of ordering any subsequent distribution from this Plan,

may designate a distribution from a Participant's Rollover Contributions as coming first from either of (1) or (2) above if the Participant has both types of Rollover Contribution Accounts.

(D) May Include Roth Deferrals. If this Plan is an eligible governmental 457(b) plan which accepts Roth Elective Deferrals, then a Rollover Contribution may include Roth Deferrals made to another plan, as adjusted for Earnings. Such amounts must be directly rolled over into this Plan from another plan which is qualified under Code §401(a), from a 403(b) plan, or from an eligible governmental 457 plan. The Plan must account separately for the Rollover Contribution, including the Roth Deferrals and the Earnings thereon.

(E) In-Plan Roth Rollover Contributions. A Governmental Employer under an Eligible 457 Plan may elect to permit In-Plan Roth Rollover Contribution. If the Employer decides to permit In-Plan Roth Rollover Contributions, the Employer will amend the Plan to add necessary language.

3.10 **DISTRIBUTION OF EXCESS DEFERRALS.** In the event that a Participant has Excess Deferrals, the Plan will distribute to the Participant the Excess Deferrals and allocable net income, gain or loss, in accordance with this Section 3.10.

(A) Governmental Eligible 457 Plan. The Plan Administrator will distribute Excess Deferrals from a Governmental Eligible 457 Plan as soon as is reasonably practicable following the Plan Administrator's determination of the amount of the Excess Deferral.

(B) Tax-Exempt Organization Eligible 457 Plan. The Plan Administrator will distribute Excess Deferrals from a Tax-Exempt Organization Eligible 457 Plan no later than April 15 following the Taxable Year in which the Excess Deferral occurs.

(C) Plan Aggregation. If the Employer maintains more than one Eligible 457 Plan, the Employer must aggregate all such Plans in determining whether any Participant has Excess Deferrals.

(D) Individual Limitation. If a Participant participates in another Eligible 457 Plan maintained by a different employer, and the Participant has Excess Deferrals, the Plan Administrator may, but is not required, to correct the Excess Deferrals by making a corrective distribution from this Plan.

3.11 **DEEMED IRA CONTRIBUTIONS.** A Governmental Employer under an Eligible 457 Plan may elect to permit Participants to make IRA contributions to this Plan in accordance with the Code §408(q) deemed IRA rules. If the Employer elects to permit deemed IRA contributions to the Plan, the Employer will amend the Plan to add necessary IRA language and either the Rev. Proc. 2003-13 sample deemed IRA language or an appropriate substitute.

3.12 **ROTH ELECTIVE DEFERRALS.** The Employer may elect in the Adoption Agreement to permit Roth Elective Deferrals. Unless elected otherwise, Roth Elective Deferrals shall be treated in the same manner as Elective Deferrals. The Employer may, in operation, implement deferral election procedures provided such procedures are communicated to Participants and permit Participants to modify their elections at least once each Plan Year.

(A) Elective Deferrals. "Elective Deferral" means a contribution the Employer makes to the Plan pursuant to a Participant's Salary Reduction Agreement, as described in

Section 3.02. The term "Elective Deferrals" includes Pre-tax Elective Deferrals and Roth Elective Deferrals.

(B) Pre-Tax Elective Deferrals. "Pre-Tax Elective Deferrals" means a Participant's Salary Reduction Contributions which are not includible in the Participant's gross income at the time deferred and have been irrevocably designated as Pre-Tax Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Pre-Tax Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Pre-Tax Elective Deferrals.

(C) Roth Elective Deferrals. "Roth Elective Deferrals" means a Participant's Salary Reduction Contributions that are includible in the Participant's gross income at the time deferred and have been irrevocably designated as Roth Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Roth Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Roth Elective Deferrals. However, forfeitures may not be allocated to such account. The Plan must also maintain a record of a Participant's investment in the contract (i.e., designated Roth contributions that have not been distributed) and the year in which the Participant first made a Roth Elective Deferral.

(D) Ordering Rules for Distributions. The Administrator operationally may implement an ordering rule procedure for withdrawals (including, but not limited to, withdrawals on account of an unforeseeable emergency) from a Participant's accounts attributable to Pre-Tax Elective Deferrals or Roth Elective Deferrals. Such ordering rules may specify whether the Pre-Tax Elective Deferrals or Roth Elective Deferrals are distributed first. Furthermore, such procedure may permit the Participant to elect which type of Elective Deferrals shall be distributed first.

(E) Corrective distributions attributable to Roth Elective Deferrals. For any Plan Year in which a Participant may make both Roth Elective Deferrals and Pre-Tax Elective Deferrals, the Administrator operationally may implement an ordering rule procedure for the distribution of Excess Deferrals (Treas. Reg. §1.457-4(e)). Such an ordering rule may specify whether the Pre-Tax Elective Deferrals or Roth Elective Deferrals are distributed first, to the extent such type of Elective Deferrals was made for the year. Furthermore, such procedure may permit the Participant to elect which type of Elective Deferrals shall be distributed first.

(F) Loans. If Participant loans are permitted under the Plan, then the Administrator may modify the loan policy or program to provide limitations on the ability to borrow from, or use as security, a Participant's Roth Elective Deferral account. Similarly, the loan policy or program may be modified to provide for an ordering rule with respect to the default of a loan that is made from the Participant's Roth Elective Deferral account and other accounts under the Plan.

(G) Rollovers. A direct rollover of a distribution from Roth Elective Deferrals shall only be made to a Plan which includes Roth Elective Deferrals as described in Code §402A(e)(1) or to a Roth IRA as described in Code §408A, and only to the extent the rollover is permitted under the rules of Code §402(c).

The Plan shall accept a rollover contribution of Roth Elective Deferrals only if it is a direct rollover from another Plan which permits Roth Elective Deferrals as described in Code

§402A(e)(1) and only to the extent the rollover is permitted under the rules of Code §402(c). The Employer, operationally and on a uniform and nondiscriminatory basis, may decide whether to accept any such rollovers.

The Plan shall not provide for a direct rollover (including an automatic rollover) for distributions from a Participant's Roth Elective Deferral account if the amount of the distributions that are eligible rollover distributions are reasonably expected to total less than \$200 during a year. In addition, any distribution from a Participant's Roth Elective Deferrals are not taken into account in determining whether distributions from a Participant's other accounts are reasonably expected to total less than \$200 during a year. Furthermore, the Plan will treat a Participant's Roth Elective Deferral account and the Participant's other accounts as held under two separate plans for purposes of applying the automatic rollover rules. However, eligible rollover distributions of a Participant's Roth Elective Deferrals are taken into account in determining whether the total amount of the Participant's account balances under the Plan exceed the Plan's limits for purposes of mandatory distributions from the Plan.

The provisions of the Plan that allow a Participant to elect a direct rollover of only a portion of an eligible rollover distribution but only if the amount rolled over is at least \$500 is applied by treating any amount distributed from a Participant's Roth Elective Deferral account as a separate distribution from any amount distributed from the Participant's other accounts in the Plan, even if the amounts are distributed at the same time.

(H) Automatic Enrollment. If the Plan utilizes an automatic enrollment feature as described in Section 3.02(B), then any such automatic contribution shall be a Pre-Tax Elective Deferral.

(I) Operational Compliance. The Plan Administrator will administer Roth Elective Deferrals in accordance with applicable regulations or other binding authority.

3.13 BENEFIT ACCRUAL. If the Employer elects to apply this Section, then effective as of the date adopted, for benefit accrual purposes, the Plan treats an individual who dies or becomes disabled (as defined under the terms of the Plan) while performing qualified military service with respect to the Employer as if the individual had resumed employment in accordance with the individual's reemployment rights under USERRA, on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability.

(A) Determination of benefits. The amount of Matching Contributions to be made pursuant to this Section 3.13 shall be determined as though the amount of Salary Reduction Contributions of an individual treated as reemployed under this Section on the basis of the individual's average actual Salary Reduction Contributions for the lesser of: (i) the 12-month period of service with the Employer immediately prior to qualified military service; or (ii) the actual length of continuous service with the Employer.

3.14 ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGEMENT (EACA). As elected in the Adoption Agreement, the Employer maintains a Plan with automatic enrollment provisions as an Eligible Automatic Contribution Arrangement ("EACA"). Accordingly, the Plan will satisfy the (1) uniformity requirements, and (2) notice requirements under this Section.

(A) Uniformity. The Automatic Deferral Percentage must be a uniform percentage of Compensation. All Participants in the EACA, are subject to Automatic Deferrals, except to the extent otherwise provided in this Plan. If a Participant's Affirmative Election expires or otherwise ceases to be in effect, the Participant will immediately thereafter be subject to Automatic Deferrals, except to the extent otherwise provided in this Plan. However, the Plan does not violate the uniform Automatic Deferral Percentage merely because the Plan applies any of the following provisions:

(a) Years of participation. The Automatic Deferral Percentage varies based on the number of plan years the Participant has participated in the Plan while the Plan has applied EACA provisions;

(b) No reduction from prior default percentage. The Plan does not reduce an Automatic Deferral Percentage that, immediately prior to the EACA's effective date was higher (for any Participant) than the Automatic Deferral Percentage;

(c) Applying statutory limits. The Plan limits the Automatic Deferral amount so as not to exceed the limits of Code Section 457(b)(2) (determined without regard to Age 50 Catch-Up Deferrals).

(B) EACA notice. The Plan Administrator annually will provide a notice to each Participant a reasonable period prior to each plan year the Employer maintains the Plan as an EACA ("EACA Plan Year").

(a) Deemed reasonable notice/new Participant. The Plan Administrator is deemed to provide timely notice if the Plan Administrator provides the EACA notice at least 30 days and not more than 90 days prior to the beginning of the EACA Plan Year.

(b) Mid-year notice/new Participant or Plan. If: (a) an Employee becomes eligible to make Salary Reduction Contributions in the Plan during an EACA Plan Year but after the Plan Administrator has provided the annual EACA notice for that plan year; or (b) the Employer adopts mid-year a new Plan as an EACA, the Plan Administrator must provide the EACA notice no later than the date the Employee becomes eligible to make Salary Reduction Contributions. However, if it is not practicable for the notice to be provided on or before the date an Employee becomes a Participant, then the notice will nonetheless be treated as provided timely if it is provided as soon as practicable after that date and the Employee is permitted to elect to defer from all types of Compensation that may be deferred under the Plan earned beginning on that date.

(c) Content. The EACA notice must provide comprehensive information regarding the Participants' rights and obligations under the Plan and must be written in a manner calculated to be understood by the average Participant in accordance with applicable guidance.

(C) EACA permissible withdrawal. If elected in in the Adoption Agreement, a Participant who has Automatic Deferrals under the EACA may elect to withdraw all the Automatic Deferrals (and allocable earnings) under the provisions of this Section 3.14. Any distribution made pursuant to this Section will be processed in accordance with normal distribution provisions of the Plan.

(a) Amount. If a Participant elects a permissible withdrawal under this Section, then the Plan must make a

distribution equal to the amount (and only the amount) of the Automatic Deferrals made under the EACA (adjusted for allocable gains and losses to the date of the distribution). The Plan may separately account for Automatic Deferrals, in which case the entire account will be distributed. If the Plan does not separately account for the Automatic Deferrals, then the Plan must determine earnings or losses in a manner similar to the rules of Treas. Reg. §1.401(k)-2(b)(2)(iv) for distributions of excess contributions.

(b) Fees. Notwithstanding the above, the Plan Administrator may reduce the permissible distribution amount by any generally applicable fees. However, the Plan may not charge a greater fee for distribution under this Section than applies to other distributions. The Plan Administrator may adopt a policy regarding charging such fees consistent with this paragraph.

(c) Timing. The Participant may make an election to withdraw the Automatic Deferrals under the EACA no later than 90 days, or such shorter period as specified in the Adoption Agreement, after the date of the first Automatic Deferral under the EACA. For this purpose, the date of the first Automatic Deferral is the date that the Compensation subject to the Automatic Deferral otherwise would have been includible in the Participant's gross income. Furthermore, a Participant's withdrawal right is not restricted due to the Participant making an Affirmative Election during the 90 day period (or shorter period as specified in Adoption Agreement.).

(d) Rehired Employees. For purposes of this Section, an Employee who for an entire Plan Year did not have contributions made pursuant to a default election under the EACA will be treated as having not had such contributions for any prior Plan Year as well.

(e) Effective date of the actual withdrawal election: The effective date of the permissible withdrawal will be as soon as practicable, but in no event later than the earlier of (1) the pay date of the second payroll period beginning after the election is made, or (2) the first pay date that occurs at least 30 days after the election is made. The election will also be deemed to be an Affirmative Election to have no Salary Reduction Contributions made to the Plan.

(f) Related matching contributions. The Plan Administrator will not take any deferrals withdrawn pursuant to this section into account in computing the contribution and allocation of matching contributions, if any. If the Employer has already allocated matching contributions to the Participant's account with respect to deferrals being withdrawn pursuant to this Section, then the matching contributions, as adjusted for gains and losses, must be forfeited. Except as otherwise provided, the Plan will use the forfeited contributions to reduce future contributions or to reduce plan expenses.

(D) Compensation. Compensation for purposes of determining the amount of Automatic Deferrals has the same meaning as Compensation with regard to Salary Reduction Contributions in general.

(E) Definitions.

(a) Definition of Automatic Deferral. An Automatic Deferral is a Salary Reduction Contribution that results from the operation of this Article III. Under the Automatic Deferral, the Employer automatically will reduce by the Automatic Deferral Percentage as elected the Compensation of each Participant subject to the EACA. The Plan Administrator will cease to apply the Automatic Deferral to a Participant who makes an Affirmative Election as defined in this Section.

(b) Definition of Automatic Deferral Percentage/Increases. The Automatic Deferral Percentage is the percentage of Automatic Deferral (including any scheduled increase to the Automatic Deferral Percentage the Employer may elect).

(c) Effective date of EACA Automatic Deferral. The effective date of an Employee's Automatic Deferral will be as soon as practicable after the Employee is subject to Automatic Deferrals under the EACA, consistent with (a) applicable law, and (b) the objective of affording the Employee a reasonable period of time after receipt of the notice to make an Affirmative Election (and, if applicable, an investment election).

(d) Definition of Affirmative Election. An Affirmative Election is a Participant's election made after the EACA's Effective Date not to defer any Compensation or to defer more or less than the Automatic Deferral Percentage.

(e) Effective Date of Affirmative Election. A Participant's Affirmative Election generally is effective as of the first payroll period which follows the payroll period in which the Participant made the Affirmative Election. However, a Participant may make an Affirmative Election which is effective: (a) for the first payroll period in which he or she becomes a Participant if the Participant makes an Affirmative Election within a reasonable period following the Participant's entry date and before the Compensation to which the Election applies becomes currently available; or (b) for the first payroll period following the EACA's effective date, if the Participant makes an Affirmative Election not later than the EACA's effective date.

3.15 IN-PLAN ROTH ROLLOVER CONTRIBUTION

(a) Employer Election. The Employer in its Adoption Agreement in which the Employer has elected to permit Roth Deferrals also will elect whether to permit an In-Plan Roth Rollover Contribution in accordance with this Section with regard to otherwise distributable amounts and/or otherwise nondistributable amounts. If the Employer elects to permit such contributions, the Employer in its Adoption Agreement will specify the Effective Date thereof which may not be earlier than distributions made after September 27, 2010, and may not be earlier than January 1, 2013 in the case of rollovers of otherwise nondistributable amounts. An In-Plan Roth Rollover Contribution means a Rollover Contribution to the Plan that consists of a distribution or transfer from a Participant's Plan Account, other than a Roth Deferral Account, that the Participant transfers to the Participant's In-Plan Roth Rollover Contribution Account in the Plan, in accordance with Code §402(c)(4). In-Plan Roth Rollover Contributions will be subject to the Plan rules related to Roth Deferral Accounts, subject to preservation of protected benefits.

(b) Eligibility for Distribution and Rollover. A Participant may not make an In-Plan Roth Rollover Contribution with regard to an otherwise distributable amount which is not an Eligible Rollover Distribution.

(1) Parties eligible to elect. For purposes of eligibility for an In-Plan Roth Rollover, the Plan will treat a Participant's surviving spouse Beneficiary or alternate payee spouse or alternate payee former spouse as a Participant. A non-spouse Beneficiary may not make an In-Plan Roth Rollover.

(2) Distribution from partially Vested account. In-Plan Roth Rollovers are permitted only from Vested amounts allocated to a qualifying source but may be made from partially Vested Accounts. If a distribution is made to a Participant who

has not incurred a Severance from Employment and who is not fully Vested in the Participant's Account from which the In-Plan Roth Rollover Contribution is to be made, and the Participant may increase the Vested percentage in such Account.

(c) Form and Source of Rollover.

(1) Direct Rollover. An In-Plan Roth Rollover Contribution may be made only by a Direct Rollover.

(2) Account source. A Participant may make an In-Plan Roth Rollover from any account (other than a Roth account).

(3) Cash or in-kind. The Plan Administrator will effect an In-Plan Roth Rollover Contribution by rolling over the Participant's current investments to the In-Plan Roth Rollover Account. A Plan loan so rolled over without changing the repayment schedule is not treated as a new loan. However the Employer may provide that loans cannot be rolled over in an In-Plan Roth Rollover.

(4) No Rollover or Distribution Treatment. Notwithstanding any other Plan provision, an In-Plan Roth Rollover Contribution is not a Rollover Contribution for

purposes of the Plan. Accordingly: (a) if the Employer in its Adoption Agreement has elected \$5,000 as the Plan limit on Mandatory Distributions, the Plan Administrator will take into account amounts attributable to an In-Plan Roth Rollover Contribution, in determining if the \$5,000 limit is exceeded, regardless of the Employer's election as to whether to count Rollover Contributions for this purpose; (b) no spousal consent is required for a Participant to elect to make an In-Plan Roth Rollover Contribution; (c) protected benefits with respect to the amounts subject to the In-Plan Roth Rollover are preserved; and (d) mandatory 20% federal income tax withholding does not apply to the In Plan Roth Rollover Contribution.

(5) In-Plan Roth Rollover Contribution Account.

An In-Plan Roth Rollover Contribution Account is a sub-account the Plan Administrator may establish to account for a Participant's Rollover Contributions attributable to the Participant's In-Plan Roth Rollover Contributions. The Plan Administrator has authority to establish such a sub-account, and to the extent necessary, may establish sub-accounts based on the source of the In-Plan Roth Rollover Contribution. The Plan Administrator will administer an In-Plan Roth Rollover Contribution Account in accordance with Code and the Plan provisions.

**ARTICLE IV
TIME AND METHOD OF
PAYMENT OF BENEFITS**

4.01 DISTRIBUTION RESTRICTIONS. Except as the Plan provides otherwise, the Plan Administrator or Trustee may not distribute to a Participant the amounts in his or her Account prior to one of the following events:

- (a) The Participant's attaining age 70 1/2;
- (b) The Participant's Severance from Employment; or
- (c) The Participant's death.

4.02 TIME AND METHOD OF PAYMENT OF ACCOUNT. The Plan Administrator, or Trustee at the direction of the Plan Administrator, will distribute to a Participant who has incurred a Severance from Employment the Participant's Vested Account under one or any combination of payment methods and at the time(s) the Adoption Agreement specifies. If the Adoption Agreement permits more than one time or method, the Plan Administrator, in the absence of a Participant election described below, will determine the time and method applicable to a particular Participant. In no event will the Plan Administrator direct (or direct the Trustee to commence) distribution, nor will the Participant elect to have distribution commence, later than the Participant's required beginning date, or under a method that does not satisfy Section 4.03.

(A) Participant Election of Time and Method. The Employer in the Adoption Agreement must elect whether to permit Participants to elect the timing and method of distribution of their Account in accordance with this Section 4.02. The Plan Administrator must consent to the specific terms of any such Participant election and the Plan Administrator in its sole discretion may withhold consent. Subject to the foregoing conditions, a Participant: (1) may elect to postpone distribution of his or her Account beyond the time the Employer has elected in the Adoption Agreement, to any fixed or determinable date including, but not beyond, the Participant's required beginning date; and (2) may elect the method of payment. A Participant in a Tax Exempt Organization Eligible 457 Plan may elect the timing and method of payment of his or her Account no later than 30 days before the date the Plan Administrator or Trustee first would commence payment of the Participant's Account in accordance with the Adoption Agreement. The Plan Administrator must furnish to the Participant a form for the Participant to elect the time and a method of payment. A Participant in a Governmental Eligible 457 Plan is not subject to any such requirement in election the timing or method of payment.

(B) Number of Initial Elections/Subsequent Elections. A Participant in a Tax-Exempt Organization Eligible 457 Plan may make any number of elections or revoke any prior election under Section 4.02(A) within the election period. Once the initial election period expires, a Participant, before payment would commence under the Participant's initial election, may make one additional election to defer (but not to accelerate) the timing of payment of his or her Account and also as to the method of payment.

(C) No Election/Default. If the Participant does not make a timely election regarding the time and method of payment, the Plan Administrator will pay or direct the Trustee to pay the Participant's Account in accordance with the Adoption Agreement.

(D) Mandatory Distribution. The Employer in the Adoption Agreement will elect whether the Plan will make Mandatory

Distributions. If the Employer elects Mandatory Distributions, the Employer may determine operationally whether to include Rollover Contributions in determining whether the Participant is subject to Mandatory Distributions.

4.03 REQUIRED MINIMUM DISTRIBUTIONS. The Plan Administrator may not distribute nor direct the Trustee to distribute the Participant's Account, nor may the Participant elect any distribution his or her Account, under a method of payment which, as of the required beginning date, does not satisfy the minimum distribution requirements of Code §401(a)(9) or which is not consistent with applicable Treasury regulations.

(A) General Rules.

(1) Precedence. The requirements of this Section 4.03 will take precedence over any inconsistent provisions of the Plan.

(2) Requirements of Treasury Regulations Incorporated. All distributions required under this Section 4.03 will be determined and made in accordance with the Treasury regulations under Code §401(a)(9).

(B) Time and Manner of Distribution.

(1) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.

(2) Death of Participant Before Distribution Begins. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(a) Spouse Designated Beneficiary. If the Participant's surviving spouse is the Participant's sole designated Beneficiary, then, except as the Employer may elect in the Adoption Agreement, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant dies, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later.

(b) Non-Spouse Designated Beneficiary. If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then, except as the Employer may elect in the Adoption Agreement, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(c) No Designated Beneficiary. If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(d) Death of Spouse. If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 4.03(B)(2) other than Section 4.03(B)(2)(a), will apply as if the surviving spouse were the Participant.

For purposes of this Section 4.03(B) and Section 4.03(D), unless Section 4.03(B)(2)(d) applies, distributions are considered to begin on the Participant's required beginning date. If Section 4.03(B)(2)(d) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 4.03(B)(2)(a). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 4.03(B)(2)(a), the date distributions are considered to begin is the date distributions actually commence.

(3) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Sections 4.03(C) and 4.03(D). If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code §401(a)(9) and the Treasury regulations.

(C) Required Minimum Distributions during Participant's Lifetime.

(1) Amount of Required Minimum Distribution for Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

(a) ULT. The quotient obtained by dividing the Participant's account balance by the number in the Uniform Life Table set forth in Treas. Reg. §1.401(a)(9)-9, using the Participant's attained age as of the Participant's birthday in the distribution calendar year; or

(b) Younger Spouse. If the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in Treas. Reg. §1.401(a)(9)-9, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(2) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this Section 4.03(C) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(D) Required Minimum Distributions after Participant's Death.

(1) Death On or After Distributions Begin.

(a) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:

(i) Participant's Life Expectancy. The Participant's remaining life expectancy is calculated using the attained age of the Participant as of the Participant's birthday in

the calendar year of death, reduced by one for each subsequent calendar year.

(ii) Spouse's Life Expectancy. If the Participant's surviving spouse is the Participant's sole designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the attained age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(iii) Non-Spouse's Life Expectancy. If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the attained age of the Beneficiary as of the Beneficiary's birthday in the calendar year following the calendar year of the Participant's death, reduced by one for each subsequent calendar year.

(b) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the calendar year after the calendar year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the calendar year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the attained age of the Participant as of the Participant's birthday in the calendar year of death, reduced by one for each subsequent calendar year.

(2) Death before Date Distributions Begin.

(a) Participant Survived by Designated Beneficiary. Except as the Employer may elect in the Adoption Agreement, if the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 4.03(D)(1).

(b) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(c) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 4.03(B)(2)(a), this Section 4.03(D)(2) will apply as if the surviving spouse were the Participant.

(d) 5-year or Life Expectancy rule; possible election. The Employer in its Adoption Agreement will elect whether distribution of the Participant's Account will be made in accordance with the life expectancy rule under Section 4.03(D)(2)(a) or the 5-year rule under Section 4.03(D)(2)(b). The Employer's election may permit a Designated Beneficiary to elect which of these rules will apply or may specify which rule applies. However, the life expectancy rule (whether subject to

election or not) applies only in the case of a Designated Beneficiary. The 5-year rule applies as to any Beneficiary who is not a Designated Beneficiary. A permitted election under this Section must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 4.03(D)(2)(a), or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death.

(E) Definitions.

(1) Designated Beneficiary. The individual who is designated as the Beneficiary under the Plan and is the designated beneficiary under Code §401(a)(9) and Treas. Reg. §1.401(a)(9)-1, Q&A-4.

(2) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which the distributions are required to begin under Section 4.03(B)(2). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

(3) Life expectancy. Life expectancy as computed by use of the Single Life Table in Treas. Reg. §1.401(a)(9)-9.

(4) Participant's account balance. The account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any Rollover Contributions or Transfers to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(5) Required beginning date. A Participant's required beginning date is the April 1 of the calendar year following the later of: (1) the calendar year in which the Participant attains age 70 1/2, or (2) the calendar year in which the Participant retires or such other date under Code §401(a)(9) by which required minimum distributions must commence.

4.04 DEATH BENEFITS. Upon the death of the Participant, the Plan Administrator must pay or direct the Trustee to pay the Participant's Account in accordance with Section 4.03. Subject to Section 4.03, a Beneficiary may elect the timing and method of payment in the same manner as a Participant may elect under Section 4.02, if such elections apply.

If a Participant dies while performing qualified military service (as defined in Code §414(u)), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Participant had resumed and then terminated employment on account of death.

4.05 DISTRIBUTIONS PRIOR TO SEVERANCE FROM EMPLOYMENT. The Employer must elect in the Adoption Agreement whether to permit in-service distributions of a Participant's Vested Account under this Section 4.05, notwithstanding the Section 4.01 distribution restrictions.

(A) Unforeseeable Emergency. In the event of a Participant's or the Participant's spouse, dependents or beneficiaries' unforeseeable emergency, the Plan Administrator may make a distribution to a Participant who has not incurred a Severance from Employment (or who has incurred a Severance but will not begin to receive payments until some future date). In the event of an unforeseeable emergency, the Plan Administrator also may accelerate payments to a Participant or to a Beneficiary. The Plan Administrator will establish a policy for determining whether an unforeseeable emergency exists. An unforeseeable emergency is a severe financial hardship of a Participant or Beneficiary resulting from: (1) illness or accident of the Participant, the Beneficiary, or the Participant's or Beneficiary's spouse or dependent (as defined in Code §152(a)); (2) loss of the Participant's or Beneficiary's property due to casualty; (3) the need to pay for the funeral expenses of the Participant's or Beneficiary's spouse or dependent (as defined in Code §152(a)); or (4) other similar extraordinary and unforeseeable circumstances arising from events beyond the Participant's or Beneficiary's control, or which applicable law may define as an unforeseeable emergency. The Plan Administrator will not pay the Participant or the Beneficiary more than the amount reasonably necessary to satisfy the emergency need, which may include amounts necessary to pay taxes or penalties on the distribution. The Plan Administrator will not make payment to the extent the Participant or Beneficiary may relieve the financial hardship by cessation of deferrals under the Plan, through insurance or other reimbursement, or by liquidation of the individual's assets to the extent such liquidation would not cause severe financial hardship.

The Participant's Beneficiary is a person who a Participant designates and who is or may become entitled to a Participant's Plan Account upon the Participant's death.

(B) De minimis distribution. In accordance with the Employer's Adoption Agreement elections, the Plan Administrator may allow a Participant to elect to receive a distribution or the Plan Administrator will distribute (without a Participant election) any amount of the Participant's Account where: (1) the Participant's Account (disregarding Rollover Contributions) does not exceed \$5,000 (or such other amount as does not exceed the Code §411(a)(11)(A) dollar amount); (2) the Participant has not made or received an allocation of any Deferral Contributions under the Plan during the two-year period ending on the date of distribution; and (3) the Participant has not received a prior distribution under this Section 4.05(B).

(C) Distribution of Rollover Contributions. The Employer in the Adoption Agreement may elect to permit a Participant to request and to receive distribution of the Participant's Account attributable to Rollover Contributions (but not to Transfers) before the Participant has a distributable event under Section 4.01.

4.06 DISTRIBUTIONS UNDER QUALIFIED DOMESTIC RELATIONS ORDERS (QDROs).

Notwithstanding any other provision of this Plan, the Employer in the Adoption Agreement may elect to apply the QDRO provisions of this Section 4.06. If Section 4.06 applies, the Plan Administrator (and any Trustee) must comply with the terms of a QDRO, as defined in Code §414(p), which is issued with respect to the Plan.

(A) Time and Method of Payment. This Plan specifically permits distribution to an alternate payee under a QDRO at any time, notwithstanding any contrary Plan provision and irrespective of whether the Participant has attained his or her earliest retirement age (as defined under Code §414(p)) under the Plan. A distribution to an alternate payee prior to the Participant's attainment of earliest retirement age is available only if the QDRO specifies distribution at that time or permits an agreement between the Plan and the alternate payee to authorize an earlier distribution. Nothing in this Section 4.06 gives a Participant a right to receive distribution at a time the Plan otherwise does not permit nor authorizes the alternate payee to receive a form of payment the Plan does not permit.

(B) QDRO Procedures. The Plan Administrator must establish reasonable procedures to determine the qualified status of a domestic relations order. Upon receiving a domestic relations order, the Plan Administrator promptly will notify the Participant and any alternate payee named in the order, in writing, of the receipt of the order and the Plan's procedures for determining the qualified status of the order. Within a reasonable period of time after receiving the domestic relations order, the Plan Administrator must determine the qualified status of the order and must notify the Participant and each alternate payee, in writing, of the Plan Administrator's determination. The Plan Administrator must provide notice under this paragraph by mailing to the individual's address specified in the domestic relations order.

(C) Accounting. If any portion of the Participant's Account Balance is payable under the domestic relations order during the period the Plan Administrator is making its determination of the qualified status of the domestic relations order, the Plan Administrator must maintain a separate accounting of the amounts payable. If the Plan Administrator determines the order is a QDRO within 18 months of the date amounts first are payable following receipt of the domestic relations order, the Plan Administrator will distribute or will direct the Trustee to distribute the payable amounts in accordance with the QDRO. If the Plan Administrator does not make its determination of the qualified status of the order within the 18-month determination period, the Plan Administrator will distribute or will direct the Trustee to distribute the payable amounts in the manner the Plan would distribute if the order did not exist and will apply the order prospectively if the Plan Administrator later determines the order is a QDRO.

To the extent it is not inconsistent with the provisions of the QDRO, the Plan Administrator may segregate or may direct the Trustee to segregate the QDRO amount in a segregated investment account. The Plan Administrator or Trustee will make any payments or distributions required under this Section 4.06 by separate benefit checks or other separate distribution to the alternate payee(s).

(D) Permissible QDROs. A domestic relations order that otherwise satisfies the requirements for a qualified domestic relations order ("QDRO") will not fail to be a QDRO: (i) solely because the order is issued after, or revises, another domestic relations order or QDRO; or (ii) solely because of the time at which the order is issued, including issuance after the annuity starting date or after the Participant's death.

4.07 DIRECT ROLLOVER OF ELIGIBLE ROLLOVER DISTRIBUTIONS – GOVERNMENTAL PLAN.

(A) Participant Election. A Participant (including for this purpose, a former Employee) in a Governmental Eligible 457 Plan may elect, at the time and in the manner the Plan

Administrator prescribes, to have any portion of his or her eligible rollover distribution from the Plan paid directly to an eligible retirement plan specified by the Participant in a direct rollover election. For purposes of this election, a "Participant" includes as to their respective interests, a Participant's surviving spouse and the Participant's spouse or former spouse who is an alternate payee under a QDRO.

(B) Rollover and Withholding Notice. At least 30 days and not more than 180 days prior to the Trustee's distribution of an eligible rollover distribution, the Plan Administrator must provide a written notice (including a summary notice as permitted under applicable Treasury regulations) explaining to the distributee the rollover option, the applicability of mandatory 20% federal withholding to any amount not directly rolled over, and the recipient's right to roll over within 60 days after the date of receipt of the distribution ("rollover notice").

(C) Default distribution or rollover. Except as provided in Paragraph (D), in the case of a Participant who does not elect timely to roll over or to receive distribution of his or her Account, the Plan Administrator or the Trustee, at the Plan Administrator's direction, may distribute to the Participant or may directly roll over the Participant's Account in accordance with the Plan's rollover notice.

(D) Mandatory default rollover. If (1) the Plan is a Governmental Eligible 457 Plan, (2) the Plan makes a mandatory distribution after the Code §401(a)(31)(B) Effective Date, greater than \$1,000, and (3) the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Plan Administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the Plan Administrator.

(E) Non-spouse beneficiary rollover right. A non-spouse beneficiary who is a "designated beneficiary" under Section 4.03(E)(1), by a direct trustee-to-trustee transfer ("direct rollover"), may roll over all or any portion of his or her distribution to an individual retirement account the beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of an eligible rollover distribution.

(1) Certain requirements not applicable. Although a non-spouse beneficiary may roll over directly a distribution as provided in Section 4.07(E), the distribution is not subject to the direct rollover requirements of Code §401(a)(31) (including the automatic rollover provisions of Code §401(a)(31)(B)), the notice requirements of Code §402(f) or the mandatory withholding requirements of Code §3405(c). If a non-spouse beneficiary receives a distribution from the Plan, the distribution is not eligible for a "60-day" rollover.

(2) Trust beneficiary. If the Participant's named beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Code §401(a)(9)(E).

(3) Required minimum distributions not eligible for rollover. A non-spouse beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Treasury regulations and other Revenue Service guidance. If the Participant dies before his or her required beginning date and the non-spouse beneficiary rolls over to an IRA the maximum amount eligible for rollover, the beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to Treas. Reg. §1.401(a)(9)-3, A-4(c), in

determining the required minimum distributions from the IRA that receives the non-spouse beneficiary's distribution.

(F) Definitions. The following definitions apply to this Section:

(1) Eligible rollover distribution. An eligible rollover distribution is any distribution of all or any portion of a Participant's Account, except an eligible rollover distribution does not include: (a) any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Participant or the joint lives (or joint life expectancies) of the Participant and the Participant's designated Beneficiary, or for a specified period of ten years or more; (b) any Code §401(a)(9) required minimum distribution; (c) any unforeseeable emergency distribution; and (d) any distribution which otherwise would be an eligible rollover distribution, but where the total distributions to the Participant during that calendar year are reasonably expected to be less than \$200.

(2) Eligible retirement plan. An eligible retirement plan is an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b), an annuity plan described in Code §403(a), a qualified plan described in Code §401(a), an annuity contract (or custodial agreement) described in Code §403(b), or an eligible deferred compensation plan described in Code §457(b) and maintained by an Employer described in Code §457(e)(1)(A), which accepts the Participant's, the Participant's spouse or alternate payee's eligible rollover distribution.

A Participant or beneficiary may elect to roll over directly an eligible rollover distribution to a Roth IRA described in Code §408A(b). For this purpose, the term "eligible rollover distribution" includes a rollover distribution described in this Section.

(3) Direct rollover. A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

(4) Mandatory distribution. A mandatory distribution is an eligible rollover distribution without the Participant's consent before the Participant attains the later of age 62 or Normal

Retirement Age (see paragraph 3.05 (B)). A distribution to a beneficiary is not a mandatory distribution.

(5) 401(a)(31)(B) Effective Date. The 401(a)(31)(B) Effective Date is the date of the close of the first regular legislative session of the legislative body with the authority to amend the Plan that begins on or after January 1, 2006.

4.08 ELECTION TO DEDUCT FROM DISTRIBUTION. An Eligible Retired Public Safety Officer may elect annually for that taxable year to have the Plan deduct an amount from a distribution which the Eligible Retired Public Safety Officer otherwise would receive and include in income. The Plan will pay such deducted amounts directly to pay qualified health insurance premiums.

(A) Direct payment. The Plan will pay directly to the provider of the accident or health insurance plan or qualified long-term care insurance contract the amounts the Eligible Retired Public Safety Officer has elected to have deducted from the distribution. Such amounts may not exceed the lesser of \$3,000 or the amount the Participant paid for such taxable year for qualified health insurance premiums, and which otherwise complies with Code §402(l).

(B) Definitions.

(1) Eligible retired public safety officer. An "Eligible Retired Public Safety Officer" is an individual who, by reason of disability or attainment of Normal Retirement Age, is separated from service as a Public Safety Officer with the Employer.

(2) Public safety officer. A "Public Safety Officer" has the same meaning as in Section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(9)(A)).

(3) Qualified health insurance premiums. The term "qualified health insurance premiums" means premiums for coverage for the Eligible Retired Public Safety Officer, his or her spouse, and dependents, by an accident or health insurance plan or qualified long-term care insurance contract (as defined in Code §7702B(b)).

ARTICLE V
PLAN ADMINISTRATOR - DUTIES WITH RESPECT TO PARTICIPANTS' ACCOUNTS

5.01 TERM/VACANCY. The Plan Administrator will serve until his or her successor is appointed. In case of a vacancy in the position of the Plan Administrator, the Employer will exercise any and all of the powers, authority, duties and discretion conferred upon the Plan Administrator pending the filling of the vacancy.

5.02 POWERS AND DUTIES. The Plan Administrator will have the following powers and duties:

- (a) To select a committee to assist the Plan Administrator;
- (b) To select a secretary for the committee, who need not be a member of the committee;
- (c) To determine the rights of eligibility of an Employee to participate in the Plan and the value of a Participant's Account;
- (d) To adopt rules and procedures and to create administrative forms necessary for the proper and efficient administration of the Plan provided the rules, procedures and forms are not inconsistent with the terms of the Plan;
- (e) To construe and enforce the terms of the Plan and the rules and regulations the Plan Administrator adopts, including interpretation of the Plan documents and documents related to the Plan's operation;
- (f) To direct the distribution of a Participant's Account;
- (g) To review and render decisions respecting a claim for (or denial of a claim for) a benefit under the Plan;
- (h) To furnish the Employer with information which the Employer may require for tax or other purposes;
- (i) To establish a policy in making distributions for unforeseeable emergencies;
- (j) To establish under a Governmental Eligible 457 Plan, policies regarding the receipt of Rollover Contributions and default rollover distributions;
- (k) To establish a policy regarding the making and the receipt of Transfers;
- (l) To establish a policy regarding Participant or Beneficiary direction of investment;
- (m) To engage the services of any person to invest any Account under this Plan and to direct such person to make payment to a Participant of his or her Vested Account;
- (n) To establish under a Governmental Eligible 457 Plan, a policy (see Section 5.02(A)) which the Trustee must observe in making loans, if any, to Participants and Beneficiaries;
- (o) To undertake correction of any Plan failures as necessary to preserve eligible Plan status; and
- (p) To undertake any other action the Plan Administrator deems reasonable or necessary to administer the Plan.

The Plan Administrator shall have total and complete discretion to interpret and construe the Plan and to determine all questions arising in the administration, interpretation and application of the Plan. Any determination the Plan

Administrator makes under the Plan is final and binding upon any affected person.

(A) Loan Policy. In a Governmental Eligible 457 Plan, the Plan Administrator, in its sole discretion, may establish, amend or terminate from time to time, a nondiscriminatory policy which the Trustee must observe in making Plan loans, if any, to Participants and to Beneficiaries. If the Plan Administrator adopts a loan policy, the loan policy must be a written document and must include: (1) the identity of the person or positions authorized to administer the participant loan program; (2) the procedure for applying for a loan; (3) the criteria for approving or denying a loan; (4) the limitations, if any, on the types and amounts of loans available; (5) the procedure for determining a reasonable rate of interest; (6) the types of collateral which may secure the loan; and (7) the events constituting default and the steps the Plan will take to preserve Plan assets in the event of default. A loan policy the Plan Administrator adopts under this Section 5.02(A) is part of the Plan, except that the Plan Administrator may amend or terminate the policy without regard to Section 9.01.

(B) QDRO Policy. If the QDRO provisions of Section 4.06 apply, the Plan Administrator will establish QDRO procedures.

5.03 COMPENSATION. The Plan Administrator and the members of the Committee will serve without compensation for services, but the Employer will pay all expenses of the Plan Administrator and Committee.

5.04 AUTHORIZED REPRESENTATIVE. The Plan Administrator may authorize any one of the members of the Committee, if any, or the Committee's Secretary, to sign on the Plan Administrator's behalf any Plan notices, directions, applications, certificates, consents, approvals, waivers, letters or other documents.

5.05 INDIVIDUAL ACCOUNTS/RECORDS. The Plan Administrator will maintain a separate Account in the name of each Participant to reflect the value of the Participant's Deferred Compensation under the Plan. The Plan Administrator will maintain records of its activities.

5.06 VALUE OF PARTICIPANT'S ACCOUNT. The value of each Participant's Account consists of his or her accumulated Deferred Compensation, as of the most recent Accounting Date or any later date as the Plan Administrator may determine.

5.07 ACCOUNT ADMINISTRATION, VALUATION AND EXPENSES.

(A) Individual Accounts. The Plan Administrator, as necessary for the proper administration of the Plan, will maintain, or direct the Trustee to maintain, a separate Account, or multiple Accounts, in the name of each Participant to reflect the Participant's Account Balance under the Plan. The Plan Administrator will make its allocations of Employer Contributions and of Earnings, or will request the Trustee to make such allocations, to the Accounts of the Participants as necessary to maintain proper Plan records and in accordance with the applicable: (i) Contribution Types; (ii) allocation conditions; (iii) investment account types; and (iv) Earnings allocation methods. The Plan Administrator may also maintain, or direct the Trustee to maintain, a separate temporary Account for Participant forfeitures which occur during a Plan Year, pending their accrual and allocation in accordance with the Plan terms, or for other special items as the Plan Administrator

determines is necessary and appropriate for proper plan administration.

(1) By Contribution Type. The Plan Administrator, will establish Plan Accounts for each Participant as necessary to reflect his or her Accounts attributable to the following Contribution Types and the Earnings attributable thereto: Pre-Tax Deferrals, Roth Deferrals, Matching Contributions, Nonelective Contributions, Rollover Contributions (including Roth versus pre-tax amounts), and Transfers.

(2) By investment account type. The Plan Administrator will establish separate Accounts for each Participant as necessary to reflect his or her investment account types as described below:

(a) Pooled Accounts. A Pooled Account is an Account which for investment purposes is not a Segregated Account or a Participant-Directed Account. If any or all Plan investment Accounts are Pooled Accounts, each Participant's Account has an undivided interest in the assets comprising the Pooled Account. In a Pooled Account, the value of each Participant's Account Balance consists of that proportion of the net worth (at fair market value) of the Trust Fund which the net credit balance in his or her Account (exclusive of the cash value of incidental benefit insurance contracts) bears to the total net credit balance in the Accounts of all Participants plus the cash surrender value of any insurance contracts held by the Trustee on the Participant's life. As of each Valuation Date, the Plan Administrator must reduce a Participant-Directed Account for any forfeiture arising from Section 5.07 after the Plan Administrator has made all other allocations, changes or adjustments to the Account (excluding Earnings) for the valuation period.

(b) Participant-Directed Accounts. A Participant-Directed Account is an Account that the Plan Administrator establishes and maintains or directs the Trustee to establish and maintain for a Participant to invest in one or more assets that are not pooled assets held by the Trust, such as assets in a brokerage account or other property in which other Participants do not have any interest. As the Plan Administrator determines, a Participant-Directed Account may provide for a limited number and type of investment options or funds, or may be open-ended and subject only to any limitations imposed by applicable law. A Participant may have one or more Participant-Directed Accounts in addition to Pooled or Segregated Accounts. A Participant-Directed Account is credited and charged with the Earnings. As of each Valuation Date, the Plan Administrator must reduce a Participant-Directed Account for any forfeiture arising from Section 5.07 after the Plan Administrator has made all other allocations, changes or adjustments to the Account (excluding Earnings) for the valuation period.

(c) Segregated Accounts. A Segregated Account is an Account the Plan Administrator establishes and maintains or directs the Trustee to establish and maintain for a Participant: (i) to facilitate installment payments; (ii) to hold a QDRO amount; (iii) to prevent a distortion of Plan Earnings allocations; or (iv) for such other purposes as the Plan Administrator may direct. A Segregated Account receives all income it earns and bears all expense or loss it incurs. The Trustee will invest the assets of a Segregated Account consistent with the purpose for which the Plan Administrator or Trustee established the Account. As of each Valuation Date, the Plan Administrator must reduce a Segregated Account for any forfeiture arising after the Plan

Administrator has made all other allocations, changes or adjustments to the Account (excluding Earnings) for the Valuation Period. Notwithstanding anything in this Section to the contrary, transferred amounts are not required to be separately accounted for and may be combined with the corresponding Account maintained in this Plan provided all rights, benefits and features and other attributes are identical with respect to each account, or are identical after the combination and such combination does not result in the impermissible elimination of any Code §411(d)(6) protected benefits.

(3) Amount of Account/distributions. The amount of a Participant's Account, as determined by the Plan Administrator, is equal to the sum of all contributions, Earnings and other additions credited to the Account, less all distributions (including distributions to Beneficiaries and to alternate payees and also including disbursement of Plan loan proceeds), expenses and other charges against the Account as of a Valuation Date or other relevant date. For purposes of a distribution under the Plan, the amount of a Participant's Account Balance is determined based upon its value on the Valuation Date immediately preceding or coinciding with the date of the distribution. If any or all Plan investment Accounts are Participant-Directed Accounts, the directing Participant's Account Balance consists of the assets held within the Participant-Directed Account and the value of the Account is determined based upon the fair market value of such assets.

(4) Account statements. As soon as practicable after the Accounting Date of each Plan Year, the Plan Administrator will deliver to each Participant (and to each Beneficiary) a statement reflecting the amount of his or her Account Balance in the Trust as of the statement date or most recent Valuation Date. No Participant, except the Plan Administrator/Participant or Trustee/Participant, has the right to inspect the records reflecting the Account of any other Participant.

(B) Allocation of Earnings. This Section 5.07(B) applies solely to the allocation of Earnings of the Trust Fund. The Plan Administrator will allocate Employer Contributions and Participant forfeitures, if any, in accordance with Article III. Earnings means the net income, gain or loss earned by a particular Account, by the Trust, or with respect to a contribution or to a distribution, as the context requires.

(1) Allocate as of Valuation Date. As of each Valuation Date, the Plan Administrator must adjust Accounts to reflect Earnings for the Valuation Period since the last Valuation Date.

(2) Definition of Valuation Date. A Valuation Date under this Plan is each: (a) Accounting Date; (b) Valuation Date the Employer elects in the Adoption Agreement; or (c) Valuation Date the Plan Administrator establishes. The Employer in the Adoption Agreement or the Plan Administrator may elect alternative Valuation Dates for the different Contribution Types which the Plan Administrator maintains under the Plan.

(3) Definition of Valuation Period. The Valuation Period is the period beginning on the day after the last Valuation Date and ending on the current Valuation Date.

(4) Allocation methods. The Plan Administrator will allocate Earnings to the Participant Accounts in accordance with the daily valuation method, balance forward method, balance

forward with adjustment method, weighted average method, Participant-Directed Account method, or other method the Employer elects under the Adoption Agreement. The Employer in the Adoption Agreement may elect alternative methods under which the Plan Administrator will allocate the Earnings to the Accounts reflecting different Contribution Types or investment Account types which the Plan Administrator maintains under the Plan. The Plan Administrator first will adjust the Participant Accounts, as those Accounts stood at the beginning of the current Valuation Period, by reducing the Accounts for any forfeitures, distributions, and loan disbursement payments arising under the Plan, for expenses charged during the Valuation Period to the Accounts (expenses directly related to a Participant's Account). The Plan Administrator then, subject to the restoration allocation requirements of the Plan, will allocate Earnings under the applicable valuation method.

(a) Daily valuation method. If the Employer in the Adoption Agreement elects to apply the daily valuation method, the Plan Administrator will allocate Earnings on each day of the Plan Year for which Plan assets are valued on an established market and the Trustee is conducting business. Under the daily valuation method, all assets subject to such method are subject to daily valuation. The assets may be held in Participant-Directed Accounts or in Accounts which are subject to Trustee or other fiduciary investment direction.

(b) Balance forward method. If the Employer in the Adoption Agreement elects to apply the balance forward method, the Plan Administrator will allocate Earnings pro rata to the adjusted Participant Accounts, since the last Valuation Date.

(c) Balance forward with adjustment method. If the Employer in the Adoption Agreement elects to apply the balance forward with adjustment method, the Plan Administrator will allocate pursuant to the balance forward method, except it will treat as part of the relevant Account at the beginning of the Valuation Period the percentage of the contributions made as the Employer elects in the Adoption Agreement, during the Valuation Period the Employer elects in the Adoption Agreement.

(d) Weighted average method. If the Employer in the Adoption Agreement elects to apply a weighted average allocation method, the Plan Administrator will allocate pursuant to the balance forward method, except it will treat a weighted portion of the applicable contributions as if includible in the Participant's Account as of the beginning of the Valuation Period. The weighted portion is a fraction, the numerator of which is the number of months in the Valuation Period, excluding each month in the Valuation Period which begins prior to the contribution date of the applicable contributions, and the denominator of which is the number of months in the Valuation Period. The Employer in the Adoption Agreement may elect to substitute a weighting period other than months for purposes of this weighted average allocation.

(e) Participant-Directed Account method. The Employer in the Adoption Agreement must elect to apply the Participant-Directed Account method to any Participant-Directed Account under the Plan. Under the Participant-Directed Account method: (i) each Participant-Directed Account is credited and charged with the Earnings such Account generates; (ii) the Employer's election, if any, in the Adoption Agreement of another method for the allocation of Earnings will not apply to any Participant-Directed Account; and (iii) the Participant-

Directed Account may be valued as often as daily, but will be valued at least annually, and all assets in the Account are not necessarily valued on the same frequency. An Account which is subject to the Participant-Directed Account method includes an individual brokerage account or similar account in title to the Trustee for the benefit of the Participant.

(C) Allocation of Net Income, Gain or Loss (No Trust). In a Tax-Exempt Eligible 457 Plan that does not maintain a trust the Plan Administrator will allocate net income, gain or loss in accordance with this provision. As of each Accounting Date (and each other valuation date determined under the Adoption Agreement), the Plan Administrator will adjust Accounts to reflect net income, gain or loss, if any, since the last Accounting Date or Account valuation. The Employer in the Adoption Agreement will elect the method for allocating net income gain or loss. The Plan Administrator will continue to allocate net income, gain and loss to a Participant's Account subject to an installment distribution, until the Account is fully distributed.

5.08 ACCOUNT CHARGED. The Plan Administrator will charge all distributions made to a Participant or to his or her Beneficiary, or transferred under Section 9.03 from his or her Account, against the Account of the Participant when made.

5.09 OWNERSHIP OF FUND/TAX-EXEMPT ORGANIZATION. If the Employer is a Tax-Exempt Organization, the Plan is an unfunded plan and all Deferred Compensation, property and rights to property purchased by Deferred Compensation and all income attributable thereto remain, until paid or made available under the Plan, the sole property and rights of the Employer, subject only to the claims of the Employer's general creditors. No Participant or Beneficiary will have any vested interest or secured or preferred position with respect to an Account or have any claim against the Employer except as a general creditor. No Participant or Beneficiary shall have any right to sell, assign, transfer or otherwise convey his or her Account or any interest in his or her Deferred Compensation. The Employer or the Plan Administrator, acting as the Employer's agent, may enter into a trust agreement solely for the purpose of investing all or part of the Accounts, which will be subject to the claims of the Employer's general creditors, and in which the Participants or Beneficiaries will not have a vested interest nor a secured or preferred position or have any claim except as the Employer's general creditor. The Employer may not purchase life insurance contracts under this Plan unless the Employer retains all incidents of ownership in such contracts, the Employer is the sole beneficiary of such contracts and the Employer is not under any obligation to transfer the contracts or pass through the proceeds to any Participant or to his or her Beneficiary. The Employer may adopt and attach to the Plan as "Appendix A," the Internal Revenue Service Model Rabbi Trust under Rev. Proc. 92-64 (as amended) to hold the assets of a Tax-Exempt Organization Eligible 457 Plan. If the Employer adopts the Model Rabbi Trust, the Plan incorporates by reference the provisions of the Model Rabbi Trust as if fully set forth herein.

5.10 PARTICIPANT DIRECTION OF INVESTMENT. Subject to the terms of the Plan Administrator's adopted policy, if any, and also to written consent of the Trustee, if the Plan has a Trust, a Participant will have the right to direct the investment or re-investment of the assets comprising the Participant's Account. The Plan Administrator will account separately for the Participant-Directed Accounts. The Participant's right to direct investment does not give the Participant any vested interest or secured or preferred position with respect to assets over which he/she has investment responsibility.

5.11 VESTING/SUBSTANTIAL RISK OF FORFEITURE. The Employer in the Adoption Agreement may

elect to apply a vesting schedule or to specify any other Substantial Risk of Forfeiture applicable to any or all Deferral Contributions.

(A) Forfeiture Allocation. The Employer in the Adoption Agreement must elect the method the Plan Administrator will use to allocate any Participant forfeitures, including those related to lost Participants under Section 5.14. However, if a forfeiture allocation method is not selected in the adoption agreement, forfeitures are allocated as an Employer Contribution. The Plan Administrator will allocate a forfeiture in the Plan Year in which the forfeiture occurs or in the next following Plan Year.

5.12 PRESERVATION OF ELIGIBLE PLAN STATUS.

The Plan Administrator may elect to sever from this Plan and to treat as a separate 457 plan, the Accounts of any Participants who have Excess Deferrals that the Plan Administrator has not corrected in accordance with Section 3.10 or in the case of any other Code §457(b) failure that the Employer may not otherwise correct, and which failure would result in the Plan ceasing to be an Eligible 457 Plan. In such event, the Plan Administrator will take any necessary or appropriate action consistent with the Employer's maintenance of separate 457 plans and with preservation of Eligible 457 Plan status of this Plan.

5.13 LIMITED LIABILITY. The Employer will not be liable to pay plan benefits to a Participant in excess of the value of the Participant's Account as the Plan Administrator determines in accordance with the Plan terms. Neither the Employer nor the Plan Administrator will be liable for losses arising from depreciation or shrinkage in the value of any investments acquired under this Plan.

5.14 LOST PARTICIPANTS. If the Plan Administrator is unable to locate any Participant or Beneficiary whose Account becomes distributable (a "lost Participant"), the Plan Administrator will apply the provisions of this Section 5.14.

(A) Attempt to Locate. The Plan Administrator will attempt to locate a lost Participant and may use one or more of the following methods: (1) provide a distribution notice to the lost Participant at his or her last known address by certified or registered mail; (2) use a commercial locator service, the internet or other general search method; (3) use the Social Security Administration or PBGC search program; or (4) use such other methods as the Plan Administrator believes prudent.

(B) Failure to Locate. If a lost Participant remains unlocated for 6 months following the date the Plan Administrator first attempts to locate the lost Participant using one or more of the methods described in Section 5.14(A), the Plan Administrator may forfeit the lost Participant's Account. If the Plan Administrator forfeits the lost Participant's Account, the forfeiture occurs at the end of the above-described 6-month period and the Plan Administrator will allocate the forfeiture in accordance with Section 5.11. The Plan Administrator under this Section 5.14(B) will forfeit the entire Account of the lost Participant, including Salary Reduction Contributions.

If a lost Participant whose Account was forfeited thereafter at any time but before the Plan has been terminated makes a claim for his or her forfeited Account, the Plan Administrator will restore the forfeited Account to the same dollar amount as the amount forfeited, unadjusted for net income, gains or losses occurring subsequent to the forfeiture. The Plan Administrator will make the restoration in the Plan Year in which the lost Participant makes the claim, first from the amount, if any, of Participant forfeitures the Plan Administrator otherwise would allocate for the Plan Year, then from the amount, if any, of Trust net income or gain for the Plan Year and last from the amount or

additional amount the Employer contributes to the Plan for the Plan Year. The Plan Administrator will distribute the restored Account to the lost Participant not later than 60 days after the close of the Plan Year in which the Plan Administrator restores the forfeited Account.

(C) Nonexclusivity and Uniformity. The provisions of this Section 5.14 are intended to provide permissible but not exclusive means for the Plan Administrator to administer the Accounts of lost Participants. The Plan Administrator may utilize any other reasonable method to locate lost Participants and to administer the Accounts of lost Participants, including the default rollover under Section 4.07(C) and such other methods as the Revenue Service or the U.S. Department of Labor ("DOL") may in the future specify. The Plan Administrator will apply Section 5.14 in a reasonable manner, but may in determining a specific course of action as to a particular Account, reasonably take into account differing circumstances such as the amount of a lost Participant's Account, the expense in attempting to locate a lost Participant, the Plan Administrator's ability to establish and the expense of establishing a rollover IRA, and other factors. The Plan Administrator may charge to the Account of a lost Participant the reasonable expenses incurred under this Section 5.14 and which are associated with the lost Participant's Account.

5.15 PLAN CORRECTION. The Plan Administrator, in conjunction with the Employer and Trustee as appropriate, may undertake such correction of Plan errors as the Plan Administrator deems necessary, including but not limited to correction to maintain the Plan's status as an Eligible 457 Plan. The Plan Administrator under this Section 5.15 also may undertake Plan correction in accordance with any correction program that the Internal Revenue Service makes applicable to 457 plans.

ARTICLE VI PARTICIPANT ADMINISTRATIVE PROVISIONS

6.01 BENEFICIARY DESIGNATION. A Participant from time to time may designate, in writing, any person(s) (including a trust or other entity), contingently or successively, to whom the Plan Administrator or Trustee will pay the Participant's Account (including any life insurance proceeds payable to the Participant's Account) in the event of death. A Participant also may designate the method of payment of his or her Account. The Plan Administrator will prescribe the form for the Participant's written designation of Beneficiary and, upon the Participant's filing the form with the Plan Administrator, the form revokes all designations filed prior to that date by the same Participant. A divorce decree, or a decree of legal separation, revokes the Participant's designation, if any, of his or her spouse as his or her Beneficiary under the Plan unless the decree or a QDRO provides otherwise. The foregoing revocation provision (if applicable) applies only with respect to a Participant whose divorce becomes effective on or following the date the Employer executes the Adoption Agreement, unless the Employer in the Adoption Agreement specifies a different effective date.

6.02 NO BENEFICIARY DESIGNATION. If a Participant fails to name a Beneficiary in accordance with Section 6.01, or if the Beneficiary named by a Participant predeceases the Participant, then the Plan Administrator will pay the Participant's remaining Account in accordance with Article IV in the following order of priority, to:

- (a) The Participant's surviving spouse; or
- (b) The Participant's children (including adopted children), in equal shares by right of representation (one share for each surviving child and one share for each child who predeceases the Participant with living descendants); and if none to
- (c) Parents. The Participant's surviving parents, in equal shares; and if none to
- (d) The Participant's estate.

If the Beneficiary survives the Participant, but dies prior to distribution of the Participant's entire Account, the Trustee will pay the remaining Account to the Beneficiary's estate unless: (1) the Participant's Beneficiary designation provides otherwise; or (2) the Beneficiary has properly designated a beneficiary. A Beneficiary only may designate a beneficiary for the Participant's Account Balance remaining at the Beneficiary's death, if the Participant has not previously designated a successive contingent beneficiary and the Beneficiary's designation otherwise complies with the Plan terms. The Plan Administrator will direct a Trustee if applicable as to the method and to whom the Trustee will make payment under this Section 6.02.

6.03 SALARY REDUCTION AGREEMENT.

(A) General. A Participant must elect to make Salary Reduction Contributions on a Salary Reduction Agreement form the Plan Administrator provides for this purpose. The Salary Reduction Agreement must be consistent with the Employer's Adoption Agreement elections and the Plan Administrator in a Salary Reduction Agreement may impose such other terms and limitations as the Plan Administrator may determine.

(B) Election Timing. A Participant's Salary Reduction Agreement may not take effect earlier than the first day of the calendar month following the date the Participant executes the

Salary Reduction Agreement and as to Compensation paid or made available in such calendar month. However, if an Employee is eligible to become a Participant during the Employee's calendar month of hire, the Employee may execute a Salary Reduction Agreement on or before the date he/she becomes an Employee, effective for the month in which he/she becomes an Employee.

(C) Sick, Vacation and Back Pay. If the Employer in the Adoption Agreement permits Participants to make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay, a Participant who will incur a Severance from Employment may execute a Salary Reduction Agreement before such amounts are paid or made available provided: (i) such amounts are paid or made available before the Participant incurs the Severance; and (ii) the Participant is an Employee in that month.

(D) Modification of Salary Reduction Agreement. A Participant's Salary Reduction Agreement remains in effect until a Participant modifies it or ceases to be eligible to participate in the Plan. A Participant may modify his or her Salary Reduction Agreement by executing a new Salary Reduction Agreement. Any modification will become effective no earlier than the beginning of the calendar month commencing after the date the Participant executes the new Salary Reduction Agreement. Filing a new Salary Reduction Agreement will revoke all Salary Reduction Agreements filed prior to that date. The Employer or Plan Administrator may restrict the Participant's right to modify his or her Salary Reduction Agreement in any Taxable Year.

6.04 PERSONAL DATA TO PLAN ADMINISTRATOR.

Each Participant and each Beneficiary of a deceased Participant must furnish to the Plan Administrator such evidence, data or information as the Plan Administrator considers necessary or desirable for the purpose of administering the Plan. The provisions of this Plan are effective for the benefit of each Participant upon the condition precedent that each Participant will furnish promptly full, true and complete evidence, data and information when requested by the Plan Administrator, provided the Plan Administrator advises each Participant of the effect of his or her failure to comply with its request.

6.05 ADDRESS FOR NOTIFICATION. Each Participant and each Beneficiary of a deceased Participant must file with the Plan Administrator from time to time, in writing, his or her address and any change of address. Any communication, statement or notice addressed to a Participant, or Beneficiary, at his or her last address filed with the Plan Administrator, or as shown on the records of the Employer, binds the Participant, or Beneficiary, for all purposes of this Plan.

6.06 PARTICIPANT OR BENEFICIARY INCAPACITATED. If, in the opinion of the Plan Administrator or of the Trustee, a Participant or Beneficiary entitled to a Plan distribution is not able to care for his or her affairs because of a mental condition, a physical condition, or by reason of age, the Plan Administrator or at the direction of the Plan Administrator, the Trustee, may make the distribution to the Participant's or Beneficiary's guardian, conservator, trustee, custodian (including under a Uniform Transfers or Gifts to Minors Act) or to his or her attorney-in-fact or to other legal representative upon furnishing evidence of such status satisfactory to the Plan Administrator and to the Trustee. The Plan Administrator and the Trustee do not have any liability with respect to payments so made and neither the Plan Administrator nor the Trustee has any duty to make inquiry as to the competence of any person entitled to receive payments under the Plan.

ARTICLE VII MISCELLANEOUS

7.01 NO ASSIGNMENT OR ALIENATION. A Participant or Beneficiary does not have the right to commute, sell, assign, pledge, transfer or otherwise convey or encumber the right to receive any payments under the Plan or Trust and the Plan Administrator and the Trustee will not recognize any such anticipation, assignment, or alienation. The payments and the rights under this Plan are nonassignable and nontransferable. Furthermore, a Participant's or Beneficiary's interest in the Trust is not subject to attachment, garnishment, levy, execution or other legal or equitable process.

7.02 EFFECT ON OTHER PLANS. This Plan does not affect benefits under any other retirement, pension, or benefit plan or system established for the benefit of the Employer's Employees, and participation under this Plan does not affect benefits receivable under any such plan or system, except to the extent provided in such plan or system.

7.03 WORD USAGE. Words used in the masculine will apply to the feminine where applicable, and wherever the context of the Plan dictates, the plural will be read as the singular and the singular as the plural.

7.04 STATE LAW. The laws of the state of the Employer's principal place of business will determine all questions arising with respect to the provisions of this Plan, except to the extent Federal law supersedes State law.

7.05 EMPLOYMENT NOT GUARANTEED. Nothing contained in this Plan, or any modification or amendment to the Plan, or in the creation of any Account, or the payment of any benefit, gives any Employee, Participant or Beneficiary any right to continue employment, any legal or equitable right against the Employer, the Plan Administrator, the Trustee, any other Employee of the Employer, or any agents thereof except as expressly provided by the Plan.

7.06 NOTICE, DESIGNATION, ELECTION, CONSENT AND WAIVER. All notices under the Plan and all Participant or Beneficiary designations, elections, consents or waivers must be in writing and made in a form the Plan Administrator specifies or otherwise approves. To the extent permitted by Treasury regulations or other applicable guidance, any Plan notice, election, consent or waiver may be transmitted electronically. Any person entitled to notice under the Plan may waive the notice or shorten the notice period except as otherwise required by the Code.

ARTICLE VIII
TRUST PROVISIONS—GOVERNMENTAL ELIGIBLE 457 PLAN

8.01 GOVERNMENTAL ELIGIBLE 457 PLAN. The provisions of this Article VIII apply to a Governmental Eligible 457 Plan and do not apply to a Tax-Exempt Organization Eligible 457 Plan. The Employer in the Adoption Agreement may elect to substitute another trust (attached to this Plan as "Appendix A") or to modify any provision of Article VIII, consistent with Code §457(g) and applicable Treasury regulations.

8.02 ACCEPTANCE/HOLDING. The Trustee accepts the Trust created under the Plan and agrees to perform the duties and obligations imposed. The Trustee must hold in trust under this Article VIII, all Deferred Compensation until paid in accordance with the Plan terms.

8.03 RECEIPT OF CONTRIBUTIONS. The Trustee is accountable to the Employer for the funds contributed to it by the Employer or the Plan Administrator, but the Trustee does not have any duty to see that the contributions received comply with the provisions of the Plan.

8.04 FULL INVESTMENT POWERS. The Trustee has full discretion and authority with regard to the investment of the Trust, except with respect to a Trust asset under Participant direction of investment, in accordance with Section 8.12. The Trustee is authorized and empowered, but not by way of limitation, to exercise and perform the following powers, rights and duties:

(a) To invest any part or all of the Trust in any common or preferred stocks, open-end or closed-end mutual funds, put and call options traded on a national exchange, United States retirement plan bonds, corporate bonds, debentures, convertible debentures, commercial paper, U. S. Treasury bills, U. S. Treasury notes and other direct or indirect obligations of the United States Government or its agencies, improved or unimproved real estate situated in the United States, limited partnerships, insurance contracts of any type, mortgages, notes or other property of any kind, real or personal, and to buy or sell options on common stock on a nationally recognized options exchange with or without holding the underlying common stock, as a prudent person would do under like circumstances. Any investment made or retained by the Trustee in good faith will be proper but must be of a kind constituting a diversification considered by law suitable for trust investments;

(b) To retain in cash so much of the Trust as it may deem advisable to satisfy liquidity needs of the Plan and to deposit any cash held in the Trust in a bank account at reasonable interest;

(c) To invest, if the Trustee is a bank or similar financial institution supervised by the United States or by a State, in any type of deposit of the Trustee (or a bank related to the Trustee within the meaning of Code §414(b)) at a reasonable rate of interest or in a common trust fund as described in Code §584, or in a collective investment fund, the provisions of which the Trust incorporates by this reference, which the Trustee (or its affiliate, as defined in Code §1504) maintains exclusively for the collective investment of money contributed by the bank (or its affiliate) in its capacity as Trustee and which conforms to the rules of the Comptroller of the Currency;

(d) To manage, sell, contract to sell, grant options to purchase, convey, exchange, transfer, abandon, improve, repair, insure, lease for any term even though commencing in the future or extending beyond the term of the Trust, and otherwise deal with all property, real or personal, in such manner, for such

considerations and on such terms and conditions as the Trustee decides;

(e) To credit and distribute the Trust as directed by the Plan Administrator of the Plan. The Trustee will not be obliged to inquire as to whether any payee or distributee is entitled to any payment or whether the distribution is proper or within the terms of the Plan, or as to the manner of making any payment or distribution. The Trustee will be accountable only to the Plan Administrator for any payment or distribution made by it in good faith on the order or direction of the Plan Administrator;

(f) To borrow money, to assume indebtedness, extend mortgages and encumber by mortgage or pledge;

(g) To compromise, contest, arbitrate or abandon claims and demands, in the Trustee's discretion;

(h) To have with respect to the Trust all of the rights of an individual owner, including the power to exercise any and all voting rights associated with Trust assets, to give proxies, to participate in any voting trusts, mergers, consolidations or liquidations, to tender shares and to exercise or sell stock subscriptions or conversion rights;

(i) To lease for oil, gas and other mineral purposes and to create mineral severances by grant or reservation; to pool or unitize interest in oil, gas and other minerals; and to enter into operating agreements and to execute division and transfer orders;

(j) To hold any securities or other property in the name of the Trustee or its nominee, with depositories or agent depositories or in another form as it may deem best, with or without disclosing the trust relationship;

(k) To perform any and all other acts in its judgment necessary or appropriate for the proper and advantageous management, investment and distribution of the Trust;

(l) To retain any funds or property subject to any dispute without liability for the payment of interest, and to decline to make payment or delivery of the funds or property until a court of competent jurisdiction makes a final adjudication;

(m) To file all tax returns required of the Trustee;

(n) To furnish to the Employer and the Plan Administrator an annual statement of account showing the condition of the Trust and all investments, receipts, disbursements and other transactions effected by the Trustee during the Plan Year covered by the statement and also stating the assets of the Trust held at the end of the Plan Year, which accounts will be conclusive on all persons, including the Employer and the Plan Administrator, except as to any act or transaction concerning which the Employer or the Plan Administrator files with the Trustee written exceptions or objections within 90 days after the receipt of the accounts; and

(o) To begin, maintain or defend any litigation necessary in connection with the administration of the Trust, except that the Trustee will not be obliged or required to do so unless indemnified to its satisfaction.

(A) Nondiscretionary Trustee. The Employer in the Adoption Agreement may elect to appoint a Nondiscretionary Trustee, subject to this Section 8.04(A). The Nondiscretionary Trustee does not have any discretion or authority with regard to the

investment of the Trust, but must act solely as a directed Trustee hereunder. The Nondiscretionary Trustee is authorized and empowered to exercise and perform the above Section 8.04 powers, rights and duties provided that the Trustee shall act solely as a directed Trustee and only in accordance with the written direction of the Employer, the Plan Administrator or of a Participant as applicable. The Nondiscretionary Trustee is not liable for making, retaining or disposing of any investment or for taking or failing to take any other action, in accordance with proper Employer, Plan Administrator or Participant direction.

8.05 RECORDS AND STATEMENTS. The records of the Trustee pertaining to the Trust will be open to the inspection of the Plan Administrator and the Employer at all reasonable times and may be audited from time to time by any person or persons as the Employer or Plan Administrator may specify in writing. The Trustee will furnish the Plan Administrator whatever information relating to the Trust the Plan Administrator considers necessary.

8.06 FEES AND EXPENSES FROM FUND. The Trustee will receive reasonable annual compensation in accordance with its fee schedule as published from time to time. The Trustee will pay from the Trust all fees and expenses the Trustee reasonably incurs in its administration of the Trust, unless the Employer pays the fees and expenses.

8.07 PROFESSIONAL AGENTS. The Trustee may employ and pay from the Trust reasonable compensation to agents, attorneys, accountants and other persons to advise the Trustee as in its opinion may be necessary. The Trustee may delegate to any agent, attorney, accountant or other person selected by it any non-Trustee power or duty vested in it by the Trust, and the Trustee may act or refrain from acting on the advice or opinion of any agent, attorney, accountant or other person so selected.

8.08 DISTRIBUTION OF CASH OR PROPERTY. The Trustee may make distribution under the Plan in cash or property, or partly in each, at its fair market value as determined by the Trustee.

8.09 RESIGNATION AND REMOVAL. The Trustee or the Custodian may resign its position by giving written notice to the Employer and to the Plan Administrator. The Trustee's notice must specify the effective date of the Trustee's resignation, which date must be at least 30 days following the date of the Trustee's notice, unless the Employer consents in writing to shorter notice.

The Employer may remove a Trustee or a Custodian by giving written notice to the affected party. The Employer's notice must specify the effective date of removal which date must be at least 30 days following the date of the Employer's notice, except where the Employer reasonably determines a shorter notice period or immediate removal is necessary to protect Plan assets.

8.10 SUCCESSOR TRUSTEE.

(A) Appointment. In the event of the resignation or the removal of a Trustee, where no other Trustee continues to service, the Employer must appoint a successor Trustee if it intends to continue the Plan. If two or more persons hold the position of Trustee, in the event of the removal of one such person, during any period the selection of a replacement is pending, or during any period such person is unable to serve for any reason, the remaining person or persons will act as the Trustee. If the Employer fails to appoint a successor Trustee as of the effective date of the Trustee resignation or removal and no other Trustee remains, the Trustee will treat the Employer as

having appointed itself as Trustee and as having filed the Employer's acceptance of appointment as successor Trustee with the former Trustee.

(B) Automatic Successor. Any corporation which succeeds to the trust business of the Trustee, or results from any merger or consolidation to which the Trustee is a party, or is the transferee of substantially all the Trustee's assets, will be the successor to the Trustee under this Trust. The successor Trustee will possess all rights, duties and powers under this Trust as if the successor Trustee were the original Trustee. Neither the Trustee nor the successor Trustee need provide notice to any interested person of any transaction resulting in a successor Trustee. The successor Trustee need not file or execute any additional instrument or perform any additional act to become successor Trustee.

8.11 VALUATION OF TRUST. The Trustee will value the Trust as of each Accounting Date to determine the fair market value of the Trust assets. The Trustee will value the Trust on such other date(s) the Plan Administrator may direct.

8.12 PARTICIPANT DIRECTION OF INVESTMENT. Consistent with the Plan Administrator's policy adopted under Section 5.02(1), the Trustee may consent in writing to permit Participants in the Plan to direct the investment to the Trust assets. The Plan Administrator will advise the Trustee of the portion of the Trust credited to each Participant's Account under the Plan, and subject to such Participant direction. As a condition of Participant direction, the Trustee may impose such conditions, limitations and other provisions as the Trustee may deem appropriate and as are consistent with the Plan Administrator's policy. The Trustee will report to the Plan Administrator the net income, gain or losses incurred by each Participant-Directed Account separately from the net income, gain or losses incurred by the general Trust during the Trust Year.

8.13 THIRD PARTY RELIANCE. No person dealing with the Trustee will be obliged to see to the proper application of any money paid or property delivered to the Trustee, or to inquire whether the Trustee has acted pursuant to any of the terms of the Trust. Each person dealing with the Trustee may act upon any notice, request or representation in writing by the Trustee, or by the Trustee's duly authorized agent, and will not be liable to any person whomsoever in so doing. The certificate of the Trustee that it is acting in accordance with the Trust will be conclusive in favor of any person relying on the certificate.

8.14 INVALIDITY OF ANY TRUST PROVISION. If any clause or provision of this Article VIII proves to be or is adjudged to be invalid or void for any reason, such void or invalid clause or provision will not affect any of the other provisions of this Article VIII and the balance of the Trust provisions will remain operative.

8.15 EXCLUSIVE BENEFIT. The Trustee will hold all the assets of the Trust for the exclusive benefit of the Participants and their Beneficiaries and neither the Employer nor the Trustee will use or divert any part of the corpus or income of the Trust for purposes other than the exclusive benefit of the Participants and Beneficiaries of the Plan. The Employer will not have any right to the assets held by the Trustee and the Trust assets will not be subject to the claims of the Employer's creditors or, except as provided in Section 4.06, of the creditors of any Participant or Beneficiary. No Participant or Beneficiary shall have any right to sell, assign, transfer or otherwise convey his or her Account or any interest in his or her Deferred Compensation. Notwithstanding the foregoing, the Plan Administrator may pay from a Participant's or Beneficiary's Account the amount the Plan Administrator finds is lawfully

demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary. The Trust created under the Employer's Plan is irrevocable and its assets will not inure to the benefit of the Employer.

8.16 SUBSTITUTION OF CUSTODIAL ACCOUNT OR ANNUITY CONTRACT. The Employer in the Adoption Agreement may elect to use one or more custodial accounts or annuity contracts in lieu of or in addition to the Trust established in this Article VIII. Any such custodial account or annuity contract must satisfy the requirements of Code §457(g)(3) and applicable Treasury regulations.

8.17 GROUP TRUST AUTHORITY. Notwithstanding any contrary provision in this Plan, the Trustee may, unless restricted in writing by the Plan Administrator, transfer assets of the Plan to a group trust that is operated or maintained exclusively for the commingling and collective investment of monies provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under Code §401(a), individual retirement accounts that are exempt under Code §408(e), and eligible governmental plans that meets the requirements of Code §457(b). For this purpose, a trust includes a custodial account that is treated as a trust under Code §401(f) or under Code §457(g)(3). For purposes of valuation, the value of the interest maintained by the Plan in such group trust shall be the fair market value of the portion of the group trust held for Plan, determined in accordance with generally recognized valuation procedures.

ARTICLE IX AMENDMENT, TERMINATION, TRANSFERS

9.01 AMENDMENT BY EMPLOYER/SPONSOR. The Employer has the right at any time and from time to time:

(a) To amend this Plan and Trust Agreement and the Adoption Agreement in any manner it deems necessary or advisable in order to continue the status of this Plan as an Eligible 457 Plan; and

(b) To amend this Plan and Trust Agreement and the Adoption Agreement in any other manner, including deletion, substitution or modification of any Plan, Trust or Adoption Agreement provision.

The Employer must make all amendments in writing. The Employer may amend the Plan by an Adoption Agreement election, by addenda, by separate amendment, or by restatement of the Adoption Agreement or Plan. Each amendment must state the date to which it is either retroactively or prospectively effective. The Employer also may not make any amendment that affects the rights, duties or responsibilities of the Trustee or the Plan Administrator without the written consent of the affected Trustee or the Plan Administrator.

9.02 TERMINATION/FREEZING OF PLAN. The Employer has the right, at any time, to terminate this Plan or to cease (freeze) further Deferral Contributions to the Plan. Upon termination or freezing of the Plan, the provisions of the Plan (other than provisions permitting continued Deferral Contributions) remain operative until distribution of all Accounts. Upon Plan termination, the Plan Administrator or Trustee shall distribute to Participants and Beneficiaries all Deferred Compensation as soon as is reasonably practicable following termination.

9.03 TRANSFERS. The Employer may enter into a Transfer agreement with another employer under which this Plan: (a) may accept a Transfer of a Participant's Account in the other employer's Eligible 457 Plan; or (b) may Transfer a Participant's (or Beneficiary's) Account in this Plan to the other employer's Eligible 457 Plan. The plan sponsors of the plans involved in the Transfer both must be States or both must be Tax-Exempt Organizations and the plans must provide for Transfers. The Participant or Beneficiary, after the Transfer will have Deferred Compensation in the recipient plan at least equal to his or her Deferred Compensation in the transferring plan immediately before the Transfer. Any Transfer also must comply with applicable Treasury regulations, and in particular Treas. Reg. §§1.457-10(b)(2) as to post-severance transfers between Governmental Eligible 457 Plans; 1.457-10(b)(3) as to transfers of all assets between Governmental Eligible 457 Plans; 1.457-10(b)(4) as to transfers between Governmental Eligible 457 Plans of the same Employer; and 1.457-10(b)(5) as to post-severance transfers between Tax-Exempt Organization Eligible 457 Plans. The Plan Administrator will credit any Transfer accepted under this Section 9.03 to the Participant's Account and will treat the transferred amount as a Deferral Contribution for all purposes of this Plan except the Plan Administrator, will not treat such Transfer as a Deferral Contribution subject to the limitations of Article III. In addition, in the case of a Transfer between Tax-Exempt Organization Eligible Plans, the recipient plans shall apply a Participant's distribution elections made under the transferor plan in accordance with Treas. Reg. §1.457-10(b)(6)(ii). The Plan's Transfer of any Participant's or Beneficiary's Account under this Section 9.03 completely discharges the Employer, the Plan Administrator, the Trustee and the Plan from any liability to the Participant or Beneficiary for any Plan benefits.

9.04 PURCHASE OF PERMISSIVE SERVICE CREDIT.

A Participant in a Governmental Eligible 457 Plan, prior to otherwise incurring a distributable event under Article IV, may direct the Trustee to transfer all or a portion of his or her Account to a governmental defined benefit plan (under Code §414(d)) for: (a) the purchase of permissive service credit (under Code §415(n)(3)(A)) under such plan, or (b) the repayment of contributions and earnings previously refunded with respect to a forfeiture of service credited under the plan (or under another governmental plan within the same State) to which Code §415 does not apply by reason of Code §415(k)(3).



STAFF REPORT

SUBJECT: Review and consider benefits consultant proposals

DEPARTMENT: Finance

STAFF CONTACT: Monica Harris

RECOMMENDATION:

The proposals have been evaluated and staff requests approving the recommendation to Council to award the contract to Wellspring Insurance Agency, Inc.

BACKGROUND:

In November 2020, the City advertised a request for proposals for a benefits consultant. The City received proposals from Financial Benefit Services (FBS), the current provider, and Wellspring Insurance Agency. The proposals were reviewed and follow up questions were asked of both proposers.

FISCAL IMPACT SUMMARY:

Wellspring Insurance Agency proposed an annual fee of \$30,000 for medical, \$2,500 per month, plus 10% commission on dental, vision, voluntary life and accidental death and dismemberment, short and long-term disability, and group worksite. This includes an online enrollment platform, as well as, online portal with resources.

Financial Benefit Services proposed a straight commission model, the current model, which has averaged commissions of approximately \$58,000 for medical the last four years, plus standard commissions on all voluntary products such as dental, vision, voluntary life and accidental death and dismemberment, short and long-term disability. FBS clarified their quote of an annual fee of \$50,000 plus \$8.00 per employee per month for the annual fee instead of the medical commission model. These also include online enrollment and custom benefits website.

ALTERNATIVES

Recommend the Financial Benefit Services proposal.

Not recommend either proposal.



STAFF REPORT

SUBJECT: Monthly Budget Report for the period Ending November 30, 2020

DEPARTMENT: Finance

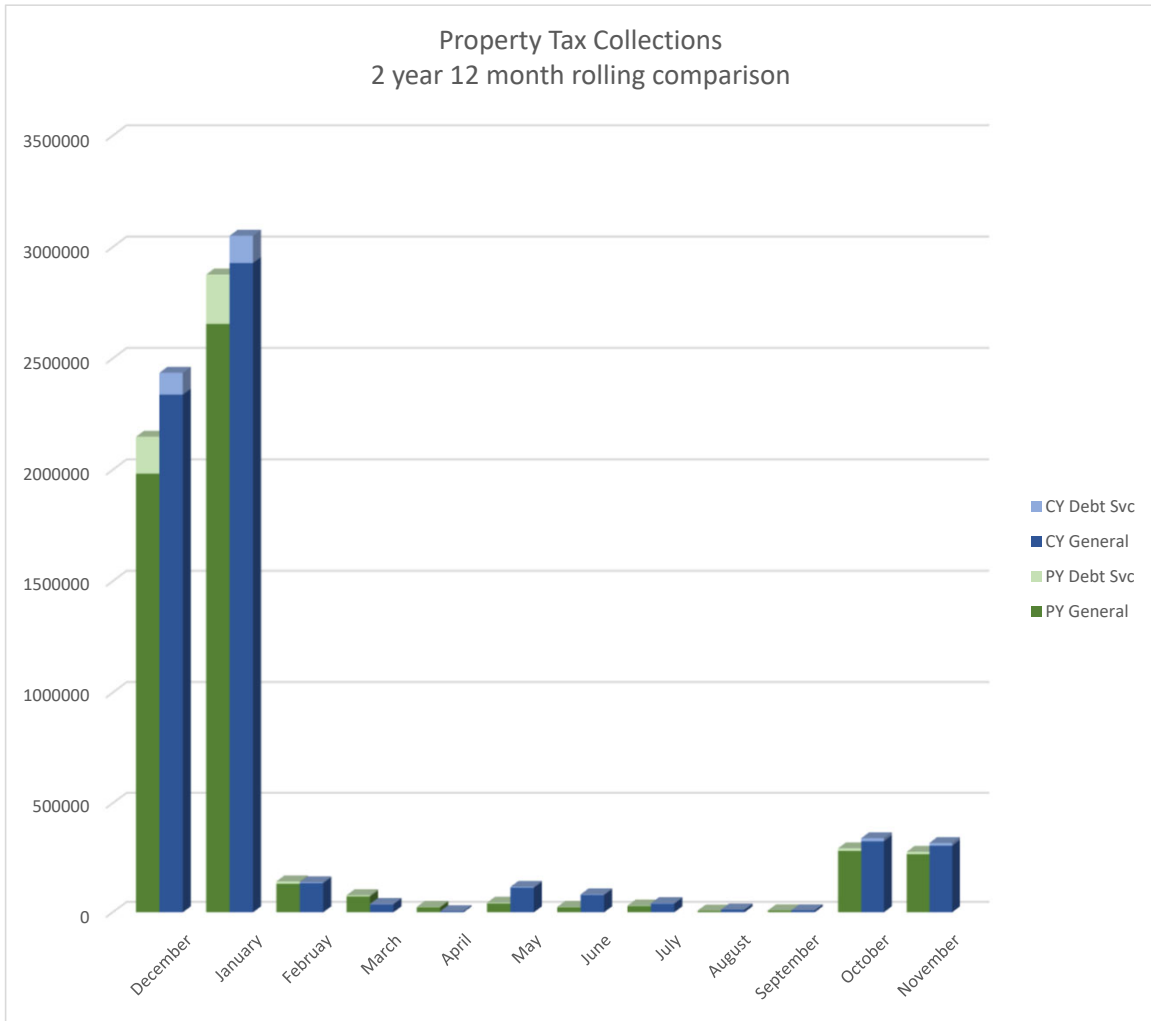
STAFF CONTACT: Monica Harris

BACKGROUND:

In reviewing the financial statements ending November 30, 2020, the financial indicators are better than expected.

- **Property Tax**
We received \$318K in property taxes in the month of November, resulting in \$87K or 15.16% increase over funds collected through last November. The \$657K collected through November is 9.89% of budget, which is lower than the 11.25% anticipated.
- **Sales Tax**
We received \$694K in sales tax in November, resulting in \$87K or 14.26% more than the funds collected last November. The \$1.3 million collected through November is 21.24% of the \$6.23 million budgeted, which is about 3.5% more than anticipated.
- **HOT Funds**
Lodging establishments have report \$36,523.27 in Hotel Occupancy Taxes through November. We spent \$99K in Hotel Occupancy Tax funds through November as compared to \$33K last year due to the Day Tripper contract.
- **Revenue (Budgetary comparison)**
The target budget for operating revenue is \$4.13 million. We received \$4.18 million in revenue through November, resulting in \$47K over the target budget. This is a result of sales taxes and service charges.
- **Expenditures (Budgetary comparison)**
The target budget for operating expenditures is \$3.76 million. We expended \$3.63 million in through November resulting in \$135K under the target budget.
- **Revenue (Prior year comparison)**
Operating revenue received last year was \$4.21 million as compared to the current year's \$4.18 million, resulting in a \$30K decrease. Increases in property tax, sales taxes, and building permits offset most of the reductions in service charges, interest on investments, and other income.
- **Expenditures (Prior year comparison)**
Operating expenditures last year were \$3.9 million as compared to the current year's \$3.6 million, resulting in a \$276K decrease. General Fund expenditures decreased \$301K.

City of Stephenville



Month	General Fund	Debt Svc	Total	Month	General Fund	Debt Svc	Total
Dec-18	1,983,034	165,658	2,148,692	Dec-19	2,337,593	98,214	2,435,807
Jan-19	2,655,314	221,696	2,877,010	Jan-20	2,928,631	122,287	3,050,918
Feb-19	130,747	10,942	141,690	Feb-20	133,573	4,360	137,932
Mar-19	72,696	5,931	78,627	Mar-20	36,684	1,632	38,315
Apr-19	22,735	2,215	24,950	Apr-20	4,688	163	4,851
May-19	40,676	3,571	44,247	May-20	112,150	4,518	116,668
Jun-19	23,002	1,994	24,996	Jun-20	79,259	3,379	82,637
Jul-19	28,289	2,374	30,664	Jul-20	39,473	2,238	41,712
Aug-19	7,613	695	8,308	Aug-20	11,762	824	12,585
Sep-19	7,975	703	8,679	Sep-20	8,835	382	9,216
Oct-19	281,652	11,982	293,634	Oct-20	325,732	13,700	339,432
Nov-19	265,777	11,255	277,032	Nov-20	304,970	12,804	317,774
12 month total		<u>5,958,527</u>		12 month total		<u>6,587,848</u>	
Oct - Nov 2019		<u>570,666</u>		Oct - Nov 2020		<u>657,206</u>	
FY 2019-2020 Total		6,501,308		FY 2020-2021 Budget		6,646,823	

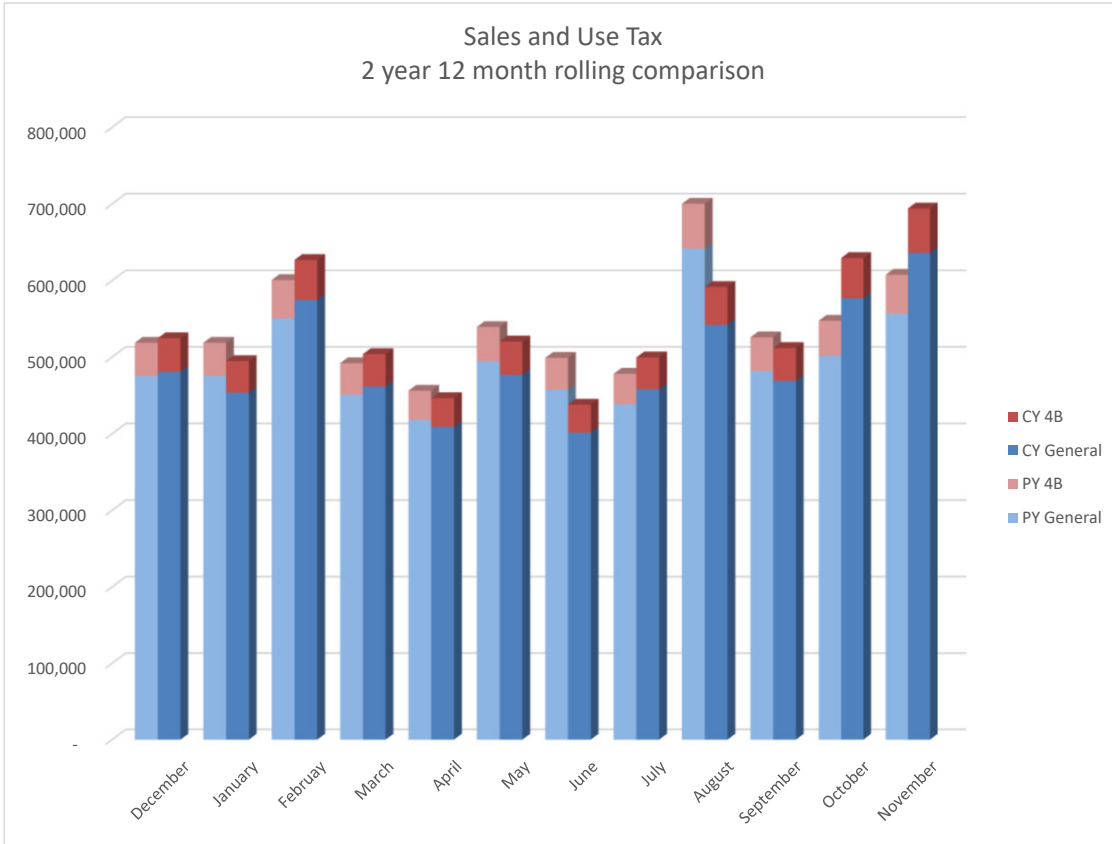
Collection to date as percentage of fiscal year total

8.78%

Collection to date as percentage of fiscal year budget

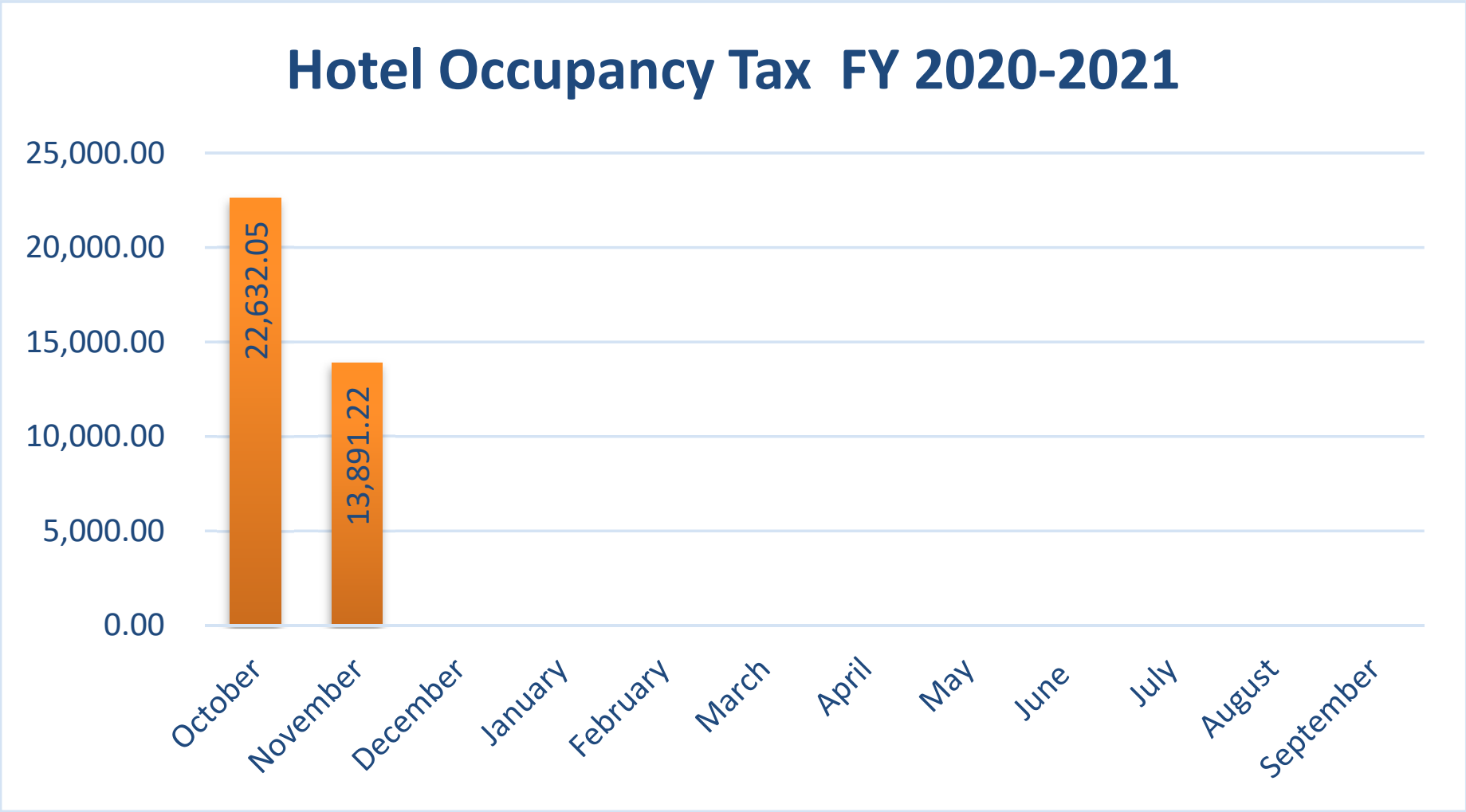
9.89%

City of Stephenville



Month	General	4B	Total	Month	General	4B	Total	% Change +/-
Dec-18	475,555	43,232	518,787	Dec-19	480,875	43,716	524,591	1.12%
Jan-19	475,476	43,225	518,702	Jan-20	453,492	41,227	494,719	-4.62%
Feb-19	550,600	50,055	600,655	Feb-20	574,600	52,236	626,836	4.36%
Mar-19	451,007	41,001	492,008	Mar-20	461,845	41,986	503,831	2.40%
Apr-19	418,155	38,014	456,169	Apr-20	409,098	37,191	446,289	-2.17%
May-19	494,362	44,942	539,304	May-20	476,944	43,359	520,302	-3.52%
Jun-19	457,429	41,584	499,014	Jun-20	401,495	36,500	437,994	-12.23%
Jul-19	438,349	39,850	478,199	Jul-20	458,003	41,637	499,639	4.48%
Aug-19	641,868	58,352	700,220	Aug-20	542,275	49,298	591,573	-15.52%
Sep-19	481,902	43,809	525,711	Sep-20	469,140	42,649	511,790	-2.65%
Oct-19	501,862	45,624	547,485	Oct-20	576,942	52,449	629,391	14.96%
Nov-19	556,777	50,616	607,393	Nov-20	636,149	57,832	693,981	14.26%
12 month total			<u>6,483,646</u>	12 month total			<u>6,480,935</u>	-0.04%
Oct - Nov 2019			<u>1,154,878</u>	Oct - Nov 2020			<u>1,323,372</u>	14.59%
FY 2019-2020 Total			6,312,441	FY 2020-2021 Budget			6,231,679	
Collection to date as percentage of fiscal year total			18.30%	Collection to date as percentage of fiscal year budget			21.24%	

Hotel Occupancy Tax FY 2020-2021



**City of Stephenville
Budget vs. YTD Actual
November 30, 2020**

Date Prepared: January 4, 2021

Source of Funds	Approved Budget 2020-20201	Target Budget	11/30/20 Current YTD Actual	Dollar Variance Positive(Negative)	Percent Variance	Notes
Property Taxes	\$ 6,674,946	\$ 741,176	\$ 661,545	\$ (79,631)	(10.74%)	Impact of COVID 19
Sales Taxes	6,241,679	1,101,138	1,323,372	222,234	20.18%	Back to school
Other Taxes	2,099,361	156,063	117,192	(38,871)	(24.91%)	Hotel Occupancy Tax
Licenses and permits	331,562	61,860	59,592	(2,268)	(3.67%)	Back flow testing
Fines and forfeitures	129,250	21,541	27,184	5,643	26.20%	Warrants have been issued
Service charges	11,204,096	1,759,923	1,963,156	203,234	11.55%	Water, Sewer, & Landfill charges
Interest on investments	37,947	6,112	16,789	10,677	174.68%	Fluctuates with cash flows
Other Income	1,746,433	287,016.02	12,980	(274,036)	(95.48%)	Project driven funds
Total Operating Revenue	<u>28,465,274</u>	<u>4,134,829</u>	<u>4,181,810</u>	<u>46,981</u>	<u>1.14%</u>	
Intergovernmental grants	2,692,576	464,722	11,757	(452,965)	(97.47%)	Reimbursement based revenue
Debt Proceeds	0	0	0	0	0.00%	
Total Revenue	<u>31,157,850</u>	<u>4,599,551</u>	<u>4,193,567</u>	<u>(405,984)</u>	<u>(8.83%)</u>	
Transfers-In	\$ 2,519,638	\$ 1,846,159	\$ -	\$ (1,846,159)	(100.00%)	Transfers not done yet
Transfers-Out	(2,519,638)	(1,846,159)	-	1,846,159	100.00%	Transfers not done yet
Expenditures						
General Fund	\$ 14,619,046	\$ 2,744,116	\$ 2,537,153	\$ 206,963	7.54%	
Utility Fund	4,296,155	746,685	794,705	(48,020)	-6.43%	
Landfill Fund	406,236	83,726	104,693	(20,967)	-25.04%	Maintenance
Airport Fund	81,095	18,260	16,638	1,622	8.88%	
Storm Water Drainage Fund	75,268	12,515	16,620	(4,105)	-32.80%	Plan reviews
Special Revenue Funds	463,223	73,215	98,909	(25,694)	-35.09%	Day tripper contract
Stephenville Economic Dev Authority	519,311	88,809	63,447	25,362	28.56%	
Total Operating Expenditures	<u>20,460,334</u>	<u>3,767,326</u>	<u>3,632,166</u>	<u>135,160</u>	<u>3.59%</u>	
Capital	32,917,098	5,484,056	318,173	5,165,883	94.20%	
Debt Service	3,231,058	53,246	94,188	(40,942)	-76.89%	Final payment on pumper paid early
Total Expenditures	<u>56,608,490</u>	<u>9,304,628</u>	<u>4,044,527</u>	<u>5,260,101</u>	<u>56.53%</u>	

**City of Stephenville
 Prior YTD Actual vs Current YTD Actual
 November 30, 2020**

Date Prepared: January 4, 2021

Source of Funds	Prior YTD Actual	Current YTD Actual	Variance Positive (Negative)	% Variance Positive (Negative)	Notes
Property Taxes	\$ 565,747	\$ 661,545	\$ 95,799	16.93%	Increased assessments.
Sales Taxes	1,154,878	1,323,372	168,493	14.59%	Back to school and audit collections.
Other Taxes	110,195	117,192	6,997	6.35%	Hotel Occupancy Tax.
Licenses and permits	28,168	59,592	31,423	111.56%	Building permits.
Fines and forfeitures	19,074	27,184	8,110	42.52%	Warrants have been issued.
Service charges	1,988,583	1,963,156	(25,426)	(1.28%)	Water sales.
Interest on investments	83,551	16,789	(66,762)	(79.91%)	Rates have declined.
Other Income	261,159	12,980	(248,180)	(95.03%)	Prior year - insurance proceeds.
Total Operating Revenue	<u>4,211,355</u>	<u>4,181,810</u>	<u>(29,545)</u>	<u>(0.70%)</u>	
Intergovernmental grants	50,600	11,757	(38,843)	(76.77%)	Grants differ from year to year.
Debt Proceeds	0	0	0	0.00%	
Total Revenue	<u>4,261,955</u>	<u>4,193,567</u>	<u>(68,388)</u>	<u>(1.60%)</u>	
Transfers-In	\$ -	\$ -	\$ -	0.00%	
Transfers-Out	\$ -	\$ -	\$ -	0.00%	
Expenditures					
General Fund	\$ 2,838,157	\$ 2,537,153	(301,004)	(10.61%)	
Utility Fund	854,927	\$ 794,705	(60,222)	(7.04%)	
Landfill Fund	73,881	\$ 104,693	30,812	41.71%	Maintenance
Airport Fund	17,399	\$ 16,638	(761)	(4.37%)	
Storm Water Drainage Fund	6,384	\$ 16,620	10,236	160.33%	Plan reviews
Special Revenue Funds	41,462	\$ 98,909	57,447	138.55%	Day Tripper Advertising.
Stephenville Economic Dev Authority	76,298	\$ 63,447	(12,851)	(16.84%)	
Total Operating Expenditures	<u>3,908,509</u>	<u>3,632,166</u>	<u>(276,343)</u>	<u>(7.07%)</u>	
Capital	1,138,278	318,173	2,104,743	184.91%	Capital purchases differ from year to year
Debt Service	93,890	94,188	(1,027,372)	(1094.23%)	Debt differs from year to year
Total Expenditures	<u>5,140,676</u>	<u>4,044,527</u>	<u>801,028</u>	<u>15.58%</u>	



Budget Variance Report

As Of: 11/30/2020

Item 25.

Fund: 01 - GENERAL FUND

	CURRENT MONTH			YEAR TO DATE				ANNUAL BUDGET		
	ACTUAL	BUDGETED	VARIANCE	ACTUAL	BUDGETED	VARIANCE	%	TOTAL	REMAINING	%
REVENUE SUMMARY										
TAXES	991,284.84	939,854.83	51,430.01	1,950,810.92	1,808,349.89	142,461.03	14	13,809,417.00	(11,858,606.08)	86
LICENSES AND PERMITS	42,965.34	32,541.13	10,424.21	59,591.83	57,028.83	2,563.00	20	302,562.00	(242,970.17)	80
FINES AND FORFEITURES	10,370.48	9,820.81	549.67	25,466.87	19,641.62	5,825.25	22	117,850.00	(92,383.13)	78
INTERGOVERNMENTAL	500.61	52,264.66	(51,764.05)	1,656.85	154,529.32	(152,872.47)	0	827,176.00	(825,519.15)	100
CHARGES FOR SERVICES	110,196.25	81,303.07	28,893.18	161,915.08	164,196.15	(2,281.07)	14	1,156,137.00	(994,221.92)	86
OTHER REVENUE	15,931.39	3,748.91	12,182.48	21,466.65	7,495.84	13,970.81	44	48,278.00	(26,811.35)	56
TRANSFER	0.00	0.00	0.00	0.00	683,841.00	(683,841.00)	0	683,841.00	(683,841.00)	100
TOTAL REVENUE	1,171,248.91	1,119,533.41	51,715.50	2,220,908.20	2,895,082.65	(674,174.45)	13	16,945,261.00	(14,724,352.80)	87
EXPENSE SUMMARY										
CITY COUNCIL	10,382.50	10,335.29	(47.21)	24,010.61	37,403.58	13,392.97	17	140,757.00	(116,746.39)	83
CITY MANAGER	38,452.92	39,877.39	1,424.47	72,211.77	75,493.78	3,282.01	17	428,220.00	(356,008.23)	83
CITY SECRETARY	44,709.32	10,024.21	(34,685.11)	56,450.32	41,086.42	(15,363.90)	44	129,688.00	(73,237.68)	56
EMERGENCY MANAGEMENT	161.73	1,733.49	1,571.76	13,956.73	3,466.98	(10,489.75)	67	20,802.00	(6,845.27)	33
MUNICIPAL BUILDING	5,540.34	7,713.94	2,173.60	21,636.81	18,022.88	(3,613.93)	23	95,292.00	(73,655.19)	77
MUNICIPAL SERVICES CTR	11,877.43	7,616.31	(4,261.12)	20,106.75	18,529.62	(1,577.13)	21	95,033.00	(74,926.25)	79
HUMAN RESOURCES	13,942.37	15,330.38	1,388.01	38,211.98	44,950.76	6,738.78	20	187,799.00	(149,587.02)	80
DOWNTOWN	0.00	4,890.97	4,890.97	201.89	9,855.94	9,654.05	0	59,132.00	(58,930.11)	100
FINANCE	35,856.17	44,236.95	8,380.78	68,967.06	85,825.02	16,857.96	13	511,624.00	(442,656.94)	87
INFORMATION TECHNOLOGY	19,634.13	27,093.95	7,459.82	36,853.35	53,210.90	16,357.55	12	312,572.00	(275,718.65)	88
TAX	473.60	14,169.24	13,695.64	41,819.12	28,338.48	(13,480.64)	25	170,031.00	(128,211.88)	75
LEGAL COUNSEL	8,001.77	9,975.40	1,973.63	15,571.96	20,087.80	4,515.84	13	119,842.00	(104,270.04)	87
MUNICIPAL COURT	9,207.39	9,244.87	37.48	15,898.18	18,424.74	2,526.56	14	114,217.00	(98,318.82)	86
STREET MAINTENANCE	57,993.09	82,851.67	24,858.58	115,637.49	182,841.34	67,203.85	12	978,687.00	(863,049.51)	88
PARKS & LEISURE ADM	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	

Budget Variance Report
Fund: 01 - GENERAL FUND

	CURRENT MONTH			YEAR TO DATE				ANNUAL BUDGET		
	ACTUAL	BUDGETED	VARIANCE	ACTUAL	BUDGETED	VARIANCE	%	TOTAL	REMAINING	%
PARKS & RECREATION	180,004.76	214,659.19	34,654.43	347,624.81	447,404.38	99,779.57	14	2,521,899.00	(2,174,274.19)	86
PARK MAINTENANCE	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	
LIBRARY	18,779.21	22,106.01	3,326.80	35,150.51	44,064.02	8,913.51	14	250,197.00	(215,046.49)	86
SENIOR CENTER	9,971.43	12,126.15	2,154.72	19,193.23	26,662.30	7,469.07	14	141,110.00	(121,916.77)	86
AQUATIC CENTER	1,919.90	20,763.01	18,843.11	8,361.60	47,228.02	38,866.42	3	254,859.00	(246,497.40)	97
FIRE DEPARTMENT	262,238.99	294,328.27	32,089.28	650,424.25	654,853.54	4,429.29	19	3,470,633.00	(2,820,208.75)	81
POLICE DEPARTMENT	390,636.58	457,643.64	67,007.06	1,151,528.23	995,632.28	(155,895.95)	22	5,331,578.00	(4,180,049.77)	78
DEVELOPMENT SERVICES	48,997.17	50,682.00	1,684.83	86,552.70	113,934.00	27,381.30	14	624,279.00	(537,726.30)	86
TRANSFERS	0.00	93,963.74	93,963.74	0.00	187,927.48	187,927.48	0	1,373,268.00	(1,373,268.00)	100
NON-DEPARTMENTAL	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	
TOTAL EXPENSE	1,168,780.80	1,451,366.07	282,585.27	2,840,369.35	3,155,244.26	314,874.91	16	17,331,519.00	14,491,149.65	84
REVENUE OVER/(UNDER) EXPENDITURE	2,468.11	(331,832.66)	334,300.77	(619,461.15)	(260,161.61)	(359,299.54)		(386,258.00)	(29,215,502.45)	

Budget Variance Report

Fund: 02 - WATER AND WASTEWATER FUND

	CURRENT MONTH			YEAR TO DATE				ANNUAL BUDGET		
	ACTUAL	BUDGETED	VARIANCE	ACTUAL	BUDGETED	VARIANCE	%	TOTAL	REMAINING	%
REVENUE SUMMARY										
LICENSES AND PERMITS	0.00	749.70	(749.70)	0.00	1,499.40	(1,499.40)	0	9,000.00	(9,000.00)	100
INTERGOVERNMENTAL	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	
CHARGES FOR SERVICES	751,065.23	698,386.95	52,678.28	1,493,712.92	1,358,597.57	135,115.35	18	8,330,765.00	(6,837,052.08)	82
OTHER REVENUE	1,455.01	1,737.13	(282.12)	4,190.38	2,625.88	1,564.50	11	38,671.00	(34,480.62)	89
TRANSFER	0.00	0.00	0.00	0.00	34,753.00	(34,753.00)	0	34,753.00	(34,753.00)	100
TOTAL REVENUE	752,520.24	700,873.78	51,646.46	1,497,903.30	1,397,475.85	100,427.45	18	8,413,189.00	(6,915,285.70)	82
EXPENSE SUMMARY										
UTILITIES ADMINISTRATION	22,154.89	54,118.08	31,963.19	47,418.34	109,266.16	61,847.82	7	633,577.00	(586,158.66)	93
WATER PRODUCTION	241,184.17	123,341.35	(117,842.82)	286,820.18	264,057.70	(22,762.48)	19	1,499,376.00	(1,212,555.82)	81
WATER DISTRIBUTION	27,885.57	126,902.35	99,016.78	57,675.02	260,087.70	202,412.68	4	1,531,071.00	(1,473,395.98)	96
CUSTOMER SERVICE	19,051.40	19,886.32	834.92	62,340.17	44,263.64	(18,076.53)	26	244,439.00	(182,098.83)	74
WASTEWATER COLLECTION	34,948.11	1,027,541.37	992,593.26	106,413.35	2,063,278.74	1,956,865.39	1	12,342,966.00	(12,236,552.65)	99
WASTEWATER TREATMENT	76,144.59	96,293.29	20,148.70	170,945.12	199,094.58	28,149.46	15	1,162,490.00	(991,544.88)	85
BILLING & COLLECTION	19,624.53	23,110.96	3,486.43	43,135.51	48,827.92	5,692.41	15	284,748.00	(241,612.49)	85
NON-DEPARTMENTAL	35,152.41	27,876.53	(7,275.88)	74,477.73	550,635.35	476,157.62	3	2,727,662.00	(2,653,184.27)	97
TOTAL EXPENSE	476,145.67	1,499,070.25	1,022,924.58	849,225.42	3,539,511.79	2,690,286.37	4	20,426,329.00	19,577,103.58	96
REVENUE OVER/(UNDER) EXPENDITURE	276,374.57	(798,196.47)	1,074,571.04	648,677.88	(2,142,035.94)	2,790,713.82		(12,013,140.00)	(26,492,389.28)	

Budget Variance Report

Fund: 03 - SANITARY LANDFILL FUND

	CURRENT MONTH			YEAR TO DATE				ANNUAL BUDGET		
	ACTUAL	BUDGETED	VARIANCE	ACTUAL	BUDGETED	VARIANCE	%	TOTAL	REMAINING	%
<u>REVENUE SUMMARY</u>										
CHARGES FOR SERVICES	98,560.60	51,300.00	47,260.60	181,308.75	101,070.00	80,238.75	20	900,000.00	(718,691.25)	80
OTHER REVENUE	94.05	898.38	(804.33)	672.99	992.71	(319.72)	20	3,440.00	(2,767.01)	80
TRANSFER	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	
TOTAL REVENUE	98,654.65	52,198.38	46,456.27	181,981.74	102,062.71	79,919.03	20	903,440.00	(721,458.26)	80
<u>EXPENSE SUMMARY</u>										
LANDFILL	30,416.36	33,770.77	3,354.41	104,692.97	112,488.54	7,795.57	24	434,999.00	(330,306.03)	76
TOTAL EXPENSE	30,416.36	33,770.77	3,354.41	104,692.97	112,488.54	7,795.57	24	434,999.00	330,306.03	76
REVENUE OVER/(UNDER) EXPENDITURE	68,238.29	18,427.61	49,810.68	77,288.77	(10,425.83)	87,714.60		468,441.00	(1,051,764.29)	

Budget Variance Report
Fund: 04 - AIRPORT FUND

	CURRENT MONTH			YEAR TO DATE				ANNUAL BUDGET		
	ACTUAL	BUDGETED	VARIANCE	ACTUAL	BUDGETED	VARIANCE	%	TOTAL	REMAINING	%
REVENUE SUMMARY										
INTERGOVERNMENTAL	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	
CHARGES FOR SERVICES	9,288.13	9,155.45	132.68	18,153.13	18,016.90	136.23	17	109,380.00	(91,226.87)	83
OTHER REVENUE	0.00	140,568.75	(140,568.75)	0.00	281,137.50	(281,137.50)	0	1,687,500.00	(1,687,500.00)	100
TRANSFER	0.00	0.00	0.00	0.00	160,000.00	(160,000.00)	0	160,000.00	(160,000.00)	100
TOTAL REVENUE	9,288.13	149,724.20	(140,436.07)	18,153.13	459,154.40	(441,001.27)	1	1,956,880.00	(1,938,726.87)	99
EXPENSE SUMMARY										
AIRPORT	9,607.51	162,465.96	152,858.45	16,638.21	330,634.92	313,996.71	1	1,956,095.00	(1,939,456.79)	99
TOTAL EXPENSE	9,607.51	162,465.96	152,858.45	16,638.21	330,634.92	313,996.71	1	1,956,095.00	1,939,456.79	99
REVENUE OVER/(UNDER) EXPENDITURE	(319.38)	(12,741.76)	12,422.38	1,514.92	128,519.48	(127,004.56)		785.00	(3,878,183.66)	

Budget Variance Report

Fund: 05 - STORM WATER DRAINAGE FUND

	CURRENT MONTH			YEAR TO DATE				ANNUAL BUDGET		
	ACTUAL	BUDGETED	VARIANCE	ACTUAL	BUDGETED	VARIANCE	%	TOTAL	REMAINING	%
<u>REVENUE SUMMARY</u>										
LICENSES AND PERMITS	0.00	1,666.00	(1,666.00)	0.00	3,332.00	(3,332.00)	0	20,000.00	(20,000.00)	100
INTERGOVERNMENTAL	10,100.00	155,096.27	(144,996.27)	10,100.00	310,192.54	(300,092.54)	1	1,861,900.00	(1,851,800.00)	99
CHARGES FOR SERVICES	54,044.10	54,244.98	(200.88)	108,066.60	108,483.39	(416.79)	17	650,438.00	(542,371.40)	83
OTHER REVENUE	92.88	182.72	(89.84)	193.57	357.61	(164.04)	9	2,060.00	(1,866.43)	91
TOTAL REVENUE	64,236.98	211,189.97	(146,952.99)	118,360.17	422,365.54	(304,005.37)	5	2,534,398.00	(2,416,037.83)	95
<u>EXPENSE SUMMARY</u>										
STORM WATER DRAINAGE	16,615.31	196,276.28	179,660.97	16,619.90	591,560.56	574,940.66	1	3,120,371.00	(3,103,751.10)	99
TOTAL EXPENSE	16,615.31	196,276.28	179,660.97	16,619.90	591,560.56	574,940.66	1	3,120,371.00	3,103,751.10	99
REVENUE OVER/(UNDER) EXPENDITURE	47,621.67	14,913.69	32,707.98	101,740.27	(169,195.02)	270,935.29		(585,973.00)	(5,519,788.93)	

Budget Variance Report

Fund: 07 - HOTEL OCCUPANCY TAX FUND

As of Item 25. 0

	CURRENT MONTH			YEAR TO DATE				ANNUAL BUDGET		
	ACTUAL	BUDGETED	VARIANCE	ACTUAL	BUDGETED	VARIANCE	%	TOTAL	REMAINING	%
<u>REVENUE SUMMARY</u>										
TAXES	14,173.48	33,998.72	(19,825.24)	14,173.48	67,997.44	(53,823.96)	3	408,148.00	(393,974.52)	97
INTERGOVERNMENTAL	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	
CHARGES FOR SERVICES	0.00	3,498.60	(3,498.60)	0.00	6,997.20	(6,997.20)	0	42,000.00	(42,000.00)	100
OTHER REVENUE	29.07	43.29	(14.22)	68.62	78.46	(9.84)	10	660.00	(591.38)	90
TRANSFER	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	
TOTAL REVENUE	14,202.55	37,540.61	(23,338.06)	14,242.10	75,073.10	(60,831.00)	3	450,808.00	(436,565.90)	97
<u>EXPENSE SUMMARY</u>										
TOURISM	8,818.99	35,942.52	27,123.53	98,909.15	71,049.04	(27,860.11)	22	450,223.00	(351,313.85)	78
TOTAL EXPENSE	8,818.99	35,942.52	27,123.53	98,909.15	71,049.04	(27,860.11)	22	450,223.00	351,313.85	78
REVENUE OVER/(UNDER) EXPENDITURE	5,383.56	1,598.09	3,785.47	(84,667.05)	4,024.06	(88,691.11)		585.00	(787,879.75)	

Budget Variance Report

Fund: 08 - DEBT SERVICE FUND

As of Item 25. 0

	CURRENT MONTH			YEAR TO DATE				ANNUAL BUDGET		
	ACTUAL	BUDGETED	VARIANCE	ACTUAL	BUDGETED	VARIANCE	%	TOTAL	REMAINING	%
<u>REVENUE SUMMARY</u>										
TAXES	12,969.45	17,127.46	(4,158.01)	26,843.68	29,846.57	(3,002.89)	10	265,289.00	(238,445.32)	90
OTHER REVENUE	12.37	22.26	(9.89)	23.67	43.12	(19.45)	8	311.00	(287.33)	92
TRANSFER	0.00	0.00	0.00	0.00	0.00	0.00	0	343,650.00	(343,650.00)	100
TOTAL REVENUE	12,981.82	17,149.72	(4,167.90)	26,867.35	29,889.69	(3,022.34)	4	609,250.00	(582,382.65)	96
<u>EXPENSE SUMMARY</u>										
DEBT SERVICE	0.00	24.99	24.99	0.00	49.98	49.98	0	609,250.00	(609,250.00)	100
TOTAL EXPENSE	0.00	24.99	24.99	0.00	49.98	49.98	0	609,250.00	609,250.00	100
REVENUE OVER/(UNDER) EXPENDITURE	12,981.82	17,124.73	(4,142.91)	26,867.35	29,839.71	(2,972.36)		0.00	(1,191,632.65)	

Budget Variance Report

Fund: 10 - CAPITAL PROJECTS FUND

As of Item 25. 20

	CURRENT MONTH			YEAR TO DATE				ANNUAL BUDGET		
	ACTUAL	BUDGETED	VARIANCE	ACTUAL	BUDGETED	VARIANCE	%	TOTAL	REMAINING	%
REVENUE SUMMARY										
INTERGOVERNMENTAL	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	
CHARGES FOR SERVICES	0.00	1,280.82	(1,280.82)	0.00	2,561.64	(2,561.64)	0	15,376.00	(15,376.00)	100
OTHER REVENUE	1,387.55	43.20	1,344.35	2,942.80	85.44	2,857.36	245	1,200.00	1,742.80	-145
TRANSFER	0.00	0.00	0.00	0.00	967,565.00	(967,565.00)	0	967,565.00	(967,565.00)	100
TOTAL REVENUE	1,387.55	1,324.02	63.53	2,942.80	970,212.08	(967,269.28)	0	984,141.00	(981,198.20)	100
EXPENSE SUMMARY										
STREET MAINTENANCE	28,487.64	1,159,817.63	1,131,329.99	54,624.78	2,319,635.26	2,265,010.48	0	13,923,381.00	(13,868,756.22)	100
PARKS & RECREATION	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	
FIRE DEPARTMENT	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	
TOTAL EXPENSE	28,487.64	1,159,817.63	1,131,329.99	54,624.78	2,319,635.26	2,265,010.48	0	13,923,381.00	13,868,756.22	100
REVENUE OVER/(UNDER) EXPENDITURE	(27,100.09)	(1,158,493.61)	1,131,393.52	(51,681.98)	(1,349,423.18)	1,297,741.20		(12,939,240.00)	(14,849,954.42)	

Budget Variance Report

Fund: 11 - CHILD SAFETY FUND

As of Item 25. 0

	CURRENT MONTH			YEAR TO DATE				ANNUAL BUDGET		
	ACTUAL	BUDGETED	VARIANCE	ACTUAL	BUDGETED	VARIANCE	%	TOTAL	REMAINING	%
<u>REVENUE SUMMARY</u>										
FINES AND FORFEITURES	200.00	208.33	(8.33)	815.74	416.66	399.08	33	2,500.00	(1,684.26)	67
OTHER REVENUE	0.30	0.24	0.06	0.61	0.48	0.13	20	3.00	(2.39)	80
TRANSFER	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	
TOTAL REVENUE	200.30	208.57	(8.27)	816.35	417.14	399.21	33	2,503.00	(1,686.65)	67
<u>EXPENSE SUMMARY</u>										
CHILD SAFETY	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	
TOTAL EXPENSE	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	
REVENUE OVER/(UNDER) EXPENDITURE	200.30	208.57	(8.27)	816.35	417.14	399.21		2,503.00	(1,686.65)	

Budget Variance Report

Fund: 12 - COURT TECHNOLOGY FUND

As of Item 25. 0

	CURRENT MONTH			YEAR TO DATE				ANNUAL BUDGET		
	ACTUAL	BUDGETED	VARIANCE	ACTUAL	BUDGETED	VARIANCE	%	TOTAL	REMAINING	%
REVENUE SUMMARY										
FINES AND FORFEITURES	352.52	741.37	(388.85)	901.39	1,482.74	(581.35)	10	8,900.00	(7,998.61)	90
OTHER REVENUE	0.60	1.91	(1.31)	1.22	3.82	(2.60)	5	23.00	(21.78)	95
TOTAL REVENUE	353.12	743.28	(390.16)	902.61	1,486.56	(583.95)	10	8,923.00	(8,020.39)	90
EXPENSE SUMMARY										
COURT TECHNOLOGY	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	
TOTAL EXPENSE	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	
REVENUE OVER/(UNDER) EXPENDITURE	353.12	743.28	(390.16)	902.61	1,486.56	(583.95)		8,923.00	(8,020.39)	

Budget Variance Report

Fund: 13 - PUBLIC SAFETY FUND

As of Item 25. 20

	CURRENT MONTH			YEAR TO DATE				ANNUAL BUDGET		
	ACTUAL	BUDGETED	VARIANCE	ACTUAL	BUDGETED	VARIANCE	%	TOTAL	REMAINING	%
<u>REVENUE SUMMARY</u>										
FINES AND FORFEITURES	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	
INTERGOVERNMENTAL	0.00	0.00	0.00	0.00	0.00	0.00	0	3,500.00	(3,500.00)	100
OTHER REVENUE	7.26	6.66	0.60	15.40	13.32	2.08	19	80.00	(64.60)	81
TOTAL REVENUE	7.26	6.66	0.60	15.40	13.32	2.08	0	3,580.00	(3,564.60)	100
<u>EXPENSE SUMMARY</u>										
PUBLIC SAFETY	0.00	1,082.90	1,082.90	0.00	2,165.80	2,165.80	0	13,000.00	(13,000.00)	100
TOTAL EXPENSE	0.00	1,082.90	1,082.90	0.00	2,165.80	2,165.80	0	13,000.00	13,000.00	100
REVENUE OVER/(UNDER) EXPENDITURE	7.26	(1,076.24)	1,083.50	15.40	(2,152.48)	2,167.88		(9,420.00)	(16,564.60)	

Budget Variance Report

Fund: 20 - TAX INCREMENT FINANCING FUND

	CURRENT MONTH			YEAR TO DATE				ANNUAL BUDGET		
	ACTUAL	BUDGETED	VARIANCE	ACTUAL	BUDGETED	VARIANCE	%	TOTAL	REMAINING	%
<u>REVENUE SUMMARY</u>										
TAXES	0.00	229.26	(229.26)	0.00	420.31	(420.31)	0	13,821.00	(13,821.00)	100
OTHER REVENUE	0.00	0.00	0.00	0.00	0.00	0.00		0.00	0.00	
TRANSFER	0.00	0.00	0.00	0.00	0.00	0.00	0	329,829.00	(329,829.00)	100
TOTAL REVENUE	0.00	229.26	(229.26)	0.00	420.31	(420.31)	0	343,650.00	(343,650.00)	100
<u>EXPENSE SUMMARY</u>										
TAX INCREMENT FINANCING	0.00	0.00	0.00	0.00	0.00	0.00	0	343,650.00	(343,650.00)	100
TOTAL EXPENSE	0.00	0.00	0.00	0.00	0.00	0.00	0	343,650.00	343,650.00	100
REVENUE OVER/(UNDER) EXPENDITURE	0.00	229.26	(229.26)	0.00	420.31	(420.31)		0.00	(687,300.00)	

Budget Variance Report

Fund: 79 - SEDA

As of Item 25. 0

	CURRENT MONTH			YEAR TO DATE				ANNUAL BUDGET		
	ACTUAL	BUDGETED	VARIANCE	ACTUAL	BUDGETED	VARIANCE	%	TOTAL	REMAINING	%
<u>REVENUE SUMMARY</u>										
TAXES	57,831.74	44,868.47	12,963.27	110,280.98	91,762.25	18,518.73	21	519,311.00	(409,030.02)	79
OTHER REVENUE	91.55	147.11	(55.56)	192.78	294.01	(101.23)	9	2,154.00	(1,961.22)	91
TOTAL REVENUE	57,923.29	45,015.58	12,907.71	110,473.76	92,056.26	18,417.50	21	521,465.00	(410,991.24)	79
<u>EXPENSE SUMMARY</u>										
SEDA	25,765.86	43,029.53	17,263.67	63,446.93	88,809.06	25,362.13	12	519,311.00	(455,864.07)	88
TOTAL EXPENSE	25,765.86	43,029.53	17,263.67	63,446.93	88,809.06	25,362.13	12	519,311.00	455,864.07	88
REVENUE OVER/(UNDER) EXPENDITURE	32,157.43	1,986.05	30,171.38	47,026.83	3,247.20	43,779.63		2,154.00	(866,855.31)	



Prior-Year Comparative Income Statement

Item 25.

Group Summary

For the Period Ending 11/30/2020

Categor...	2019-2020 Nov. Activity	2020-2021 Nov. Activity	Nov. Variance Favorable / (Unfavorable)	Variance %	2019-2020 YTD Activity	2020-2021 YTD Activity	YTD Variance Favorable / (Unfavorable)	Variance %
Fund: 01 - GENERAL FUND								
Revenue								
40 - TAXES	861,573.54	991,284.84	129,711.30	15.06%	1,701,237.60	1,950,810.92	249,573.32	14.67%
41 - LICENSES AND PERMITS	8,402.00	42,965.34	34,563.34	411.37%	28,168.48	59,591.83	31,423.35	111.56%
42 - FINES AND FORFEITURES	7,405.70	10,370.48	2,964.78	40.03%	19,073.83	25,466.87	6,393.04	33.52%
43 - INTERGOVERNMENTAL	300.00	500.61	200.61	66.87%	50,600.00	1,656.85	-48,943.15	-96.73%
44 - CHARGES FOR SERVICES	42,697.45	110,196.25	67,498.80	158.09%	117,838.82	161,915.08	44,076.26	37.40%
45 - OTHER REVENUE	573,495.70	15,931.39	-557,564.31	-97.22%	263,155.67	21,466.65	-241,689.02	-91.84%
Revenue Total:	1,493,874.39	1,171,248.91	-322,625.48	-21.60%	2,180,074.40	2,220,908.20	40,833.80	1.87%
Expense								
Department: 101 - CITY COUNCIL								
51 - PERSONNEL	2,161.00	2,153.00	8.00	0.37%	3,588.00	3,396.50	191.50	5.34%
52 - CONTRACTUAL	9,795.31	3,250.00	6,545.31	66.82%	17,947.81	15,597.25	2,350.56	13.10%
53 - GENERAL SERVICES	651.31	1,502.00	-850.69	-130.61%	693.11	1,539.36	-846.25	-122.09%
54 - MACHINE & EQUIPMENT MAI	0.00	0.00	0.00	0.00%	9,522.35	0.00	9,522.35	100.00%
58 - GRANT DISBURSEMENTS	0.00	3,477.50	-3,477.50	0.00%	0.00	3,477.50	-3,477.50	0.00%
Department 101 - CITY COUNCIL Total:	12,607.62	10,382.50	2,225.12	17.65%	31,751.27	24,010.61	7,740.66	24.38%
Department: 102 - CITY MANAGER								
51 - PERSONNEL	35,560.96	37,376.92	-1,815.96	-5.11%	47,104.09	67,404.26	-20,300.17	-43.10%
52 - CONTRACTUAL	12,986.80	265.39	12,721.41	97.96%	15,136.42	2,499.01	12,637.41	83.49%
53 - GENERAL SERVICES	0.00	810.61	-810.61	0.00%	0.00	2,308.50	-2,308.50	0.00%
Department 102 - CITY MANAGER Total:	48,547.76	38,452.92	10,094.84	20.79%	62,240.51	72,211.77	-9,971.26	-16.02%
Department: 103 - CITY SECRETARY								
51 - PERSONNEL	10,123.29	8,283.35	1,839.94	18.18%	14,123.12	14,593.47	-470.35	-3.33%
52 - CONTRACTUAL	1,263.10	62.92	1,200.18	95.02%	6,824.39	5,427.68	1,396.71	20.47%
53 - GENERAL SERVICES	0.00	53.50	-53.50	0.00%	39.37	119.62	-80.25	-203.84%
54 - MACHINE & EQUIPMENT MAI	0.00	15,809.55	-15,809.55	0.00%	13,972.05	15,809.55	-1,837.50	-13.15%
55 - CAPITAL OUTLAY	0.00	20,500.00	-20,500.00	0.00%	0.00	20,500.00	-20,500.00	0.00%
Department 103 - CITY SECRETARY Total:	11,386.39	44,709.32	-33,322.93	-292.66%	34,958.93	56,450.32	-21,491.39	-61.48%
Department: 104 - EMERGENCY MANAGEMENT								
52 - CONTRACTUAL	537.01	161.73	375.28	69.88%	10,048.27	12,411.73	-2,363.46	-23.52%
54 - MACHINE & EQUIPMENT MAI	0.00	0.00	0.00	0.00%	0.00	1,545.00	-1,545.00	0.00%
Department 104 - EMERGENCY MANAGEMENT Total:	537.01	161.73	375.28	69.88%	10,048.27	13,956.73	-3,908.46	-38.90%

Prior-Year Comparative Income Statement

For the Period Ending 11/30/2020 Item 25.

Categor...	2019-2020 Nov. Activity	2020-2021 Nov. Activity	Nov. Variance Favorable / (Unfavorable)	Variance %	2019-2020 YTD Activity	2020-2021 YTD Activity	YTD Variance Favorable / (Unfavorable)	Variance %
Department: 105 - MUNICIPAL BUILDING								
51 - PERSONNEL	2,090.50	1,105.79	984.71	47.10%	3,620.59	2,347.27	1,273.32	35.17%
52 - CONTRACTUAL	5,566.57	2,413.19	3,153.38	56.65%	6,580.96	5,840.36	740.60	11.25%
53 - GENERAL SERVICES	1,551.68	2,021.36	-469.68	-30.27%	1,567.86	2,267.63	-699.77	-44.63%
54 - MACHINE & EQUIPMENT MAI	1,113.63	0.00	1,113.63	100.00%	13,869.25	11,154.95	2,714.30	19.57%
55 - CAPITAL OUTLAY	2,361.79	0.00	2,361.79	100.00%	3,993.34	26.60	3,966.74	99.33%
Department 105 - MUNICIPAL BUILDING Total:	12,684.17	5,540.34	7,143.83	56.32%	29,632.00	21,636.81	7,995.19	26.98%
Department: 106 - MUNICIPAL SERVICES CTR								
51 - PERSONNEL	5,058.36	3,056.20	2,002.16	39.58%	7,817.50	5,854.02	1,963.48	25.12%
52 - CONTRACTUAL	5,815.32	1,699.46	4,115.86	70.78%	7,044.27	5,454.99	1,589.28	22.56%
53 - GENERAL SERVICES	2,870.55	7,029.07	-4,158.52	-144.87%	6,615.78	8,492.04	-1,876.26	-28.36%
54 - MACHINE & EQUIPMENT MAI	61.00	92.70	-31.70	-51.97%	61.00	305.70	-244.70	-401.15%
Department 106 - MUNICIPAL SERVICES CTR Total:	13,805.23	11,877.43	1,927.80	13.96%	21,538.55	20,106.75	1,431.80	6.65%
Department: 107 - HUMAN RESOURCES								
51 - PERSONNEL	9,113.29	12,481.07	-3,367.78	-36.95%	12,763.68	17,978.28	-5,214.60	-40.85%
52 - CONTRACTUAL	2,421.74	1,461.30	960.44	39.66%	26,747.03	4,629.29	22,117.74	82.69%
53 - GENERAL SERVICES	319.00	0.00	319.00	100.00%	328.64	605.41	-276.77	-84.22%
54 - MACHINE & EQUIPMENT MAI	0.00	0.00	0.00	0.00%	0.00	14,999.00	-14,999.00	0.00%
55 - CAPITAL OUTLAY	0.00	0.00	0.00	0.00%	14,999.00	0.00	14,999.00	100.00%
Department 107 - HUMAN RESOURCES Total:	11,854.03	13,942.37	-2,088.34	-17.62%	54,838.35	38,211.98	16,626.37	30.32%
Department: 108 - DOWNTOWN								
51 - PERSONNEL	0.00	0.00	0.00	0.00%	0.00	71.00	-71.00	0.00%
52 - CONTRACTUAL	0.00	0.00	0.00	0.00%	0.00	130.89	-130.89	0.00%
Department 108 - DOWNTOWN Total:	0.00	0.00	0.00	0.00%	0.00	201.89	-201.89	0.00%
Department: 201 - FINANCE								
51 - PERSONNEL	43,026.09	29,815.47	13,210.62	30.70%	58,768.30	55,198.63	3,569.67	6.07%
52 - CONTRACTUAL	5,543.18	6,036.31	-493.13	-8.90%	10,975.33	13,423.14	-2,447.81	-22.30%
53 - GENERAL SERVICES	43.08	4.39	38.69	89.81%	69.33	4.39	64.94	93.67%
54 - MACHINE & EQUIPMENT MAI	0.00	0.00	0.00	0.00%	0.00	240.90	-240.90	0.00%
56 - BANK CHARGES	100.00	0.00	100.00	100.00%	200.00	100.00	100.00	50.00%
Department 201 - FINANCE Total:	48,712.35	35,856.17	12,856.18	26.39%	70,012.96	68,967.06	1,045.90	1.49%
Department: 203 - INFORMATION TECHNOLOGY								
51 - PERSONNEL	27,565.66	17,870.16	9,695.50	35.17%	37,334.37	33,167.37	4,167.00	11.16%
52 - CONTRACTUAL	418.30	160.00	258.30	61.75%	418.30	558.22	-139.92	-33.45%
53 - GENERAL SERVICES	393.98	150.48	243.50	61.81%	1,452.78	154.46	1,298.32	89.37%
54 - MACHINE & EQUIPMENT MAI	4,430.67	1,453.49	2,977.18	67.19%	5,742.44	2,973.30	2,769.14	48.22%
Department 203 - INFORMATION TECHNOLOGY Total:	32,808.61	19,634.13	13,174.48	40.16%	44,947.89	36,853.35	8,094.54	18.01%
Department: 204 - TAX								
52 - CONTRACTUAL	41,300.72	473.60	40,827.12	98.85%	80,331.68	41,819.12	38,512.56	47.94%
Department 204 - TAX Total:	41,300.72	473.60	40,827.12	98.85%	80,331.68	41,819.12	38,512.56	47.94%

Prior-Year Comparative Income Statement

For the Period Ending 11

Item 25.

Categor...	2019-2020 Nov. Activity	2020-2021 Nov. Activity	Nov. Variance Favorable / (Unfavorable)	Variance %	2019-2020 YTD Activity	2020-2021 YTD Activity	YTD Variance Favorable / (Unfavorable)	Variance %
Department: 301 - LEGAL COUNSEL								
51 - PERSONNEL	9,309.97	8,001.77	1,308.20	14.05%	9,895.27	15,441.07	-5,545.80	-56.04%
52 - CONTRACTUAL	598.93	0.00	598.93	100.00%	598.93	130.89	468.04	78.15%
Department 301 - LEGAL COUNSEL Total:	9,908.90	8,001.77	1,907.13	19.25%	10,494.20	15,571.96	-5,077.76	-48.39%
Department: 302 - MUNICIPAL COURT								
51 - PERSONNEL	8,508.61	4,147.46	4,361.15	51.26%	12,815.91	7,781.35	5,034.56	39.28%
52 - CONTRACTUAL	372.41	4,755.00	-4,382.59	-1,176.82%	2,872.41	7,435.89	-4,563.48	-158.87%
53 - GENERAL SERVICES	28.34	304.93	-276.59	-975.97%	587.40	680.94	-93.54	-15.92%
55 - CAPITAL OUTLAY	7,425.00	0.00	7,425.00	100.00%	11,743.70	0.00	11,743.70	100.00%
Department 302 - MUNICIPAL COURT Total:	16,334.36	9,207.39	7,126.97	43.63%	28,019.42	15,898.18	12,121.24	43.26%
Department: 402 - STREET MAINTENANCE								
51 - PERSONNEL	52,182.90	35,291.10	16,891.80	32.37%	91,929.06	75,710.93	16,218.13	17.64%
52 - CONTRACTUAL	25,297.48	17,527.15	7,770.33	30.72%	25,996.87	26,381.23	-384.36	-1.48%
53 - GENERAL SERVICES	6,079.30	2,575.07	3,504.23	57.64%	7,611.60	3,171.05	4,440.55	58.34%
54 - MACHINE & EQUIPMENT MAI	24,454.84	2,599.77	21,855.07	89.37%	82,486.29	10,374.28	72,112.01	87.42%
55 - CAPITAL OUTLAY	13,500.00	0.00	13,500.00	100.00%	13,500.00	0.00	13,500.00	100.00%
Department 402 - STREET MAINTENANCE Total:	121,514.52	57,993.09	63,521.43	52.27%	221,523.82	115,637.49	105,886.33	47.80%
Department: 501 - PARKS & RECREATION								
51 - PERSONNEL	105,234.13	60,306.07	44,928.06	42.69%	167,065.73	137,915.77	29,149.96	17.45%
52 - CONTRACTUAL	41,291.49	43,643.21	-2,351.72	-5.70%	54,816.24	71,091.08	-16,274.84	-29.69%
53 - GENERAL SERVICES	17,254.41	5,492.25	11,762.16	68.17%	22,994.32	8,763.79	14,230.53	61.89%
54 - MACHINE & EQUIPMENT MAI	14,943.61	1,838.73	13,104.88	87.70%	25,553.44	8,914.50	16,638.94	65.11%
55 - CAPITAL OUTLAY	21.68	68,724.50	-68,702.82	-316,894.93%	22,192.05	120,939.67	-98,747.62	-444.97%
Department 501 - PARKS & RECREATION Total:	178,745.32	180,004.76	-1,259.44	-0.70%	292,621.78	347,624.81	-55,003.03	-18.80%
Department: 502 - PARK MAINTENANCE								
52 - CONTRACTUAL	736.88	0.00	736.88	100.00%	736.88	0.00	736.88	100.00%
55 - CAPITAL OUTLAY	561.69	0.00	561.69	100.00%	923.59	0.00	923.59	100.00%
Department 502 - PARK MAINTENANCE Total:	1,298.57	0.00	1,298.57	100.00%	1,660.47	0.00	1,660.47	100.00%
Department: 504 - LIBRARY								
51 - PERSONNEL	24,114.25	16,978.37	7,135.88	29.59%	33,458.03	30,719.99	2,738.04	8.18%
52 - CONTRACTUAL	3,184.59	1,153.83	2,030.76	63.77%	3,864.18	3,153.53	710.65	18.39%
53 - GENERAL SERVICES	1,394.72	647.01	747.71	53.61%	2,403.44	1,276.99	1,126.45	46.87%
54 - MACHINE & EQUIPMENT MAI	376.27	0.00	376.27	100.00%	884.02	0.00	884.02	100.00%
Department 504 - LIBRARY Total:	29,069.83	18,779.21	10,290.62	35.40%	40,609.67	35,150.51	5,459.16	13.44%
Department: 506 - SENIOR CENTER								
51 - PERSONNEL	9,696.80	5,892.84	3,803.96	39.23%	15,127.92	11,706.59	3,421.33	22.62%
52 - CONTRACTUAL	5,009.81	723.57	4,286.24	85.56%	7,364.93	2,984.25	4,380.68	59.48%
53 - GENERAL SERVICES	1,799.28	1,210.02	589.26	32.75%	2,535.49	2,357.39	178.10	7.02%
54 - MACHINE & EQUIPMENT MAI	950.00	2,145.00	-1,195.00	-125.79%	3,264.53	2,145.00	1,119.53	34.29%
Department 506 - SENIOR CENTER Total:	17,455.89	9,971.43	7,484.46	42.88%	28,292.87	19,193.23	9,099.64	32.16%

Prior-Year Comparative Income Statement

For the Period Ending 11/30/2020 Item 25.

Categor...	2019-2020 Nov. Activity	2020-2021 Nov. Activity	Nov. Variance Favorable / (Unfavorable)	Variance %	2019-2020 YTD Activity	2020-2021 YTD Activity	YTD Variance Favorable / (Unfavorable)	Variance %
Department: 507 - AQUATIC CENTER								
51 - PERSONNEL	686.00	0.00	686.00	100.00%	4,585.76	1,892.00	2,693.76	58.74%
52 - CONTRACTUAL	6,503.58	1,909.90	4,593.68	70.63%	8,330.95	5,805.60	2,525.35	30.31%
53 - GENERAL SERVICES	10.00	10.00	0.00	0.00%	23.00	44.00	-21.00	-91.30%
54 - MACHINE & EQUIPMENT MAI	1,076.65	0.00	1,076.65	100.00%	2,376.65	620.00	1,756.65	73.91%
Department 507 - AQUATIC CENTER Total:	8,276.23	1,919.90	6,356.33	76.80%	15,316.36	8,361.60	6,954.76	45.41%
Department: 601 - FIRE DEPARTMENT								
51 - PERSONNEL	347,555.02	226,484.29	121,070.73	34.83%	537,389.81	472,086.28	65,303.53	12.15%
52 - CONTRACTUAL	34,948.71	7,989.46	26,959.25	77.14%	44,244.62	39,112.15	5,132.47	11.60%
53 - GENERAL SERVICES	12,038.86	17,400.08	-5,361.22	-44.53%	17,193.38	28,651.57	-11,458.19	-66.64%
54 - MACHINE & EQUIPMENT MAI	4,222.61	10,365.16	-6,142.55	-145.47%	7,455.03	16,386.15	-8,931.12	-119.80%
55 - CAPITAL OUTLAY	232,321.50	0.00	232,321.50	100.00%	252,116.50	0.00	252,116.50	100.00%
57 - DEBT SERVICE	0.00	0.00	0.00	0.00%	93,889.58	94,188.10	-298.52	-0.32%
Department 601 - FIRE DEPARTMENT Total:	631,086.70	262,238.99	368,847.71	58.45%	952,288.92	650,424.25	301,864.67	31.70%
Department: 701 - POLICE DEPARTMENT								
51 - PERSONNEL	551,829.26	349,598.78	202,230.48	36.65%	836,948.71	741,062.28	95,886.43	11.46%
52 - CONTRACTUAL	175,940.32	16,251.48	159,688.84	90.76%	224,952.68	254,240.15	-29,287.47	-13.02%
53 - GENERAL SERVICES	13,598.11	12,461.30	1,136.81	8.36%	22,879.70	30,027.88	-7,148.18	-31.24%
54 - MACHINE & EQUIPMENT MAI	23,151.79	12,325.02	10,826.77	46.76%	69,977.94	58,635.92	11,342.02	16.21%
55 - CAPITAL OUTLAY	0.00	0.00	0.00	0.00%	23,681.64	67,562.00	-43,880.36	-185.29%
56 - BANK CHARGES	0.00	0.00	0.00	0.00%	0.50	0.00	0.50	100.00%
Department 701 - POLICE DEPARTMENT Total:	764,519.48	390,636.58	373,882.90	48.90%	1,178,441.17	1,151,528.23	26,912.94	2.28%
Department: 801 - DEVELOPMENT SERVICES								
51 - PERSONNEL	23,418.34	30,593.50	-7,175.16	-30.64%	34,247.47	59,765.07	-25,517.60	-74.51%
52 - CONTRACTUAL	11,186.74	12,360.91	-1,174.17	-10.50%	21,626.85	15,530.04	6,096.81	28.19%
53 - GENERAL SERVICES	357.90	480.91	-123.01	-34.37%	559.20	1,237.64	-678.44	-121.32%
54 - MACHINE & EQUIPMENT MAI	5,300.00	5,561.85	-261.85	-4.94%	9,193.86	10,019.95	-826.09	-8.99%
Department 801 - DEVELOPMENT SERVICES Total:	40,262.98	48,997.17	-8,734.19	-21.69%	65,627.38	86,552.70	-20,925.32	-31.89%
Expense Total:	2,052,716.67	1,168,780.80	883,935.87	43.06%	3,275,196.47	2,840,369.35	434,827.12	13.28%
Total Revenues	1,493,874.39	1,171,248.91	-322,625.48	-21.60%	2,180,074.40	2,220,908.20	40,833.80	1.87%
Fund 01 Surplus (Deficit):	-558,842.28	2,468.11	561,310.39	100.44%	-1,095,122.07	-619,461.15	475,660.92	43.43%
Fund: 02 - WATER AND WASTEWATER FUND								
Revenue								
44 - CHARGES FOR SERVICES	768,127.47	751,065.23	-17,062.24	-2.22%	1,587,076.06	1,493,712.92	-93,363.14	-5.88%
45 - OTHER REVENUE	32,557.91	1,455.01	-31,102.90	-95.53%	69,754.00	4,190.38	-65,563.62	-93.99%
Revenue Total:	800,685.38	752,520.24	-48,165.14	-6.02%	1,656,830.06	1,497,903.30	-158,926.76	-9.59%
Expense								
Department: 000 - UTILITIES ADMINISTRATION								
51 - PERSONNEL	45,161.22	20,587.25	24,573.97	54.41%	65,222.22	40,799.11	24,423.11	37.45%

Prior-Year Comparative Income Statement

For the Period Ending 11/30/2020 Item 25.

Categor...	2019-2020	2020-2021	Nov. Variance	Variance %	2019-2020	2020-2021	YTD Variance	Variance %
	Nov. Activity	Nov. Activity	Favorable / (Unfavorable)		YTD Activity	YTD Activity	Favorable / (Unfavorable)	
52 - CONTRACTUAL	2,310.90	1,567.64	743.26	32.16%	2,919.71	2,942.69	-22.98	-0.79%
53 - GENERAL SERVICES	0.00	0.00	0.00	0.00%	17.14	3,676.54	-3,659.40	-21,350.06%
54 - MACHINE & EQUIPMENT MAI	0.00	0.00	0.00	0.00%	24.67	0.00	24.67	100.00%
55 - CAPITAL OUTLAY	5,500.00	0.00	5,500.00	100.00%	5,500.00	0.00	5,500.00	100.00%
Department 000 - UTILITIES ADMINISTRATION Total:	52,972.12	22,154.89	30,817.23	58.18%	73,683.74	47,418.34	26,265.40	35.65%
Department: 001 - WATER PRODUCTION								
51 - PERSONNEL	24,516.84	14,746.43	9,770.41	39.85%	39,432.75	31,098.36	8,334.39	21.14%
52 - CONTRACTUAL	49,941.93	185,366.74	-135,424.81	-271.16%	215,381.17	212,876.02	2,505.15	1.16%
53 - GENERAL SERVICES	1,757.35	1,199.63	557.72	31.74%	3,004.09	1,563.25	1,440.84	47.96%
54 - MACHINE & EQUIPMENT MAI	576.72	39,871.37	-39,294.65	-6,813.47%	1,771.85	41,282.55	-39,510.70	-2,229.91%
Department 001 - WATER PRODUCTION Total:	76,792.84	241,184.17	-164,391.33	-214.07%	259,589.86	286,820.18	-27,230.32	-10.49%
Department: 002 - WATER DISTRIBUTION								
51 - PERSONNEL	22,751.19	14,879.43	7,871.76	34.60%	37,818.33	31,705.02	6,113.31	16.16%
52 - CONTRACTUAL	25,555.56	11,216.27	14,339.29	56.11%	25,909.53	13,757.40	12,152.13	46.90%
53 - GENERAL SERVICES	3,294.44	1,377.12	1,917.32	58.20%	4,286.02	2,617.12	1,668.90	38.94%
54 - MACHINE & EQUIPMENT MAI	-670.47	412.75	-1,083.22	-161.56%	12,535.54	3,030.97	9,504.57	75.82%
55 - CAPITAL OUTLAY	0.00	0.00	0.00	0.00%	0.00	6,564.51	-6,564.51	0.00%
Department 002 - WATER DISTRIBUTION Total:	50,930.72	27,885.57	23,045.15	45.25%	80,549.42	57,675.02	22,874.40	28.40%
Department: 003 - CUSTOMER SERVICE								
51 - PERSONNEL	21,935.70	13,137.10	8,798.60	40.11%	35,283.84	27,409.30	7,874.54	22.32%
52 - CONTRACTUAL	1,979.83	130.03	1,849.80	93.43%	2,183.78	1,637.56	546.22	25.01%
53 - GENERAL SERVICES	1,834.94	769.31	1,065.63	58.07%	2,168.81	1,111.70	1,057.11	48.74%
54 - MACHINE & EQUIPMENT MAI	732.71	5,014.96	-4,282.25	-584.44%	30,662.06	32,181.61	-1,519.55	-4.96%
Department 003 - CUSTOMER SERVICE Total:	26,483.18	19,051.40	7,431.78	28.06%	70,298.49	62,340.17	7,958.32	11.32%
Department: 011 - WASTEWATER COLLECTION								
51 - PERSONNEL	36,459.82	16,246.84	20,212.98	55.44%	59,017.86	34,749.59	24,268.27	41.12%
52 - CONTRACTUAL	12,026.88	9,317.37	2,709.51	22.53%	12,168.25	12,733.81	-565.56	-4.65%
53 - GENERAL SERVICES	3,715.86	3,570.92	144.94	3.90%	4,403.01	3,915.58	487.43	11.07%
54 - MACHINE & EQUIPMENT MAI	-701.60	1,172.98	-1,874.58	-267.19%	9,920.23	7,058.91	2,861.32	28.84%
55 - CAPITAL OUTLAY	164,429.77	4,640.00	159,789.77	97.18%	550,893.08	47,955.46	502,937.62	91.29%
Department 011 - WASTEWATER COLLECTION Total:	215,930.73	34,948.11	180,982.62	83.82%	636,402.43	106,413.35	529,989.08	83.28%
Department: 012 - WASTEWATER TREATMENT								
52 - CONTRACTUAL	85,142.03	76,144.59	8,997.44	10.57%	172,766.55	170,945.12	1,821.43	1.05%
54 - MACHINE & EQUIPMENT MAI	1,150.00	0.00	1,150.00	100.00%	1,819.76	0.00	1,819.76	100.00%
55 - CAPITAL OUTLAY	0.00	0.00	0.00	0.00%	212,733.75	0.00	212,733.75	100.00%
Department 012 - WASTEWATER TREATMENT Total:	86,292.03	76,144.59	10,147.44	11.76%	387,320.06	170,945.12	216,374.94	55.86%
Department: 020 - BILLING & COLLECTION								
51 - PERSONNEL	11,510.08	8,939.18	2,570.90	22.34%	16,352.32	16,273.89	78.43	0.48%
52 - CONTRACTUAL	4,466.07	4,092.33	373.74	8.37%	11,010.59	10,423.30	587.29	5.33%
53 - GENERAL SERVICES	5,913.66	6,328.02	-414.36	-7.01%	11,270.05	12,334.73	-1,064.68	-9.45%

Prior-Year Comparative Income Statement

For the Period Ending 11 Item 25.

Categor...	2019-2020 Nov. Activity	2020-2021 Nov. Activity	Nov. Variance Favorable / (Unfavorable)	Variance %	2019-2020 YTD Activity	2020-2021 YTD Activity	YTD Variance Favorable / (Unfavorable)	Variance %
54 - MACHINE & EQUIPMENT MAI	265.00	265.00	0.00	0.00%	3,933.42	4,103.59	-170.17	-4.33%
Department 020 - BILLING & COLLECTION Total:	22,154.81	19,624.53	2,530.28	11.42%	42,566.38	43,135.51	-569.13	-1.34%
Department: 901 - NON-DEPARTMENTAL								
59 - TRANSFER	33,340.28	35,152.41	-1,812.13	-5.44%	73,643.76	74,477.73	-833.97	-1.13%
Department 901 - NON-DEPARTMENTAL Total:	33,340.28	35,152.41	-1,812.13	-5.44%	73,643.76	74,477.73	-833.97	-1.13%
Expense Total:	564,896.71	476,145.67	88,751.04	15.71%	1,624,054.14	849,225.42	774,828.72	47.71%
Total Revenues	800,685.38	752,520.24	-48,165.14	-6.02%	1,656,830.06	1,497,903.30	-158,926.76	-9.59%
Fund 02 Surplus (Deficit):	235,788.67	276,374.57	40,585.90	17.21%	32,775.92	648,677.88	615,901.96	1,879.13%
Fund: 03 - SANITARY LANDFILL FUND								
Revenue								
44 - CHARGES FOR SERVICES	79,839.00	98,560.60	18,721.60	23.45%	153,412.26	181,308.75	27,896.49	18.18%
45 - OTHER REVENUE	1,864.47	94.05	-1,770.42	-94.96%	3,217.37	672.99	-2,544.38	-79.08%
Revenue Total:	81,703.47	98,654.65	16,951.18	20.75%	156,629.63	181,981.74	25,352.11	16.19%
Expense								
Department: 030 - LANDFILL								
51 - PERSONNEL	22,750.99	18,154.14	4,596.85	20.21%	42,670.89	40,175.09	2,495.80	5.85%
52 - CONTRACTUAL	9,975.50	6,238.82	3,736.68	37.46%	15,639.22	21,279.42	-5,640.20	-36.06%
53 - GENERAL SERVICES	5,384.03	3,758.49	1,625.54	30.19%	10,460.12	7,510.08	2,950.04	28.20%
54 - MACHINE & EQUIPMENT MAI	3,325.32	2,264.91	1,060.41	31.89%	5,110.30	35,728.38	-30,618.08	-599.14%
Department 030 - LANDFILL Total:	41,435.84	30,416.36	11,019.48	26.59%	73,880.53	104,692.97	-30,812.44	-41.71%
Expense Total:	41,435.84	30,416.36	11,019.48	26.59%	73,880.53	104,692.97	-30,812.44	-41.71%
Total Revenues	81,703.47	98,654.65	16,951.18	20.75%	156,629.63	181,981.74	25,352.11	16.19%
Fund 03 Surplus (Deficit):	40,267.63	68,238.29	27,970.66	69.46%	82,749.10	77,288.77	-5,460.33	-6.60%
Fund: 04 - AIRPORT FUND								
Revenue								
44 - CHARGES FOR SERVICES	9,272.88	9,288.13	15.25	0.16%	18,137.88	18,153.13	15.25	0.08%
Revenue Total:	9,272.88	9,288.13	15.25	0.16%	18,137.88	18,153.13	15.25	0.08%
Expense								
Department: 040 - AIRPORT								
51 - PERSONNEL	409.14	551.42	-142.28	-34.78%	632.04	868.10	-236.06	-37.35%
52 - CONTRACTUAL	8,368.61	3,068.54	5,300.07	63.33%	9,643.25	9,335.20	308.05	3.19%
54 - MACHINE & EQUIPMENT MAI	0.00	5,987.55	-5,987.55	0.00%	7,123.59	6,434.91	688.68	9.67%
Department 040 - AIRPORT Total:	8,777.75	9,607.51	-829.76	-9.45%	17,398.88	16,638.21	760.67	4.37%
Expense Total:	8,777.75	9,607.51	-829.76	-9.45%	17,398.88	16,638.21	760.67	4.37%
Total Revenues	9,272.88	9,288.13	15.25	0.16%	18,137.88	18,153.13	15.25	0.08%
Fund 04 Surplus (Deficit):	495.13	-319.38	-814.51	-164.50%	739.00	1,514.92	775.92	105.00%

Prior-Year Comparative Income Statement

For the Period Ending 11/30/2020 Item 25.

Categor...	2019-2020 Nov. Activity	2020-2021 Nov. Activity	Nov. Variance Favorable / (Unfavorable)	Variance %	2019-2020 YTD Activity	2020-2021 YTD Activity	YTD Variance Favorable / (Unfavorable)	Variance %
Fund: 05 - STORM WATER DRAINAGE FUND								
Revenue								
43 - INTERGOVERNMENTAL	0.00	10,100.00	10,100.00	0.00%	0.00	10,100.00	10,100.00	0.00%
44 - CHARGES FOR SERVICES	53,989.23	54,044.10	54.87	0.10%	107,950.73	108,066.60	115.87	0.11%
45 - OTHER REVENUE	1,376.80	92.88	-1,283.92	-93.25%	2,941.67	193.57	-2,748.10	-93.42%
Revenue Total:	55,366.03	64,236.98	8,870.95	16.02%	110,892.40	118,360.17	7,467.77	6.73%
Expense								
Department: 050 - STORM WATER DRAINAGE								
52 - CONTRACTUAL	6,374.76	16,615.31	-10,240.55	-160.64%	6,384.26	16,619.90	-10,235.64	-160.33%
55 - CAPITAL OUTLAY	8,082.30	0.00	8,082.30	100.00%	8,082.30	0.00	8,082.30	100.00%
Department 050 - STORM WATER DRAINAGE Total:	14,457.06	16,615.31	-2,158.25	-14.93%	14,466.56	16,619.90	-2,153.34	-14.88%
Expense Total:	14,457.06	16,615.31	-2,158.25	-14.93%	14,466.56	16,619.90	-2,153.34	-14.88%
Total Revenues	55,366.03	64,236.98	8,870.95	16.02%	110,892.40	118,360.17	7,467.77	6.73%
Fund 05 Surplus (Deficit):	40,908.97	47,621.67	6,712.70	16.41%	96,425.84	101,740.27	5,314.43	5.51%
Fund: 07 - HOTEL OCCUPANCY TAX FUND								
Revenue								
40 - TAXES	9,909.62	14,173.48	4,263.86	43.03%	9,909.62	14,173.48	4,263.86	43.03%
45 - OTHER REVENUE	269.76	29.07	-240.69	-89.22%	628.49	68.62	-559.87	-89.08%
Revenue Total:	10,179.38	14,202.55	4,023.17	39.52%	10,538.11	14,242.10	3,703.99	35.15%
Expense								
Department: 070 - TOURISM								
51 - PERSONNEL	9,147.45	6,351.26	2,796.19	30.57%	12,791.72	11,981.87	809.85	6.33%
52 - CONTRACTUAL	2,948.84	595.00	2,353.84	79.82%	3,362.58	81,601.20	-78,238.62	-2,326.74%
53 - GENERAL SERVICES	722.46	349.00	373.46	51.69%	882.45	774.00	108.45	12.29%
58 - GRANT DISBURSEMENTS	12,320.78	1,523.73	10,797.05	87.63%	15,604.73	4,552.08	11,052.65	70.83%
Department 070 - TOURISM Total:	25,139.53	8,818.99	16,320.54	64.92%	32,641.48	98,909.15	-66,267.67	-203.02%
Expense Total:	25,139.53	8,818.99	16,320.54	64.92%	32,641.48	98,909.15	-66,267.67	-203.02%
Total Revenues	10,179.38	14,202.55	4,023.17	39.52%	10,538.11	14,242.10	3,703.99	35.15%
Fund 07 Surplus (Deficit):	-14,960.15	5,383.56	20,343.71	135.99%	-22,103.37	-84,667.05	-62,563.68	-283.05%
Fund: 08 - DEBT SERVICE FUND								
Revenue								
40 - TAXES	11,344.40	12,969.45	1,625.05	14.32%	23,433.16	26,843.68	3,410.52	14.55%
45 - OTHER REVENUE	184.15	12.37	-171.78	-93.28%	407.70	23.67	-384.03	-94.19%
Revenue Total:	11,528.55	12,981.82	1,453.27	12.61%	23,840.86	26,867.35	3,026.49	12.69%
Total Revenues	11,528.55	12,981.82	1,453.27	12.61%	23,840.86	26,867.35	3,026.49	12.69%
Fund 08 Total:	11,528.55	12,981.82	1,453.27	12.61%	23,840.86	26,867.35	3,026.49	12.69%

Prior-Year Comparative Income Statement

For the Period Ending 11/30/2020 Item 25.

Categor...	2019-2020 Nov. Activity	2020-2021 Nov. Activity	Nov. Variance Favorable / (Unfavorable)	Variance %	2019-2020 YTD Activity	2020-2021 YTD Activity	YTD Variance Favorable / (Unfavorable)	Variance %
Fund: 10 - CAPITAL PROJECTS FUND								
Revenue								
44 - CHARGES FOR SERVICES	4,167.00	0.00	-4,167.00	-100.00%	4,167.00	0.00	-4,167.00	-100.00%
45 - OTHER REVENUE	778.53	1,387.55	609.02	78.23%	1,859.17	2,942.80	1,083.63	58.29%
Revenue Total:	4,945.53	1,387.55	-3,557.98	-71.94%	6,026.17	2,942.80	-3,083.37	-51.17%
Expense								
Department: 402 - STREET MAINTENANCE								
55 - CAPITAL OUTLAY	10,564.88	28,487.64	-17,922.76	-169.64%	17,918.88	54,624.78	-36,705.90	-204.84%
Department 402 - STREET MAINTENANCE Total:	10,564.88	28,487.64	-17,922.76	-169.64%	17,918.88	54,624.78	-36,705.90	-204.84%
Expense Total:	10,564.88	28,487.64	-17,922.76	-169.64%	17,918.88	54,624.78	-36,705.90	-204.84%
Total Revenues	4,945.53	1,387.55	-3,557.98	-71.94%	6,026.17	2,942.80	-3,083.37	-51.17%
Fund 10 Surplus (Deficit):	-5,619.35	-27,100.09	-21,480.74	-382.26%	-11,892.71	-51,681.98	-39,789.27	-334.57%
Fund: 11 - CHILD SAFETY FUND								
Revenue								
42 - FINES AND FORFEITURES	0.00	200.00	200.00	0.00%	0.00	815.74	815.74	0.00%
45 - OTHER REVENUE	1.80	0.30	-1.50	-83.33%	3.68	0.61	-3.07	-83.42%
Revenue Total:	1.80	200.30	198.50	11,027.78%	3.68	816.35	812.67	22,083.42%
Total Revenues	1.80	200.30	198.50	11,027.78%	3.68	816.35	812.67	22,083.42%
Fund 11 Total:	1.80	200.30	198.50	11,027.78%	3.68	816.35	812.67	22,083.42%
Fund: 12 - COURT TECHNOLOGY FUND								
Revenue								
42 - FINES AND FORFEITURES	0.00	352.52	352.52	0.00%	0.00	901.39	901.39	0.00%
45 - OTHER REVENUE	5.43	0.60	-4.83	-88.95%	11.20	1.22	-9.98	-89.11%
Revenue Total:	5.43	353.12	347.69	6,403.13%	11.20	902.61	891.41	7,959.02%
Expense								
Department: 120 - COURT TECHNOLOGY								
52 - CONTRACTUAL	0.00	0.00	0.00	0.00%	72.00	0.00	72.00	100.00%
54 - MACHINE & EQUIPMENT MAI	8,222.11	0.00	8,222.11	100.00%	8,222.11	0.00	8,222.11	100.00%
Department 120 - COURT TECHNOLOGY Total:	8,222.11	0.00	8,222.11	100.00%	8,294.11	0.00	8,294.11	100.00%
Expense Total:	8,222.11	0.00	8,222.11	100.00%	8,294.11	0.00	8,294.11	100.00%
Total Revenues	5.43	353.12	347.69	6,403.13%	11.20	902.61	891.41	7,959.02%
Fund 12 Surplus (Deficit):	-8,216.68	353.12	8,569.80	104.30%	-8,282.91	902.61	9,185.52	110.90%
Fund: 13 - PUBLIC SAFETY FUND								
Revenue								
45 - OTHER REVENUE	141.07	7.26	-133.81	-94.85%	306.85	15.40	-291.45	-94.98%
Revenue Total:	141.07	7.26	-133.81	-94.85%	306.85	15.40	-291.45	-94.98%

Prior-Year Comparative Income Statement

For the Period Ending 11

Item 25.

Categor...	2019-2020 Nov. Activity	2020-2021 Nov. Activity	Nov. Variance Favorable / (Unfavorable)	Variance %	2019-2020 YTD Activity	2020-2021 YTD Activity	YTD Variance Favorable / (Unfavorable)	Variance %
Expense								
Department: 130 - PUBLIC SAFETY								
53 - GENERAL SERVICES	526.89	0.00	526.89	100.00%	526.89	0.00	526.89	100.00%
Department 130 - PUBLIC SAFETY Total:	526.89	0.00	526.89	100.00%	526.89	0.00	526.89	100.00%
Expense Total:	526.89	0.00	526.89	100.00%	526.89	0.00	526.89	100.00%
Total Revenues	141.07	7.26	-133.81	-94.85%	306.85	15.40	-291.45	-94.98%
Fund 13 Surplus (Deficit):	-385.82	7.26	393.08	101.88%	-220.04	15.40	235.44	107.00%
Fund: 79 - SEDA								
Revenue								
40 - TAXES	50,616.08	57,831.74	7,215.66	14.26%	96,239.86	110,280.98	14,041.12	14.59%
45 - OTHER REVENUE	1,082.50	91.55	-990.95	-91.54%	2,424.15	192.78	-2,231.37	-92.05%
Revenue Total:	51,698.58	57,923.29	6,224.71	12.04%	98,664.01	110,473.76	11,809.75	11.97%
Expense								
Department: 790 - SEDA								
51 - PERSONNEL	24,052.20	20,024.88	4,027.32	16.74%	33,997.04	36,143.37	-2,146.33	-6.31%
52 - CONTRACTUAL	7,803.49	695.82	7,107.67	91.08%	42,000.03	7,225.41	34,774.62	82.80%
53 - GENERAL SERVICES	155.71	45.16	110.55	71.00%	299.78	61.15	238.63	79.60%
56 - BANK CHARGES	0.50	0.00	0.50	100.00%	1.00	0.00	1.00	100.00%
58 - GRANT DISBURSEMENTS	0.00	5,000.00	-5,000.00	0.00%	0.00	20,017.00	-20,017.00	0.00%
Department 790 - SEDA Total:	32,011.90	25,765.86	6,246.04	19.51%	76,297.85	63,446.93	12,850.92	16.84%
Expense Total:	32,011.90	25,765.86	6,246.04	19.51%	76,297.85	63,446.93	12,850.92	16.84%
Total Revenues	51,698.58	57,923.29	6,224.71	12.04%	98,664.01	110,473.76	11,809.75	11.97%
Fund 79 Surplus (Deficit):	19,686.68	32,157.43	12,470.75	63.35%	22,366.16	47,026.83	24,660.67	110.26%
Total Surplus (Deficit):	-239,346.85	418,366.66	657,713.51	274.80%	-878,720.54	149,040.20	1,027,760.74	116.96%

Fund Summary

Fund	2019-2020	2020-2021	Nov. Variance		2019-2020	2020-2021	YTD Variance	
	Nov. Activity	Nov. Activity	Favorable / (Unfavorable)	Variance %	YTD Activity	YTD Activity	Favorable / (Unfavorable)	Variance %
01 - GENERAL FUND	-558,842.28	2,468.11	561,310.39	100.44%	-1,095,122.07	-619,461.15	475,660.92	43.43%
02 - WATER AND WASTEWATE...	235,788.67	276,374.57	40,585.90	17.21%	32,775.92	648,677.88	615,901.96	1,879.13%
03 - SANITARY LANDFILL FUND	40,267.63	68,238.29	27,970.66	69.46%	82,749.10	77,288.77	-5,460.33	-6.60%
04 - AIRPORT FUND	495.13	-319.38	-814.51	-164.50%	739.00	1,514.92	775.92	105.00%
05 - STORM WATER DRAINAGE...	40,908.97	47,621.67	6,712.70	16.41%	96,425.84	101,740.27	5,314.43	5.51%
07 - HOTEL OCCUPANCY TAX F...	-14,960.15	5,383.56	20,343.71	135.99%	-22,103.37	-84,667.05	-62,563.68	-283.05%
08 - DEBT SERVICE FUND	11,528.55	12,981.82	1,453.27	12.61%	23,840.86	26,867.35	3,026.49	12.69%
10 - CAPITAL PROJECTS FUND	-5,619.35	-27,100.09	-21,480.74	-382.26%	-11,892.71	-51,681.98	-39,789.27	-334.57%
11 - CHILD SAFETY FUND	1.80	200.30	198.50	11,027.78%	3.68	816.35	812.67	22,083.42%
12 - COURT TECHNOLOGY FU...	-8,216.68	353.12	8,569.80	104.30%	-8,282.91	902.61	9,185.52	110.90%
13 - PUBLIC SAFETY FUND	-385.82	7.26	393.08	101.88%	-220.04	15.40	235.44	107.00%
79 - SEDA	19,686.68	32,157.43	12,470.75	63.35%	22,366.16	47,026.83	24,660.67	110.26%
Total Surplus (Deficit):	-239,346.85	418,366.66	657,713.51	274.80%	-878,720.54	149,040.20	1,027,760.74	116.96%



REGULAR CITY COUNCIL MEETING

City Hall Council Chambers, 298 West Washington Street
Tuesday, December 01, 2020 at 5:30 PM

MINUTES

The City Council of the City of Stephenville, Texas, convened on Tuesday, December 1, 2020, at 5:30 PM, in the Council Chambers at City Hall, 298 West Washington Street, for the purpose of a Regular Business Meeting, with the meeting being open to the public and notice of said meeting, giving the date, time, place and subject thereof, having been posted as prescribed by Chapter 551, Government Code, Vernon's Texas Codes Annotated, with the following members present, to wit:

COUNCIL PRESENT: Mayor Doug Svien
Mayor Pro Tem Mark McClinton
Council Member Justin Haschke
Council Member Nick Robinson
Council Member Brady Pendleton
Council Member Ricky Thurman
Council Member Gerald Cook
Council Member Brandon Huckabee

COUNCIL ABSENT: Council Member Alan Nix

OTHERS ATTENDING: Allen Barnes, City Manager
Randy Thomas, City Attorney
Staci King, City Secretary

CALL TO ORDER

REGULAR AGENDA

1. Recognition of Fire Chief Jimmy Chew for 50 Years of Service to the City of Stephenville

Mayor Svien read the following proclamation in honor of Chief Jimmy Chew:

"Whereas, today, December 1, 2020, marks the 50th anniversary of Fire Chief Jimmy Chew's employment with the City of Stephenville; and

Whereas, Chief Jimmy Chew has faithfully served the citizens of Stephenville with sound, effective leadership for over 50 years, beginning his career with the Stephenville Fire Department on December 1, 1970; advancing to Assistant Fire Chief on January 1, 1988; and being named Fire Chief on October 1, 2005; and

Whereas, today, and every day, we recognize Chief Jimmy Chew for his outstanding character, work ethic, and intelligence; and,

Whereas, Chief Jimmy Chew has dedicated his life to the service and protection of the families, and property of our community, as well as our state and country; and

Whereas, the City Council of the City of Stephenville wishes to recognize Chief Jimmy Chew for his exceptional dedication to the city of Stephenville.

NOW, THEREFORE, the Stephenville City Council hereby congratulates Chief Jimmy Chew for 50 years of dedication to the City of Stephenville, his fellow firefighters, and his fellow man and honors his faithful and loyal devotion to the Stephenville Fire Department and all those it serves. In recognition of his extraordinary dedication, we hereby proclaim December 1, 2020 "Fire Chief Jimmy Chew Day" in the City of Stephenville, Texas."

Chief Chew was also presented with a certificate from the Texas Governor's Office commissioning him as an Admiral in the Texas Navy.

2. Presentation on FFA Ford Leadership Scholar Projects

Chloe Krause and Ryan Hess made a presentation to council regarding their Ford Leadership Scholars projects, which would add trash cans and exercise equipment to the Bosque River Trail.

3. Consider Approval of Operational Changes Due to COVID-19

City staff will begin a work from home rotation in order to ensure the continuance of government. No action required by council.

TOURISM AND VISITORS BUREAU COMMITTEE

Justin Haschke, Chair

4. Tourism and Visitors Bureau Committee Report

Justin Haschke, chair, gave the committee report.

5. Consider Approval of an Ordinance Amending Chapter 36, Article II *Hotel Occupancy Tax* of the City of Stephenville Code of Ordinance

MOTION by Justin Haschke, second by Brady Pendleton, to approve Ordinance No. 2020-O-39 amending Chapter 36, Article II *Hotel Occupancy Tax*. MOTION CARRIED by unanimous vote.

PUBLIC WORKS COMMITTEE

Alan Nix, Chair

6. Committee Report - November 17, 2020

Nick Williams, Director of Public Works, gave the committee report.

7. Consider Approval of the Fourth Amendment to Waste Connections Exclusive Franchise Agreement

MOTION by Brady Pendleton, second by Mark McClinton, to approve the fourth amendment to the Waste Connections Exclusive Franchise Agreement. MOTION CARRIED by unanimous vote.

8. Consider Approval of a Professional Services Agreement for the Airport Pump Station Expansion Project

MOTION by Mark McClinton, second by Justin Haschke, to approve a professional services agreement with Provenance Engineering for the Airport Pump Station Expansion Project. MOTION CARRIED by unanimous vote.

9. Consider Approval of a Resolution for the Final Acceptance of the Eastside Sewer Lift Station

MOTION by Mark McClinton, second by Gerald Cook, to approve Resolution No. 2020-R-23 for the final acceptance of the Eastside Sewer Lift Station. MOTION CARRIED by unanimous vote.

DEVELOPMENT SERVICES COMMITTEE

Brandon Huckabee, Chair

10. Development Services Committee Report - November 17, 2020

Brandon Huckabee, chair, gave the committee report.

PUBLIC HEALTH AND SAFETY COMMITTEE

Brady Pendleton, Chair

11. Public Health and Safety Committee Report - November 19, 2020

Brady Pendleton, chair, gave the committee report.

12. Consider Approval of a Private Owned Ambulance Permit for CareFlite

MOTION by Brady Pendleton, second by Nick Robinson, to approve a Private Owned Ambulance Permit for CareFlite. MOTION CARRIED by unanimous vote.

13. Consider Approval of Expenditure for Purchase of Personal Protective Equipment Awarded from the Office of the Governor Grant Application #4135701

MOTION by Brady Pendleton, second by Ricky Thurman, to approve an expenditure for the purchase of personal protective equipment from Grant No. 4135701. MOTION CARRIED by unanimous vote.

14. Consider Approval of CRIMES Annual License

MOTION by Brady Pendleton, second by Nick Robinson, to approve the CRIMES annual license expenditure. MOTION CARRIED by unanimous vote.

15. Consider Approval of Stephenville Police Department Interview Room Camera Systems Replacement

MOTION by Brady Pendleton, second by Ricky Thurman, to approve the replacement of interview room cameras at the Stephenville Police Department. MOTION CARRIED by unanimous vote.

FINANCIAL REPORTS**16. Monthly Budget Report for the period Ending October 31, 2020**

Monica Harris, Director of Finance, gave the following report:

In reviewing the financial statements ending October 31, 2020, the financial indicators are better than expected.

Property tax – We received \$342K in property taxes in the month of October, resulting in a \$48K or 16.46% increase over funds collected last October. The \$342K collected is 5.14% of budget, which is slightly higher than the 4.8% anticipated.

Sales Tax – We received \$629K in sales tax in October, resulting in \$82K or 14.96% more than the funds collected last October. The \$629K collected is 10.1% of the \$6.23 million budgeted, which is about 1% more than anticipated.

HOT Funds – We received \$40 in interest revenue in the Hotel Occupancy Tax fund in October, as compared to \$359 last October. We spent \$89K in Hotel Occupancy Tax funds through October as compared to \$8K last year due to the Day Tripper contract.

Revenue (Budgetary Comparison) – The target budget for operating revenue is \$2 million. We received \$2.1 million in revenue through October, resulting in \$97K over the target budget. This is a result of property taxes, sales taxes, and service charges.

Expenditures (Budgetary Comparison) – The target budget for operating expenditures is \$2.05 million. We expended \$1.98 million in October resulting in \$71K under the target budget.

CONSENT AGENDA

MOTION by Brady Pendleton, second by Mark McClinton, to approve the consent agenda as presented. MOTION CARRIED by unanimous vote.

17. Minutes - Regular City Council Meeting - November 3, 2020
18. Minutes - Special City Council Meeting - November 10, 2020
19. Minutes - Special City Council Meeting - November 16, 2020
20. Minutes - Council Work Session - November 16, 2020
21. Minutes - Special City Council Meeting - November 17, 2020
22. Approval of Bid No. ITB 3285 – Three Police Vehicles, Lease
23. Approval of Bid No. ITB 3286 – Police Vehicle Equipment
24. Approval of Bid No. ITB 3287 – Utilities and Street Department Vehicles
25. Approval of Items to be Sold at Auction

COMMENTS BY CITY MANAGER

- *Erath County United Way "Light up the Night" event in City Park beginning Friday, December 4 at 6:00 p.m. - 9:30 p.m. Open Friday, Saturday, and Sunday nights through December 20.
- *Applications for Citizen Boards and Commissions due Friday, December 11 by 5:00 p.m.
- *Holly Jolly Christmas - Monday, December 14 6:00 - 9:00 p.m.
- *Council Committee Meetings - Tuesday, December 15 at 5:30 p.m.
- *City offices closed December 24 and 25 for Christmas Holiday
- *Applications for Utility Bill Assistance Grant due by December 31
- *City offices closed January 1 for New Year's Day
- *Regular City Council Meeting - Tuesday, January 5, 2020 at 5:30 p.m.

COMMENTS BY COUNCIL MEMBERS

Justin Haschke thanked the Erath County United Way for putting together the "Light up the Night Christmas Celebration" and encouraged everyone to attend and support a great cause.

Brandon Huckabee thanked Jimmy Chew for his years of service to the City. He said it is a true testament to dedication, loyalty, and hard work. He also commended Chloe Krause and Ryan Hess on their project and encourage the community to donate. Mr. Huckabee also encouraged everyone to attend "Light up the Night."

Mark McClinton thanked Jimmy Chew for his service to the City. He also thanked Steve Killen and Brandon Huckabee for their hard work and dedication on the sidewalk program.

Ricky Thurman thanked Jimmy Chew for his service to the City. He also recognized those that organized the lighted Christmas parade: Julie Lowrance at Frame, Etc., Julie Smith, and Asheigh Feuerbacher. He also thanked SEDA and the Erath County Commissioner's Court for helping fund new decorations downtown.

Gerald Cook thanked Jimmy Chew for his service to the City. He stated that he was glad to see so many festive activities going on in Stephenville, from the lighted parade to Erath County United Way's "Light up the Night" event.

Doug Svien thanked Jimmy Chew for his service to the City. He also challenged the council members to donate at least \$500 to the FFA project.

ADJOURN

The meeting was adjourned at 6:22 p.m.

Doug Svien, Mayor

ATTEST:

Staci L. King, City Secretary



CITY COUNCIL WORK SESSION

Agave Meeting Room, 1907 E. Washington, Stephenville, Texas
Thursday, December 17, 2020 at 12:00 PM

MINUTES

The City Council of the City of Stephenville, Texas, convened on Thursday, December 17, 2020, at 12:00 PM, at 1907 E. Washington, Stephenville, Texas, for the purpose of a Council Work Session, with the meeting being open to the public and notice of said meeting, giving the date, time, place and subject thereof, having been posted as prescribed by Chapter 551, Government Code, Vernon's Texas Codes Annotated, with the following members present, to wit:

COUNCIL PRESENT: Mayor Doug Svien
Mayor Pro Tem Mark McClinton
Council Member Justin Haschke
Council Member Nick Robinson
Council Member Ricky Thurman
Council Member Alan Nix
Council Member Gerald Cook
Council Member Brandon Huckabee

COUNCIL ABSENT: Council Member Brady Pendleton

OTHERS ATTENDING: Allen Barnes, City Manager
Randy Thomas, City Attorney
Staci L. King, City Secretary

CALL TO ORDER

Mayor Svien called the meeting to order at 12:15 p.m.

EXECUTIVE SESSION

In compliance with the provisions of the Texas Open Meetings Law, Subchapter D, Government Code, Vernon's Texas Codes, Annotated, in accordance with

1. **Section 551.087 Deliberation Regarding Economic Development Negotiations Project Goodnight**
2. **Action taken on items discussed in Executive Session, if necessary**

Mayor Svien called the meeting into Executive Session at 12:15 p.m. Mayor Svien called the meeting into regular session at 1:20 p.m. No action taken.

REGULAR AGENDA

3. **Capital Projects and Funding Options**

Council members discussed capital project needs, costs, and funding mechanisms. City staff will bring cost estimates for projects for further discussion on January 5, 2020.

ADJOURN

The meeting was adjourned at 2:30 p.m.

Doug Svien, Mayor

ATTEST:

Staci L. King, City Secretary

Public Works
STAFF REPORT



SUBJECT: Amendment - Development Review Services Agreement
MEETING: City Council Meeting - 05 Jan 2021
DEPARTMENT: Public Works
STAFF CONTACT: Nick Williams

RECOMMENDATION:

Staff recommends the authorization of Amendment No. 9 to the existing agreement with Freese and Nichols, Inc. for professional services associated with general development plan/plat reviews.

BACKGROUND:

The city entered into an agreement with Freese and Nichols (FNI) on August 5, 2014 to perform professional service reviews for plats, development plans, traffic studies, site plans, and engineering plans for public infrastructure.

Staff feels FNI provides a valuable and necessary professional service across multiple engineering disciplines and is satisfied with the level of service received to date.

FISCAL IMPACT SUMMARY:

Amendment No. 9 proposes to extend the existing agreement for services by a not-to-exceed amount of \$24,000.

The term of the agreement will be dependent upon the number of development plans submitted and the number and types of services provided.

Review fees are reimbursed by developers.

ALTERNATIVES:

The following alternatives are provided for consideration:

1. Do not authorize the execution of Amendment No. 6 as presented; or
2. Direct staff to recommend an alternate firm to provide professional services.

ADVANTAGES:

1. No charge is incurred to the city unless FNI services are utilized.
2. The adopted Fee Schedule provides for review fees to be reimbursed by developers.
3. FNI has performed drainage analyses on several development, which reduces review times as adjacent developments occur within the same drainage basins.
4. Reviews are typically completed within seven (7) calendar days.

DISADVANTAGES:

1. No known disadvantages have been identified at this time.

ATTACHMENTS:

Attached is a copy of the proposed Amendment No. 9.

[2021_01-05 Amendment – FNI Development Review Services](#)



City of Stephenville
298 W. Washington Street
Stephenville, Texas 76401
Attn: Jason King, Assistant City Manager

FNI PROJECT NO. STE14447

DATE: 12/03/2020

Project Name: City of Stephenville Development Review

Description of Services: Additional work to review development submittals including plats, development plans, drainage studies, traffic studies, site plans, and engineering plans for public infrastructure to substantiate compliance of development submittals with the City's adopted ordinances and standards.

Compensation shall be amended as follows: A not to exceed amount of Twenty-four Thousand Dollars

Table with 2 columns: Description, Amount. Rows include Current Contract Amount (\$171,000.00), Amount of this Amendment (\$24,000.00), and Revised Total Amount Authorized (\$195,000.00).

The above described services shall proceed upon execution of this amendment. All other provisions, terms and conditions of the Professional Services Agreement which are not expressly amended shall remain in full force and effect.

FREESE AND NICHOLS, INC.

CITY OF STEPHENVILLE, TEXAS

BY: [Signature]
12/04/2020 8:36:35 AM
Scott Hubley
Print Name

BY: _____
Print Name

TITLE: Vice-President

TITLE: _____

DATE: 12/4/20

DATE: _____

COMPENSATION

Compensation to FNI shall be computed on the basis of the following Schedule of Charges.

If FNI sees the Scope of Services changing so that Additional Services are needed, including but not limited to those services described as Additional Services in Attachment SC, FNI will notify OWNER for OWNER's approval before proceeding. Additional Services shall be computed based on the following Schedule of Charges.

Position	Hourly Rate	
	Min	Max
Professional 1	93	167
Professional 2	108	176
Professional 3	131	252
Professional 4	172	271
Professional 5	215	400
Professional 6	226	447
Construction Manager 1	106	198
Construction Manager 2	124	211
Construction Manager 3	173	248
Construction Manager 4	235	321
CAD Technician/Designer 1	76	167
CAD Technician/Designer 2	112	174
CAD Technician/Designer 3	150	230
Corporate Project Support 1	57	139
Corporate Project Support 2	81	191
Corporate Project Support 3	112	296
Intern / Coop	48	96
Senior Advisor	175	175

Rates for In-House Services and Equipment

<u>Mileage</u>	<u>Bulk Printing and Reproduction</u>		<u>Equipment</u>	
Standard IRS Rates		<u>B&W</u>	<u>Color</u>	Valve Crew Vehicle (hour) \$75
	Small Format (per copy)	\$0.10	\$0.25	Pressure Data Logger (each) \$100
	Large Format (per sq. ft.)			Water Quality Meter (per day) \$100
<u>Tech Charges</u>	Bond	\$0.25	\$0.75	Microscope (each) \$150
8.50 per hour	Glossy / Mylar	\$0.75	\$1.25	Pressure Recorder (per day) \$200
	Vinyl / Adhesive	\$1.50	\$2.00	Ultrasonic Thickness Guage (per day) \$275
	Mounting (per sq. ft.)	\$2.00		Coating Inspection Kit (per day) \$275
	Binding (per binding)	\$0.25		Flushing / Cfactor (each) \$500
				Backpack Electrofisher (each) \$1,000
				<u>Survey Grade</u> <u>Standard</u>
				Drone (per day) \$200 \$100
				GPS (per day) \$150 \$50

OTHER DIRECT EXPENSES:

Other direct expenses are reimbursed at actual cost times a multiplier of 1.10. They include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from the FNI office. For other miscellaneous expenses directly related to the work, including costs of laboratory analysis, test, and other work required to be done by independent persons other than staff members, these services will be billed at a cost times a multiplier of 1.10. For Resident Representative services performed by non-FNI employees and CAD services performed In-house by non-FNI employees where FNI provides workspace and equipment to perform such services, these services will be billed at cost times a multiplier of 2.0. This markup approximates the cost to FNI if an FNI employee was performing the same or similar services.

These ranges and/or rates will be adjusted annually in February. Last updated February 2020.

COMPENSATION

Compensation to FNI shall be computed on the basis of the following Schedule of Charges.

If FNI sees the Scope of Services changing so that Additional Services are needed, including but not limited to those services described as Additional Services in Attachment SC, FNI will notify OWNER for OWNER's approval before proceeding. Additional Services shall be computed based on the following Schedule of Charges.

<u>Position</u>	<u>Hourly Rate</u>	
	<u>Min</u>	<u>Max</u>
Professional 1	84	150
Professional 2	98	159
Professional 3	118	227
Professional 4	155	244
Professional 5	193	360
Professional 6	203	402
Construction Manager 1	96	178
Construction Manager 2	112	190
Construction Manager 3	156	223
Construction Manager 4	212	289
CAD Technician/Designer 1	69	151
CAD Technician/Designer 2	101	157
CAD Technician/Designer 3	135	207
Corporate Project Support 1	52	126
Corporate Project Support 2	73	172
Corporate Project Support 3	101	266
Intern / Coop	44	87
Senior Advisor	175	175

Rates for In-House Services and Equipment

<u>Mileage</u>	<u>Bulk Printing and Reproduction</u>		<u>Equipment</u>	
Standard IRS Rates		<u>B&W</u>	<u>Color</u>	Valve Crew Vehicle (hour) \$75
	Small Format (per copy)	\$0.10	\$0.25	Pressure Data Logger (each) \$100
	Large Format (per sq. ft.)			Water Quality Meter (per day) \$100
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	Vinyl / Adhesive	\$1.50	\$2.00	Ultrasonic Thickness Guage (per day) \$275
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				Backpack Electrofisher (each) \$1,000
				<u>Survey Grade</u> <u>Standard</u>
				Drone (per day) \$200 \$100
				GPS (per day) \$150 \$50

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These ranges and/or rates will be adjusted annually in February. Last updated February 2020.

Public Works
STAFF REPORT



SUBJECT: Texas Commission on Environmental Quality – Pre-Treatment Streamlining Rule
MEETING: Regular Business Meeting - 05 Jan 2021
DEPARTMENT: Public Works
STAFF CONTACT: Nick Williams

RECOMMENDATION:

Staff recommends approval of the pre-treatment streamlining rule update as mandated by the Texas Commission on Environmental Quality.

BACKGROUND:

The proposed ordinance revision amends multiple sections to Chapter 50 – Sewer and Water Service for compliance with the Environmental Protection Agency (EPA) and Texas Commission on Environmental Quality (TCEQ). The amendments incorporate the Pretreatment Streamline Rule [rev. Federal Register/Vol. 70, No. 198/Friday, October 14, 2005/Rules and Regulations, pages 60134-60798] into the City of Stephenville's Pretreatment Program as a substantial modification to the program.

The proposed substantial modification package was originally submitted to the TCEQ on November 13th, 2012, and revisions to it were submitted on April 6th, 2020; on July 1st, 2020; and on August 24th, 2020. On October 6, 2020, the TCEQ determined the substantial program modification submission was technically complete and approved for adoption by the city council.

The modifications are largely administrative and include checklist adjustments and variations to the reporting schedules.

Only one industry within the city, TechnipFMC, is included as a user in the pre-treatment program and was provided the modifications packet for comment. No comments were received over the two-week comment period.

FISCAL IMPACT SUMMARY:

None.

ATTACHMENTS:

Attached is a copy of Chapter 50 Sewer and Water Service identifying the TCEQ-approved modifications. Additionally, attached is a memorandum from Jacobs, the city's contract wastewater treatment plant operator, outlining the modifications to the existing code or ordinances. Also attached is a copy of the appropriate ordinance to affect the changes.

[2021_01-05 Stephenville CHAPTER 50. SEWER AND WATER SERVICE ORDINANCE WITH REVISIONS](#)

[2021_01-05 Jacobs – Streamlining Modifications Memo](#)

[2021_01-05 TCEQ Approval Notification](#)

[Ordinance for Approval No. 2021-O-](#)



MEMORANDUM

TO: Nick Williams, City Manager, City of Stephenville

FROM: Rebekka Maier, IPP Programs Manager, Jacobs

COPY Johnny Davis, Project Manager, Jacobs

DATE: December 08, 2020

SUBJECT: Sewer Use Ordinance Modifications for FMC & Superior Powder Coating

Introduction

The federal government created the National Pretreatment Program in 1978 because publicly owned treatment works (POTWs) were failing to meet the goals of the Clean Water Act, largely for lack of control over what was discharged into the POTWs by industry. The resulting “General Pretreatment Regulations,” found in 40 CFR 403, require municipalities to create and enforce local programs to regulate industrial discharges to their POTWs. A program must:

- Identify the “industrial users” connected to the system and the nature of their discharges.
- Establish a system of technically based local limits designed to protect the local sewage conveyance and treatment technologies.
- Establish the necessary legal authority to regulate industry (an ordinance).
- Identify a funding mechanism for the program.
- Create procedures for permitting, monitoring, and enforcement.

The most recent major revision to the Federal General Pretreatment Regulations, known as “Streamlining,” took effect in 2006. Some of the new regulations call for mandatory changes and some allow optional changes. The optional changes are generally those intended to offer opportunities to reduce the regulatory burden on industry. These are considered “less strict” than the pre-streamlining regulations.

The state of Texas is one of the states to which the EPA has delegated its industrial pretreatment program oversight responsibility. Texas has its own set of regulations, under Texas Administrative Code Title 30 Part 1 Chapter 315 that comply with the Federal General Pretreatment Regulations. After the implementation of “Streamlining” nationally, the states were expected to have their local cities do the same.

Below is a list of all the regulations in 40 CFR 403 that are new that would apply to the industry that will be changes in the upcoming ordinance and in the existing written procedures manual to update these documents. This memo provides a narrative of the proposed changes. The City will be adopting the modified sewer use ordinance as they have been approved by TCEQ.

Recommended & Required Changes

The following is a simple bulleted summary of the recommended and required actions of Chapter 50 and the program manual. The TCEQ Checklists include a more detailed list of the Recommended, Required and Optional Streamlining changes.

- **REQUIRED:** Sampling for Pollutants not Present 40 CFR 403.8(f)(2)(v) and 40 CFR 403.12(e)(2).
- **DEFINITION REQUIRED & FULL BMP OPTION RECOMMENDED:** Best Management Practices 40 CFR 403.5, 403.8(f), 403.12(b), 403.12(e), and 403.12(h)
- **REQUIRED:** Accidental Discharge/Slug Discharge Control 40 CFR 403.8(f)(1)(iii)(B)(6) and 40 CFR 403.8(f)(2)(vi)
- **RECOMMENDED:** Equivalent Concentration Limits for Flow Based Standards 40 CFR 403.6(c)(6)
- **REQUIRED:** Use of Grab and Composite Samples 40 CFR 403.12(b),(d),(e),(g), and (h)
- **REQUIRED:** Significant Noncompliance Criteria 40 CFR 403.8 (f) (2) (viii)
- **REQUIRED:** EPA has revised its requirements for a person qualified to sign and certify user reports to the Control Authority. The definition of an authorized representative is changed to the users are also now allowed to provide their designation of an authorized representative along with their first submitted report rather than having to have done it before hand. 40 CFR 403.12(l)
- **REQUIRED:** EPA now prescribes signatory requirements for POTW or Control Authority reporting to the Approval Authority (TCEQ in our case) to make it consistent with other parts of 40 CFR. It identifies an acceptable representative by his or her responsibility rather than by title, which can vary from facility to facility. 40 CFR 403.6 (a)(2)(ii)
- **REQUIRED:** All significant industrial users are now required to report all results of sampling done at compliance points using approved methods, including those in excess of the sample frequency required by their industrial discharge permits. There is a clarification added in 40 CFR 403 to a requirement that industrial users notify the Control Authority upon any change in the character or quantity of their discharge. The new regulation states that the notification must go to both the POTW and the Control Authority in cases where the two are not the same entity. 40 CFR 403.8 (f) (1) (iii) (B) (4), 40 CFR 403.8 (f) (2) (vi), 40 CFR 403.12 (b), (d), (e)(1), (h), & (o)
- **OPTIONAL & RECOMMENDED:** Equivalent Mass Limits for Concentration Limits 40 CFR 403.6 (c)(5)
- **OPTIONAL & RECOMMENDED:** NSCIU's §403.3(v)(2)(ii) §403.12(q), §403.3(v)(2)
- **OPTIONAL & RECOMMENDED:** The "Middle Tier" categorical user. 40 CFR 403.12 (e)(3)

From: Erika Crespo
Sent: Tuesday, October 6, 2020 3:30 PM
To: abarnes@stephenvilletx.gov
Cc: Johnny.Davis@jacobs.com; molina.rudy@epa.gov; Colleen Cook <Colleen.Cook@tceq.texas.gov>; Carol Moulton <Carol.Moulton@tceq.texas.gov>; Bismark Otorino <Bismark.Otorino@tceq.texas.gov>
Subject: Completion of Substantial Modification to Incorporate the Pretreatment Streamlining Rule Required and Optional Provisions into the City of Stephenville's Pretreatment Program - TPDES Permit No. WQ0010290001

Mr. Barnes,

This email is being sent in lieu of a letter in order to acknowledge that the TCEQ has completed its review of the proposed substantial modification to incorporate both the required and optional provisions of the Pretreatment Streamlining Rule [*rev. Federal Register/ Vol. 70, No. 198/ Friday, October 14, 2005/ Rules and Regulations, pages 60134-60798*] into the City of Stephenville's approved pretreatment program.

The proposed substantial modification package was originally submitted to the TCEQ on November 13th, 2012, and revisions to it were submitted on April 6th, 2020; on July 1st, 2020; and on August 24th, 2020. The TCEQ has determined that this substantial program modification submission is technically complete. The City of Stephenville's approved pretreatment program shall now proceed forward with adequate public participation, as well as obtain city council approval of this program modification.

After the city council has approved and adopted the revised legal ordinance (and other portions of the pretreatment program as necessary), the City of Stephenville's approved pretreatment program shall submit four complete copies of its modified approved program to us so that we can update all of our records accordingly. Three of these copies need to be bound, and one copy can be left unbound. Additionally, you will need to retain a complete copy of your modified approved pretreatment program for your records.

Please submit these four complete copies of your modified approved pretreatment program, without any unapproved changes included, to us by December 7, 2020. If additional time is needed in order for this submission to be made, please let me know. We will approve your substantial Pretreatment Streamlining Rule modification through the next TPDES permit action for WQ0010290001.

If you should have any questions or concerns, please feel free to contact me through email or by phone at (512) 239-1827. Thank you, and I hope that you have a wonderful rest of the week.

Kind Regards,

Erika Crespo
Pretreatment Team Leader
Water Quality Division | TCEQ
Email: erika.crespo@tceq.texas.gov
Phone: 512-239-1827 (O) | 512-626-4906 (C)



How is our customer service? Fill out our online customer satisfaction survey at <http://www.tceq.texas.gov/customersurvey>.

Sewer and Water Service Ordinance with Revisions

CHAPTER 50. - SEWER AND WATER SERVICE

ARTICLE I. - GENERAL PROVISIONS

Sec. 50.1. - Definitions.

- A. *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Act. or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.

Approval authority. The State.

Authorized or Duly Authorized representative of the industrial user.

1. If the industrial user is a corporation, "authorized representative" shall mean the following:
 - a. The President, Secretary, Treasurer or a Vice-President of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The Manager of one or more manufacturing, production or operation facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
2. If the industrial user is a partnership or sole proprietorship, an "authorized representative" shall mean a general partner or proprietor, respectively.
3. If the industrial user is a federal, state or local governmental facility, an "authorized representative" shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or his/her designee.
4. The individuals described in subsections (1)—(3) above may designate another authorized representative" if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company and the written authorization is submitted to the city.

Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in section 50.21. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials

storage. BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.

Biochemical Oxygen Demand or BOD. The quantity of oxygen, expressed in parts per million by weight (milligrams per liter), utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at a temperature of 20°C. The laboratory determinations shall be made in accordance with procedures set forth in 40 CFR 136.

Building drain. That part of the lowest horizontal piping of a drainage system which receives the discharge from waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning three feet outside the inner face of the building wall.

Building sewer. The extension from the building drain to the public sewer or other place of disposal.

Categorical pretreatment standard or Categorical standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) of the Act (33 USC 1317) which applies to a specific category of industrial dischargers. (Located in 40 CFR Chapter 1, Subchapter N, Parts 405-471.)

City. The City of Stephenville.

Chemical Oxygen Demand or COD. A measure of oxygen required to oxidize all compounds, both organic and inorganic, in water.

Composite sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

Control authority. The City.

Cooling water. The water discharged from any system of condensation such as air conditioning, cooling, refrigeration or water used as a coolant in cooling towers where the only pollutant is thermal.

Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

Daily Maximum Limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Discharge. The introduction or addition of any waste, wastewater or other substance into the POTW.

Discharger. Any person who discharges or introduces anything other than normal domestic sewage into the POTW. The term includes owners and/or occupants of the premises connected to and discharging waste or wastewater into the POTW.

Domestic sewage. Waterborne wastes normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories and institutions free from storm and surface waters and industrial wastes.

Environmental Protection Agency or EPA. The United States Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the Administrator of the EPA or other duly authorized official of EPA.

Existing Source. Any source of discharge that is not a "New Source."

Fats, oils and greases (FOG). Organic polar compounds derived from animal and/or plant sources containing multiple-carbon-chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as "grease" or "greases."

Garbage. Solid wastes and residue from the preparation, cooking and dispensing of food and from the handling, storage and sale of food products and produce.

Generator. Any person who owns or operates a grease trap/grease interceptor, or whose act or process produces a grease trap waste.

Grab sample. A sample that is taken from a waste stream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

Grease. Fatty acids, soaps, fats, waxes, petroleum products, oil and any other material which is extractable by hexane or freon solvent from an acidified sample and which is not volatilized during evaporation of the solvent.

Grease trap or interceptor. A device by which the grease content of sewage may be cooled and congealed so that it may be skimmed from the surface. A "grease trap or interceptor" is 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, prior to the water exiting the trap and entering the sanitary sewer collection system. Grease traps and interceptors are also referred to herein as "grease traps/interceptors."

Grease trap self-cleaning operators. Operators authorized by the POTW to self-clean grease traps/interceptors at the operator's place of business.

Grease trap waste. Material collected in and from a grease trap/interceptor in the sanitary sewer service line of a commercial, institutional or industrial food service or processing establishment, including the solids resulting from a de-watering process.

Indirect discharge. The discharge or the introduction of industrial waste into a POTW from any nondomestic source.

Industrial discharger. Any person who discharges or introduces an industrial waste into a POTW.

Industrial waste. Waterborne solids, liquids or gaseous wastes resulting from and discharged, permitted to flow or escaping from any industrial, manufacturing or food-processing operation or process, or from the development of any natural resource, or any mixture of these, with water or domestic sewage. (The term is generally synonymous with nondomestic waste.)

Instantaneous Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference. A discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

1. Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal.

2. Therefore, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title 11, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act and the Marine Protection, Research and Sanctuaries Act.

Liquid waste hauler. Any person who transports wastewater beyond the site of origin within the city.

Local Limit. Specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in Section 50.21.A.

Maximum allowable discharge limit. The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

May. Permissive.

Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Monthly Average. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

Monthly Average Limit. The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. NAICS as developed under the auspices of the Office of Management and Budget (OMB), and adopted in 1997 to replace the Standard Industrial Classification (SIC) System.

National Pollution Discharge Elimination System (NPDES) permit. A permit issued pursuant to Section 402 of the Act (33 USC 1342) which regulates discharges to waters of the state.

Natural outlet. Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

New source.

1. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided the following:
 - a. The building, structure, facility or installation is constructed at a site at which no other source is located;

- b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; and
 - c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces or adds to existing process or production equipment.
 3. Construction of a new source as defined under this subsection has commenced if the owner or operator has done any of the following:
 - a. Begun, or caused to begin as part of a continuous on-site construction program the following:
 - i. Any replacement, assembly or installation of facilities or equipment; or
 - ii. Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this paragraph.

Noncontact cooling water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

Normal domestic sewage. Domestic sewage in which the average concentration of suspended solids and five-day BOD are at 225 parts per million (milligrams per liter) each, or lower.

Owner or occupant. Any person using the lot, parcel of land, building or premises connected to and discharging sewage into the POTW, and who pays, or is legally responsible for the payment of, water rates or charges made against the lot, parcel of land, building or premises, if connected to the water distribution system of the city, or who would pay or be legally responsible for such payment if so connected.

Parts per million. A weight-to-weight ratio also expressed as milligrams per liter; the parts per million value, multiplied by the factor 8.345 shall be equivalent to pounds per million of water.

Pass through. The discharge of pollutants through the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES or TNRCC permit or any discharge permit issued by the state.

Permit or discharge permit. A wastewater discharge permit issued to a significant industrial discharger to allow a discharge into the POTW.

Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities

pH. The measure of the relative acidity or alkalinity of water, defined as the logarithm (base 10) of the reciprocal of the hydrogen ion concentration expressed in grams per liter of solution. It shall be determined by one of the procedures outlined in 40 CFR 136.

Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, agricultural and industrial wastes and the characteristics of the wastewater (including pH, temperature, TSS, turbidity, color, BOD, Chemical Oxidation Demand (COD) toxicity and odor).

POTW or publicly-owned treatment works. A treatment works owned by a state or municipality, as defined by Section 502(4) of the Clean Water Act. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes all sewers, pipes and other conveyances that convey wastewater to a POTW treatment plant. The term also means the municipality, as defined in Section 502(4) of the Act, that has jurisdiction over the indirect discharges to and the discharges from such a treatment works. For purposes of this chapter, the terms "sanitary sewer system" and "POTW" may be used interchangeably.

POTW or Publicly Owned treatment works or treatment plant. That portion of the POTW designed to provide treatment to wastewater, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

Pretreatment or treatment. The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except as prohibited by 40 CFR 403.6(d).

Pretreatment requirement. Any substantive or procedural requirement related to pretreatment imposed on a discharger by this chapter, by state statute or regulation or by a categorical pretreatment standard.

Pretreatment standard or standards. Pretreatment standards shall mean prohibitive discharge standards, categorical pretreatment standards and local limits.

Process Wastewater. Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 50.21.A. of this ordinance.

Properly shredded garbage. Garbage that has been shredded to such a degree that all particles shall be carried freely under the flow conditions normally prevailing in the sewer, with no particle greater than one-half inch in any dimension.

Public sewer. A sewer in which all owners of abutting properties have equal rights and interest, and which is controlled by public authority.

Separator or oil separator. A receptacle designed to remove oils and grease from wastewater by separation, usually by simple flotation or by chemical addition where the oils or greases are soluble or emulsified.

Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, institutions and/or industrial facilities, together with such ground, surface and storm water as may be present, whether treated or untreated, which is discharged or permitted to enter the POTW.

Sewage service charge. The charge made on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal domestic sewage.

Sewer or sanitary sewer. A pipe or conduit for conveying sewage and into which storm, surface and ground waters are not intentionally admitted.

Shall. Mandatory.

Significant industrial discharger (SIU). Except as provided in paragraphs (3) and (4) of this Section, a Significant Industrial User is:

1. An Industrial User subject to categorical Pretreatment Standards; or
2. An Industrial User that:
 - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
 - b. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - c. Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.
3. The City may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
 - a. The Industrial User, prior to City's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
 - b. The Industrial User annually submits the certification statement required in Section 50.26.N., together with any additional information necessary to support the certification statement; and
 - c. The Industrial User never discharges any untreated concentrated wastewater.

d. Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the City may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

4. If the Control Authority determines that an existing NSCIU no longer meets a required criterion for being categorized as non-significant, such as the requirement to be in consistent compliance with Pretreatment Standards and Requirements, the User becomes an SIU and must be issued a control mechanism.

5. The Control Authority will perform the same minimum oversight of a NSCIU that is required for other facilities that are not SIUs, including notifying the CIU of its status and requirements (403.8(f)(2)(iii); receiving and reviewing required reports (403.8 (f) (2) (iv) and 403.12 (b), (d), & (e)); random sampling and inspection (403.8 (f) (2) (v)); and investigating noncompliance as necessary (403.8 (f) (2) (vi)).

Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 50.21.A of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

Standard methods. The examination and analytical procedures set forth in the latest edition of "Standard Methods for the Examination of Water and Sewage" as prepared, approved and published jointly by the American Public Health Association, the American Waterworks Association and the Water Pollution Control Federation.

State. The State of Texas, including the Texas Commission on Environmental Quality (TCEQ) or any duly-authorized agency thereof having jurisdiction over waters of the state, sewage collection or treatment or municipal sewage sludge disposal.

Storm sewer or storm drain. A pipe or conduit for conveying storm and surface waters and drainage and from which domestic sewage and industrial waste is excluded.

Storm water. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

Superintendent. The person designated by the City to supervise the operation of the POTW, and who is charge with certain duties and responsibilities by this ordinance. The term also means a Duly Authorized Representative of the Superintendent.

Surcharge. The charge, in addition to the sewage service charge, which is made on those persons whose wastes are greater in strength than the concentration values established as representative of normal domestic sewage.

Total Suspended Solids or Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering. Quantitative determination of suspended solids shall be expressed in parts per million by weight (milligrams per liter) and made in accordance with procedures set forth in 40 CFR 136.

Texas Commission on Environmental Quality (TCEQ). The state agency of that title, and its predecessor and successor agencies or, where appropriate, the term may also be used as a designation for the director or other duly authorized official of that agency.

Toxic pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of the Clean Water Act, Section 307(a), or other legislation.

Transporter. A person registered with and authorized by the 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 § 312.142.

Upset. Any exceptional incident in which a discharger unintentionally and temporarily fails to comply with the standards established in this chapter or with the discharger's permit, due to factors beyond its reasonable control of the discharger, excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation thereof.

User or Industrial User. Any person, including those located outside the jurisdictional limits of the city, who contributes, causes or permits the contribution of wastewater into city's wastewater system, including persons who contribute such wastewater from mobile sources. A source of indirect discharge.

Wastewater. The liquid and water-carried industrial and sewage from residential dwellings, commercial buildings, industrial facilities and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater Treatment Plant or Treatment Plan. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

Water of the state. As defined by TCEQ.

Watercourse. A channel in which a flow of water occurs, either continuously or intermittently.

Work day. When used in conjunction with the determination of a significant industrial discharger, the term means any day, or portion thereof, when the discharger is providing any service or producing its product or any part of its product line, or otherwise generating nondomestic wastewaters that may be discharged to the POTW. All other use of this term shall mean any day a nondomestic wastewater discharge occurs.

B. Abbreviations. The following abbreviations shall have the designated meanings.

BOD—Biochemical Oxygen Demand

BMP – Best Management Practice

BMR – Baseline Monitoring Report

CFR—Code of Federal Regulations

CIU – Categorical Industrial User

COD—Chemical Oxygen Demand

EPA—U.S. Environmental Protection Agency

gpd—Gallons Per Day

IU – Industrial User

L—Liter

mg—Milligrams

mg/L—Milligrams per Liter

NAICS – North American Industry Classification System

NPDES—National Pollutant Discharge Elimination System

NSCIU – Non-Significant Industrial User

O&M—Operation and Maintenance

POTW—Publicly-Owned Treatment Works

RCRA—Resource Conservation and Recovery Act

SIU – Significant Industrial User

SNC – Significant Noncompliance

SWDA—Solid Waste Disposal Act (42 USC 6901, et seq.)

TCEQ – Texas Commission on Environmental Quality

TSS—Total Suspended Solids

USC—United States Code

(1975 Code, § 19-11; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998; Am. Ord. 2013-03, passed 4-2-2013)

Sec. 50.2. - Policy, purposes and applicable regulations.

- A. This chapter provides for prohibitions on discharges of certain substances into the POTW of the city from all sources, domestic, commercial or industrial. A further purpose of this chapter is to set forth uniform requirements for industrial dischargers into the POTW and to enable the Control Authority to protect the public health in conformity with all applicable state and federal laws relating thereto.
- B. The objectives of this chapter are as follows:
 1. To prevent the introduction of pollutants into the POTW which will interfere with the normal operation of the POTW or contaminate the resulting sludge;
 2. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

3. To improve the opportunity to recycle or reclaim the wastewater and to dispose of, recycle or reclaim the sludge generated by the POTW;
 4. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
 5. To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the POTW; and
 6. To enable the city to comply with its NPDES permit conditions, sludge use and disposal requirements and any other federal or state laws to which the POTW is subject.
- C. The regulation of discharges into the POTW under this chapter shall be accomplished through the issuance of permits, as specified herein, and by monitoring and inspection of facilities, according to this chapter.
- D. Parts of this chapter are enacted pursuant to regulations established by the U.S. Environmental Protection Agency (EPA). All categorical pretreatment standards, lists of toxic pollutants, industrial categories and other standards and categories which have been promulgated by the EPA are incorporated as a part of this chapter, as are EPA regulations regarding sewage pretreatment established pursuant to the Clean Water Act. The city shall maintain current standards and regulations which shall be available for inspection and copying.
- E. The city shall have the authority to promulgate such administrative regulations as are from time to time necessary for the implementation and enforcement of this chapter. Public notice of any such proposed regulations shall be published in a newspaper of general circulation in the city at least fourteen (14) days prior to promulgation. After such notice, the city shall give interested persons an opportunity to submit written data, views or arguments, with or without opportunity for oral presentation. After consideration of the relevant matter presented, in conjunction with any regulation adopted, the city shall prepare a concise general statement of the basis and purpose of the regulation.
- F. The city has developed and implemented procedures to ensure compliance with the requirements of a pretreatment program, including random sampling and analysis of the effluent from industrial users and conducting surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards. Each significant industrial user will be inspected, and samples collected and analyzed at least once a year. The city will also evaluate, at least once every year during the annual inspection, whether each significant industrial user needs a plan to control slug discharges. Except as otherwise provided herein, the Control Authority shall administer, implement, and enforce the provisions of this ordinance. The Control Authority shall identify industrial users subject to categorical pretreatment standards that are subject to reduced reporting requirements under paragraph 40 CFR 403.12 (e) (3), and identify which industrial users are NSCIUs and/or MTCIUs and that are subject to reduced reporting requirements in the annual pretreatment report to TCEQ. Any powers granted to or duties imposed upon the Control Authority may be delegated by the Control Authority to a duly authorized City employee.

(1975 Code, § 19-12; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.3. - Confidential information.

- A. Information and data on a User obtained from reports, surveys, wastewater discharge permit

applications, individual wastewater discharge permits, and monitoring programs, and from the Superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Superintendent, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

(1975 Code, § 19-22; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.4. - Removal credits.

Where applicable, the Control Authority may elect to initiate a program of removal credits as part of this chapter to reflect the POTW's ability to remove pollutants in accordance with 40 CFR 403.7.

(1975 Code, § 19-35(A); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.5. - Net/gross calculations.

A discharger whose only source of intake water is the city water service may apply to the Control Authority to adjust categorical pretreatment standards and/or pretreatment requirements in this chapter to reflect the presence of pollutants in the discharger's intake water, in accordance with 40 CFR 403.15.

(1975 Code, § 19-35(B); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.6. - Preservation of records.

- A. All dischargers subject to this chapter shall retain and preserve for no less than three (3) years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling, best management practices requirements, and chemical analyses made by and on behalf of a discharger in connection with its discharge.
- B. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the Control Authority pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

(1975 Code, § 19-35(C); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.7. - Right of revision.

The Control Authority reserves the right to establish, by ordinance or in individual wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this ordinance and to amend this chapter to provide for more or less stringent limitations or requirements on discharges to the POTW where deemed necessary to comply with the objectives set forth in section 50.2.

(1975 Code, § 19-35(E); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.8 Administration

Except as otherwise provided herein, the Superintendent shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to a duly authorized City or contracted employee.

Sec. 50.9 Dilution

No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. The Superintendent may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards/requirements, or in other cases when the imposition of mass limitations is appropriate.

Secs. 50.10—50.19. - Reserved.

ARTICLE II. - WASTEWATER DISPOSAL; PRETREATMENT STANDARDS

Sec. 50.20. - Admission of industrial wastes into public sewers.

- A. *Approval required.* Review and acceptance of the Control Authority, pursuant to section 50.68, shall be obtained prior to the discharge into the POTW of any wastewaters having the following:
1. A five-day, 20°C biochemical oxygen demand (BOD) greater than 225 parts per million; or
 2. Suspended solid containing greater than 225 parts per million.
 3. Whenever deemed necessary, the Control Authority may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this ordinance.
- B. *Pretreatment.* The Control Authority may require a discharger to install and maintain, on their property at the discharger's expense, preliminary treatment, a suitable storage and flow-control facility to ensure equalization of flow or processing facilities as may be necessary to prevent the following: pass through; interference; a violation of the discharger's categorical pretreatment standards; any general or specific discharge prohibition contained in this chapter; any adverse effect on the health and safety of personnel maintaining and operating the POTW; and any unreasonable adverse effect on the POTW. An individual wastewater discharge permit may be issued solely for flow equalization.
- C. *Grease, oil and sand interceptors.* Grease, oil and sand interceptors shall be provided, when, in the opinion of the Control Authority, they are necessary for the proper handling of liquid wastes and wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the Control Authority and shall comply with the City's Oil and Grease Management ordinance in Section 50.27 and be located so as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which shall be gastight and watertight. Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his/her expense, in continuously efficient operation at all times. Owners shall keep complete records of all cleaning and maintenance of interceptors. A record copy of the invoice for any cleaning or maintenance is to be forwarded to the Control Authority by the disposal facility. If necessary, the Control Authority may establish and require specific interceptor cleaning frequencies for individual owners to be in compliance.

D. Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 50.21 of this ordinance within the time limitations specified by EPA, the State, or the Superintendent, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Superintendent for review and shall be acceptable to the Superintendent before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this ordinance.

- E. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(1975 Code, § 19-13; Am. Ord. passed 4-3-79; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Cross reference— Penalty, see Sec. 50.995.

Sec. 50.21. – GENERAL SEWER USE REQUIREMENTS

A. Prohibited discharge standards.

1. General Prohibitions. No person shall discharge or cause to be discharged into the POTW, either directly or indirectly, any waste, wastewater or other substance which will cause Pass Through or interference with the operation or performance of the POTW. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, state, or local Pretreatment standards or requirements.
2. Specific Prohibitions. No person shall discharge or cause to be discharged into the POTW, either directly or indirectly, any of the following described substances, waste or wastewater:
 - a. Pollutants which create a fire or explosive hazard in the municipal wastewater collection and POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
 - b. Any wastewater having a pH less than 5.0 or more than 11.0, or otherwise causing corrosive structural damage to the POTW or equipment, or endangering city personnel;
 - c. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than one-half inch in any dimension;
 - d. Any wastewater containing pollutants, including oxygen demanding pollutants (BOD, and the like) released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with either the POTW or any wastewater treatment or sludge process, or which will constitute a hazard to humans or animals;
 - e. Any wastewater having a temperature greater than 150°F (65°C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);
 - f. Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through;
 - g. Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
 - h. Any trucked or hauled pollutants, except at discharge points designated by the city in accordance with section 50.51;
 - i. Any noxious or malodorous liquids, gases, solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or to prevent entry into the sewers for maintenance and repair;
 - j. Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent thereby violating the city's NPDES permit. Color (in combination

with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent from the seasonably established norm for aquatic life;

- k. Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the Control Authority in compliance with applicable state or federal regulations;
 - l. No person shall discharge, or cause to be discharged any storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, downspouts, yard drains, yard fountains, ponds or lawn sprays and unpolluted industrial wastewater, unless specifically authorized by the Control Authority; Storm water and all other such unpolluted drainage water shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Control Authority. No wastewater may be discharged into any storm sewer within the City.
 - m. Any sludges, screenings or other residues from the pretreatment of industrial wastes;
 - n. Any medical wastes, except as specifically authorized by the Control Authority in a wastewater discharge permit;
 - o. Any wastewater causing the treatment plant's effluent to fail a toxicity test;
 - p. Any wastes containing detergents, surface active agents or other substances which may cause excessive foaming in the POTW;
 - q. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit of the meter.
 - r. No person shall discharge, or cause to be discharged, into the POTW any wastewater or other wastes containing free or emulsified oil and grease, or combinations thereof, exceeding the local limit, if in the opinion of the Control Authority it appears probable that such wastes will do the following:
 - i. Deposit grease or oil in the sewer lines in such a manner to clog the sewers;
 - ii. Overload skimming and grease-handling equipment;
 - iii. Not be amenable to bacterial action and will therefore pass to the receiving water without being affected by normal sewage treatment processes; or
 - iv. Have deleterious effect on the treatment process due to the excessive quantities.
3. Local Limits:

Pollutant limits shall be established by resolution of the City Council to protect against pass through and interference. No SIU shall discharge wastewater containing pollutant levels in excess of the daily maximum allowable discharge limits.

The limits apply at the point where the wastewater is discharged to the POTW (end of the pipe). All the concentrations for metallic substances are for "total" metal unless indicated otherwise. The City may impose mass limitation in addition to (or in place of) the concentration-based limitations. Where a user is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply.

The Control Authority may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement Local Limits and the requirements of Section 50.21.A.1-2.

4. Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW.
5. No wastewater may be discharged into any waters of the state within the city, unless expressly authorized by the Texas Commission of Environmental Quality (TCEQ) and the EPA.
6. Users must comply with the State Pretreatment standards codified at 30 TAC 315 Subchapter A. If the Control Authority determines that any person is discharging, or causing to be discharged, to the POTW any wastewater or other substance in violation of the prohibitions in this section, the Control Authority may take enforcement action pursuant to sections 50.80 through 50.84.

B. National Categorical Pretreatment Standards

Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405–471.

1. Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Control Authority may impose equivalent concentration or mass limits in accordance with Section 50.21.B.5 and 50.21.B.6.
2. When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Control Authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.
3. When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Control Authority shall impose an alternate limit in accordance with 40 CFR 403.6(e).
4. A CIU may obtain a net/gross adjustment to a categorical Pretreatment Standard in accordance with the following paragraphs of this Section.
 - a. Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this Section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the City. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph b. of this Section are met.
 - b. Criteria.
 - i. Either (i) The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The Industrial User demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.
 - ii. Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
 - iii. Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional

monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this Section.

- iv. Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The City may waive this requirement if it finds that no environmental degradation will result.
5. When a categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the City convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Control Authority. Where the Control Authority has not yet issued a control mechanism that contains established categorical concentration-based limits, the Industrial user must comply with the default flow-based mass limits as established in the applicable categorical pretreatment standard. Where the Control Authority may determine that an Industrial User should be subject to both the flow-based mass limit as well as the concentration-based limit, they will both be incorporated into the issued control mechanism and the industrial user would have to comply with both limits. The City may establish equivalent mass limits only if the Industrial User meets all the conditions set forth in Sections 50.21.B.5.a.i. through 50.21.B.5.a.v. below.
- a. To be eligible for equivalent mass limits, the Industrial User must:
 - i. Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;
 - ii. Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;
 - iii. Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
 - iv. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and
 - v. Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.
 - vi. At a minimum, no SNC over the last two (2) years.
 - b. An Industrial User subject to equivalent mass limits must:
 - i. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
 - ii. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
 - iii. Continue to record the facility's production rates and notify the Superintendent whenever production rates are expected to vary by more than twenty percent (20%) from its baseline production rates determined in paragraph 50.21.B.5.a.iii. of this Section. Upon notification of a revised production rate, the Superintendent will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

- iv. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraphs 50.21.B.5.a.i. of this Section so long as it discharges under an equivalent mass limit.
 - v. Failure of the Industrial user to comply with these requirements will result in disqualification of the CIU from coverage by equivalent mass limits and the pre-existing concentration-based standards will become automatically enforceable.
- c. When developing equivalent mass limits, the Superintendent:
- i. Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;
 - ii. Equivalent limitations calculated in accordance with 40 CFR 403.6 (c)(7), are deemed pretreatment standards for the purposes of section 307 (d) of the Act and this part. The Control Authority must document how the equivalent limits were derived and make this information publicly available. Once incorporated into its control mechanism, the Industrial User must comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limits were derived.
 - iii. Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
 - iv. May retain the same equivalent mass limit in subsequent individual wastewater discharger permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 50.9. The Industrial User must also be in compliance with Section 50.22.C.4. regarding the prohibition of bypass.
6. The Control Authority may not express limits in terms of mass for pollutants such as pH, temperature, radiation, or other pollutants which cannot appropriately be expressed as mass.
 7. The Control Authority may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the Control Authority.
 8. Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section 50.21.B. in lieu of the promulgated categorical Standards from which the equivalent limitations were derived. The Control Authority is required to assess Industrial user compliance. The Control Authority will conduct its mandatory one-per-year monitoring of the IU, the relevant actual flow from the facility is required to assess whether the User is in compliance with its mass limits.
 9. Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation. The Control Authority is not limited to those circumstances in which the Control Authority determines that the facility's flow is so variable as to make the mass limits impracticable.
 10. Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Control Authority within two

(2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Superintendent of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long-term average production rate.

(1975 Code, § 19-14; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Cross reference— Penalty, see Sec. 50.995.

Sec. 50.22. - Special rules for industrial discharges.

A. *Compliance with standards.*

1. Upon the promulgation of the categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter.
2. State requirements and limitations on discharges to the POTW shall be met by all dischargers which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in this or any other applicable chapter.
3. No discharger shall increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the pretreatment requirements set forth in this chapter.
4. The Control Authority may impose mass limitations on dischargers where the imposition of mass limitations is deemed appropriate.

B. *Accidental Discharge/Slug Discharge Control Plans*

1. *The Superintendent shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges within a year of becoming an SIU. The Superintendent may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the Superintendent may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:*
 - a. Description of discharge practices, including non-routine batch discharges;
 - b. Description of stored chemicals;
 - c. Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate the prohibition under 40 CFR 403.5(b) or as required by Section 50.26.F., with procedures for follow-up written notification within five (5) days; and
 - d. If necessary, procedures to prevent adverse impact from accidental spills, including, but not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency response.

2. *Prevention of accidental discharges.* Each discharger shall provide prudent protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the discharger's cost and expense. When applicable, detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Control Authority for review and shall be approved by the Control Authority before construction of the facility. Each existing discharger as designated by the Control Authority shall complete its plan and submit same to the Control Authority within sixty (60) days after the effective date of this chapter. No designated discharger proposing to connect or contribute any wastewater to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge protection procedures have been approved by the Control Authority. Review and approval of such plans and operating procedures by the Control Authority shall not relieve the discharger from the responsibility to modify its facility as necessary to meet the requirements of this chapter.
 3. *Notice of accidental discharges or "slugloads."*
 - a. Dischargers shall notify the Control Authority orally as soon as practicable but not later than within twenty-four (24) hours following the occurrence of a "slugload" or accidental discharge of substances prohibited by this chapter. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume and corrective actions.
 - b. A written report shall also be provided within five (5) days of the occurrence. The written report shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance. The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
 - c. Notification shall not relieve the discharger of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to person or property; nor shall such notification relieve the discharger of any fines, civil penalties or other liability which may be imposed by this chapter or other applicable law.
 4. *Liability due to accidental discharges or "slugloads".* Any discharger who discharges "slugloads" or prohibited materials shall be liable, pursuant to Sec. 50.89, for any expense, loss or damage to the POTW caused thereby, in addition to the amount of any fines imposed on the Control Authority on account thereof under state and federal law.
 5. *Instructions to employees.* Each employer shall instruct all applicable employees who may cause or discover such a discharge with respect to emergency notification procedures including the proper telephone number and/or extension number of the Control Authority to be notified.
- C. *Bypass.*
1. *Definitions.*
 - a. *Bypass.* The intentional diversion of wastestreams from any portion of an industrial user's treatment facility.

- b. *Severe property damage.* Substantial physical damage to property, damage to the treatment facilities which cause them to become inoperable or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- 2. An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections 3. and 4. of this section.
- 3. *Bypass notifications*
 - a. If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority, at least ten (10) days before the date of the bypass, if possible.
 - b. An industrial user shall submit oral notice to the Control Authority of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- 4. *Bypass*
 - a. Bypass is prohibited and the City may take enforcement action against an industrial user for a bypass, unless the following occurred:
 - 1. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
 - 2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and/or
 - 3. The industrial user submitted notices as required under subsection 3. of this division C.
 - b. The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in subsection 4.a. of this division C.

(1975 Code, § 19-15; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Cross reference— Penalty, see Sec. 50.995.

Sec. 50.23 – Compliance Monitoring

I. Right of Entry: Inspections and Sampling.

- A. The Control Authority shall have the right to enter any premises of any User to determine whether the User is complying with all requirements of this ordinance and any individual wastewater discharge permit or order issued hereunder. Users should allow the Control Authority ready access to all parts of the premises for the purposes of inspection, sampling, records, examination and copying, and the performance of any additional duties.
1. Where a User has security measures in force which require proper identification and clearance before entry into its premise, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Control Authority shall be permitted to enter without delay for the purposes of performing specific responsibilities. Any employee, agent or other representative of the Control Authority who enters private property shall observe the establishment's rules and regulations concerning safety, internal security and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his/her presence and shall exhibit proper credentials. Unscheduled inspections may be conducted whenever deemed by the Control Authority to be reasonably necessary to ensure that the terms of this chapter are complied with.
 2. The Control Authority shall have the right to set up on the User's property, or require installations of, such devices as are necessary to conduct sampling and/or metering, of the User's operations.
 3. The Control Authority may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually or according to manufacturer guidelines to ensure their accuracy.
 4. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Control Authority and shall not be replaced. The costs of clearing such access shall be born by the User.
 5. Unreasonable delays in allowing the Control authority access to the User's premises shall be a violation of this ordinance. The failure or refusal of a discharger to allow the access required by this section shall be grounds for the disconnection of water and/or sewer service to the discharger's facility, pursuant to the provisions of this chapter applicable to enforcement and/or termination of service.
- B. Any discharges of wastewater or other waste into the POTW shall be subject to inspection and/or sampling as often as may be deemed necessary by the Control Authority. Sample shall be collected in such manner as to be representative of the character and concentration of the wastewater or waste under operating conditions. Upon specific request, the Control Authority shall provide the discharger with a split set of all discharge samples taken. The laboratory methods used in the examination of the waste shall be those set forth in 40 CFR 136. Regular inspections and/or sampling shall be conducted at such times and on such schedules as may be established by the Control Authority. Should a discharger desire that a scheduled inspection and/or sampling be conducted at

some time other than that scheduled by the Control Authority, such inspection and/or sampling may be conducted by the Control Authority at the expense of the discharger.

- C. Unless expressly exempted by the Control Authority, all significant industrial dischargers shall provide, at their own expense, monitoring facilities prior to approval of a permit application, to allow inspection, sampling and flow measurement at each discharge point. Each monitoring facility shall be located on the discharger's premises; except, in the case where such location would be impractical or cause undue hardship to the discharger, the Control Authority may approve the placement of monitoring facilities in the public street or sidewalk area. All monitoring equipment and facilities shall be maintained in safe and proper operating condition at the expense of the discharger.
- D. Failure to provide proper monitoring facilities shall be grounds for denial of a permit application.

(1975 Code, § 19-19; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.24. - Search Warrants.

If the Control Authority has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the Control Authority may seek issuance of a search warrant from the Municipal Court of the City of Stephenville.

Sec. 50.25. - Flow measurement.

- A. The water consumption during the previous month, as determined from the meter records of the city water department, shall be the basis for computing the sewage flow from any discharger, unless actual sewage flow is measured by a recording meter of a type approved by the Control Authority. The discharger shall install and maintain the recording meter in proper condition to accurately measure the flow. Upon failure to do so, the meter consumption shall be the basis for computing the sewage flow.
- B. When water is contained in a product or is evaporated or is discharged as unpolluted wastewater in an uncontaminated condition to surface drainage (in compliance with this chapter and all state and federal law), an application may be made for a reduction in the computed volume of waste discharged to the POTW, provided supporting data satisfactory to the Control Authority is furnished. Such data shall include a flow diagram and other indication of the destination of water supply and/or wastewater, supported by data from meters installed on such process piping at the expense of the discharger.
- C. Any discharger who procures any part or all of his/her water supply from a source or sources other than the city, any of which is discharged into the POTW, shall install and maintain at his/her expense an effluent meter and/or other flow measuring device of a type approved by the Control Authority for the purpose of determining the proper volume of flow to be used in computing sewer flow. Such meters or measuring devices shall be read monthly.

(1975 Code, § 19-20; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Cross reference— Penalty, see Sec. 50.995.

Sec. 50.26. - Reporting requirements.

A. *Baseline report.* Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administration decision on a category determination under 40 CFR 403.6 (a) (4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the Control Authority a report, which contains the information listed in paragraph 50.26.A.1, below. At least ninety (90) days prior to commencement of their discharge, New Sources, and source that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall submit to the Control Authority a report which contains the information listed in paragraph 50.26.A.1, below. A New Source shall report the method of pretreatment it intends to use to meet applicable categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

1. Users described above shall submit the information set below.

- a. All information required in section 50.41.A.1., B, C, and F.
- b. Measurement of Pollutants.
 - i. The User shall provide the information required in Section 50.41.G.1 through 4.
 - ii. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
 - iii. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6 (e) this adjusted limit along with supporting data shall be submitted to the Control Authority;
 - iv. Sampling and analysis shall be performed in accordance with section 50.26.K.
 - v. The Control Authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
 - vi. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
- c. Compliance Certification. A statement reviewed by the User's Authorized Representative as defined in Section 50.1.A and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.
- d. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this

schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 50.26.B of this ordinance.

- e. Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 50.26.N.1 of this ordinance and signed by an authorized representative as defined in Section 50.1.A.

B. Compliance Schedule Progress Reports

1. The following conditions shall apply to the compliance schedule required by Section 50.26.A.1.d of this ordinance.
 - a. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
 - b. No increment referred to above shall exceed nine (9) months;
 - c. The User shall submit a progress report to the Control Authority no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and
 - d. In no event shall more than nine (9) months elapse between such progress reports to the Control Authority.

- C. Reports on Compliance with Categorical Pretreatment Standard Deadline.** Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and Requirements shall submit to the Control Authority a report containing the information described in Section 50.41.E and G and 50.26.A.1.b of this ordinance. **The IU will comply with all reporting and notice requirements in 40 CFR 403.12 (b), (c), (d), (f), (j) & (p).** For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 50.21.B, this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 50.26.N.1 of this ordinance. All sampling will be done in conformance with Section 50.26.K. **The NSCIU and/or Control Authority will sample (self-monitor) periodically to confirm compliance with the categorical pretreatment standards. The Control Authority will wait at least one permit cycle to evaluate flow data collected from the CIU over the term of the permit before determining if the CIU qualifies as an NSCIU.**

- D. Periodic Compliance Reports.**

1. Except as specified in Section 50.26.D, all Significant Industrial Users must, at a frequency determined by the Control Authority submit no less than twice per year (June and December [or on dates specified by the Control Authority]) reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Control Authority or the Pretreatment Standard necessary to determine the compliance status of the User. At the discretion of the Control Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may modify the months during which the above reports are to be submitted.
2. The City may authorize an Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:
 - a. The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.
 - b. The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five (5) years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See Section 50.41.M.
 - c. In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
 - d. The pollutant monitoring waiver is based on a facility-wide evaluation and, therefore, sampling data must be representative of all wastestreams, as well as any seasonal or other variability in the Discharge. The request for a monitoring waiver must be signed in accordance with the Duly Authorized Representative definition in Section 50.1.A.1 and include the certification statement in Section 50.26.N.1 and include in the waiver request a technical evaluation of all categorical process(es) to determine that a specific pollutant is not added and include analytical results of at least one wastewater sample prior to treatment to demonstrate that the measured levels reflect any pollutants that are added to the wastewater rather than the levels after they have been reduced by treatment, since effective treatment could become less effective over time.
 - e. Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis. Accurate flow measurements will be necessary.

- f. Any grant of the monitoring waiver by the Control Authority must be included as a condition in the User's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Control Authority for three (3) years after expiration of the waiver. The monitoring for a pollutant can be waived as long as the levels in the untreated wastewater do not exceed the levels in the intake water based on sampling and other technical factors. The Control Authority may also reduce its monitoring for the pollutant to once during the term of the CIU's control mechanism.
- g. Upon approval of the monitoring waiver and revision of the User's permit by the Control Authority, the Industrial User must certify on each report with the statement in Section 50.26.N.3 below, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User. If the Industrial User can demonstrate through its technical evaluation that a specific pollutant is not added, and can demonstrate through a mass balance that any increases in the wastestream concentration are due only to evaporative losses or other similar reductions in the volume of wastewater discharged, then a monitoring waiver may be approved by the Control Authority.
- h. In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of Section 50.26.D.1, or other more frequent monitoring requirements imposed by the Control Authority and notify the Control Authority. The Industrial user monitoring waiver applies to the semiannual monitoring required under 40 CFR 403.12 (e), and does not apply to monitoring required for the baseline monitoring report or the 90-day compliance report. The Control Authority has the discretion to determine that the IU must monitor for a pollutant despite the IU having demonstrated that the pollutant is not present. Where the Control Authority elects to require monitoring in such circumstances, it may determine the appropriate frequency of monitoring, including frequencies that are less than twice per year.
- i. This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard. The Industrial User Control Mechanism must include all applicable categorical standards, even those standards for which monitoring has been waived.
3. The City may reduce the requirement for periodic compliance reports in Section 50.26.D.1 (40 CFR 403.12(e)(1)) to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by the State, where the Industrial User's total categorical wastewater flow does not exceed any of the following:
- The POTW's value for 0.01 percent of the POTW's design dry-weather hydraulic capacity of the POTW, or five thousand (5,000) gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches.
 - The POTW's value for 0.01 percent of the design dry-weather organic treatment capacity of the POTW; and

- c. The POTW's value for 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical Pretreatment Standard for which approved Local Limits were developed in accordance with Section 50.21.A.3 of this ordinance.

Reduced reporting is not available to Industrial Users that have in the last two (2) years been in Significant Noncompliance, as defined in Section 50.85 of this ordinance. In addition, reduced reporting is not available to an Industrial User with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the Control Authority, decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period.

4. All periodic compliance reports must be signed and certified in accordance with Section 50.26.N.1 of this ordinance.
5. All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.
6. If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Control Authority, using the procedures prescribed in Section 50.26.K of this ordinance, the results of this monitoring shall be included in the report

E. *Reports of Changed Conditions*

1. Each User must notify the Control Authority of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.
2. The Control Authority may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 50.41 of this ordinance.
3. The Control Authority may issue an individual wastewater discharge permit under Section 50.48 of this ordinance or modify an existing wastewater discharge permit under Section 50.44 of this ordinance in response to changed conditions or anticipated changed conditions.

F. *Reports of Potential Problems*

1. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the Control Authority of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.
2. Within five (5) days following such discharge, the User shall, unless waived by the Control Authority, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property;

nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

3. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.
4. Significant Industrial Users are required to notify the Control Authority immediately of any changes at its facility affecting the potential for a Slug Discharge.

G. *Reports from Unpermitted Users*

All Users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Control Authority as the Control Authority may require.

H. *Notice of Violation/Repeat Sampling and Reporting*

If sampling performed by a User indicates a violation, the User must notify the Control Authority within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the City performs sampling at the User's facility at least once a month, or if the City performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the Industrial User.

I. *Notice of Discharge of Hazardous Waste.*

1. Any User who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 50.26.E of this ordinance. The notification requirement in this Section does not apply to pollutants already reported by Users subject to categorical Pretreatment Standards under the self-monitoring requirements of Sections 50.26.A, 50.26.C, and 50.26.D of this ordinance

2. Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.
 3. In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the Control Authority, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
 4. In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
 5. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.
- J. *Analytical Requirements.*
- All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Control Authority or other parties approved by EPA.
- K. *Sample Collection*
- Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.
1. Except as indicated in Section B and C below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics

and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

2. Samples for oil and grease, total residual chlorine, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
3. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 50.26.A. and 50.26.C. [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Control Authority may authorize a lower minimum. For the reports required by paragraphs Section 50.26.D. (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

L. *Date of Receipt of Reports*

Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

M. *Recordkeeping*

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under Section 50.21.A.3. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the Control Authority. **The Control Authority is required to maintain documentation of compliance with BMP requirements and monitoring activities/results for a minimum of three (3) years.**

N. *Certification Statements*

1. Certification of Permit Applications, User Reports and Initial Monitoring Waiver— The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 50.41.K; Users submitting baseline monitoring reports under Section 50.26.A.1.e; Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 50.26.C; Users submitting periodic compliance reports required by Section 50.26.D.1.-4, and Users submitting an initial request to forego sampling of a pollutant on the basis of Section 50.26.D.2.d. The following certification statement must be signed by an Authorized Representative as defined in Section 50.1.A.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or

persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

- 2. **Annual Certification for Non-Significant Categorical Industrial User** – A facility determined to be a Non-Significant Categorical Industrial User by the Control Authority pursuant to 50.1.A and 50.41.K. must annually submit the following certification statement signed in accordance with the signatory requirements in Section 50.1.A This certification must accompany an alternative report required by the Control Authority:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR , I certify that, to the best of my knowledge and belief that during the period from , to , [months, days, year]:

- a. The facility described as _____[facility name] met the definition of a Non-Significant Categorical Industrial User as described in Section 50.1.A.
- b. The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and
- c. the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

3. Certification of Pollutants Not Present

Users that have an approved monitoring waiver based on Section 50.26.D.2 must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the User.

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 50.26.D.1.

(1975 Code, § 19-21; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Cross reference— Penalty, see Sec. 50.995.

Sec. 50.27. - Grease regulations.

A. *Applicability and prohibitions.*

- 1. This section is patterned from the *Model Standards for a Grease Ordinance* - House Bill 1979-78th Legislative Session.

2. This section shall apply to all nondomestic users of the publicly-owned treatment works (POTW), as defined in section 50.1.A, whose waste discharge contains or may contain grease, oil, sand or other harmful pollutants originating from processes, including but not limited to, food preparation and serving, vehicle and equipment washing, machine shops and garages, carpet cleaning and water extraction, steam cleaning and chemical cleaning facilities, or any facility with a liquid waste holding tank.
 3. Grease traps or grease interceptors shall not be required for residential users.
 4. Facilities generating fats, oils or greases as a result of food manufacturing, processing, preparation or food service shall install, use and maintain appropriate grease traps or interceptors as required for compliance with this section. These facilities include, but are not limited to, restaurants, food manufacturers, food processors, hospitals, hotels and motels, prisons, nursing homes, and any other facility preparing, serving or otherwise making any foodstuff available for consumption.
 5. No user may intentionally or unintentionally allow the direct or indirect discharge of any petroleum oil, non-biodegradable cutting oil, mineral oil, or any fats, oils or greases of animal or vegetable origin into the POTW system in such amounts as to cause interference with the collection and treatment system, or as to cause pollutants to pass through the treatment works into the environment.
- B. *Definitions.* This section shall apply to all nondomestic users of the publicly-owned treatment works (POTW), as defined in section 50.1.A.
- C. *Grease traps, interceptors, separators and holding tanks.*
1. Users required to maintain pretreatment devices.
 - a. Grease traps, interceptors, separators or holding tanks shall be provided for the proper handling of wastes containing grease, oil, sand and/or other harmful pollutants that may interfere with the operation and maintenance of the POTW and shall be constructed and maintained in accordance with the provisions of this section.
 - b. All restaurants, institutions, cafeterias or other establishments preparing or serving food shall be required to install and maintain a grease trap for the efficient removal of oil and grease from the waste stream.
 1. The design and installation of such devices shall be subject to review and approval by the control authority.
 2. Designs shall include sample ports.
 - i. The control authority may require any nondomestic user to install a suitable sampling port in the private sewer, to facilitate observation sampling and measurement of the wastes and flows.
 - ii. Sampling ports shall be readily accessible to the control authority at all times.
 - c. All existing vehicle and equipment wash areas shall be equipped with interceptors for the removal of sand and other solids. Where an existing vehicle and equipment wash area is shown to discharge excessive oil and grease, the Superintendent may require installation of a separator. New vehicle and equipment wash facilities or any existing facility that has closed and proposes to reopen shall be required to provide interceptors and separators for the removal of oils, grease, sand and/or other pollutants before discharging to the sewerage

system. The design and installation of such devices shall be subject to review and approval by the control authority.

- d. It shall be the responsibility of the user/operator to furnish, operate and maintain such pretreatment devices as necessary to produce an effluent in compliance with this section or other applicable ordinances.
- e. Holding tanks shall be provided by the user/operator for automotive or other such waste oils and other waste prohibited from being discharged into the sanitary sewer. Such holding tanks shall be constructed to prevent leakage and splashing during operation and cleaning. Such tanks shall be maintained to preclude odor and other nuisances and shall not be connected to the sanitary sewer or in any other way allowed to be discharged to the sanitary sewer.

2. Existing facilities.

- a. Existing facilities required by this section or other applicable ordinance to maintain a grease trap, interceptor or separator not equipped with an adequately sized treatment unit shall, within eighteen (18) months of May 15, 2013, the effective date of this section, install an adequately sized grease trap, interceptor or separator in accordance with the specifications of this section.
- b. Existing facilities required by this section or other applicable ordinance to maintain a grease trap, interceptor or separator not equipped with the required pretreatment device for the type of business shall, within twelve (12) months of May 15, 2013, the effective date of this section, install an adequately sized grease trap, interceptor or separator in accordance with the specifications of this section.
- c. In any circumstance where, in the opinion of the control authority, the existing grease trap, separator or interceptor, or the absence of a grease trap, separator or interceptor, poses a serious threat or an ongoing problem to the sanitary sewer, is a public nuisance, or poses a threat to public health or to the environment, the control authority may require the grease trap interceptor or separator be installed or replaced on a more stringent compliance schedule.
- d. If a food establishment or any other facility requiring a grease trap, interceptor or separator shall cease operation and shall be required to come into compliance, then such establishment or facility shall be required to comply with this article before reopening.

D. *Installation and maintenance requirements.*

1. Installation.

- a. *New facilities.* Newly proposed or constructed food processing or food service facilities, or existing facilities that 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/interceptor in accordance with locally adopted plumbing codes or other applicable ordinances. Grease traps/interceptors shall be installed and inspected prior to occupancy.
- b. *Existing facilities.* Existing grease traps/interceptors must be operated and maintained in accordance with the manufacturer's recommendations and in accordance with this section, unless specified in writing and approved by the POTW.

- c. *Waste disposal.* All grease trap/interceptor waste shall be properly disposed of at an appropriate facility in accordance with federal, state or local regulations.
2. Cleaning and maintenance.
 - a. Grease traps and grease interceptors shall be maintained in an efficient operating condition at all times.
 - b. Each grease trap 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 (24-)hour period, in accordance with 30 Texas Administrative Code § 312.143.
 3. Self-cleaning.
 - a. Grease trap self-cleaning operators must receive approval from the POTW annually prior to removing grease from their own grease trap or grease traps located inside a building, provided:
 - i. The grease trap is no more than fifty (50) gallons in liquid/operating capacity;
 - ii. Proper on-site material disposal methods are implemented (e.g., absorb liquids into solid form and dispose into trash);
 - iii. The local solid waste authority allows such practices;
 - iv. Grease trap waste is placed in a leak-proof, sealable container(s) located on the premises and in an area for the transporter to pump-out; and
 - v. Detailed records on these activities are maintained.
 - b. Grease trap self-cleaning operators must submit a completed "Request for Grease Trap Self-Cleaning Authorization" request to the POTW for approval. The written request shall include, at a minimum, the following information:
 - i. Business name and street address;
 - ii. Grease trap/interceptor operator name, title and phone number;
 - iii. Description of maintenance frequency, method of disposal, method of cleaning and size (in gallons) of the grease trap/interceptor; and
 - iv. Signed statement that the operator will maintain records of waste disposal and produce them for compliance inspections.
 - c. To ensure compliance with this section, self-cleaners must adhere to all the requirements, procedures and detailed record keeping outlined in their approved application. A maintenance log shall be kept by self-cleaning operators that indicates, at a minimum, the following information:
 - i. Date the grease trap/interceptor was serviced;
 - ii. Name of the person or company servicing the grease trap/interceptor;
 - iii. Waste disposal method used;
 - iv. Gallons of grease removed and disposed of;
 - v. Waste oil added to grease trap/interceptor waste; and

- vi. Signature of the operator after each cleaning, certifying that all grease was removed, disposed of properly, grease trap/interceptor was thoroughly cleaned, and that all applicable parts are in operable condition.
 - d. Violations incurred by grease trap self-cleaners will be subject to enforcement action, including fines and/or removal from the self-cleaner program.
- 4. Cleaning schedules.
 - a. Grease traps and 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 trap/interceptor; to ensure the discharge is in compliance with local discharge limits; and to ensure no visible grease is observed in the discharge.
 - b. Grease traps and grease interceptors subject to these standards shall be completely evacuated a minimum of every ninety (90) days, or more frequently when:
 - i. Twenty-five 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; or
 - ii. The discharge exceeds BOD, COD, TSS, FOG, pH or other pollutant levels established by the POTW; or
 - iii. There is a history of non-compliance.
 - c. Any person or business who owns or operates a grease trap/interceptor may submit to the POTW a request, in writing, for an exception to the ninety- (90-) day pumping frequency of their grease trap/interceptor. The POTW may grant an extension for required cleaning frequency on a case-by-case basis when:
 - i. The grease trap/interceptor owner/operator has demonstrated the specific trap/interceptor will produce an effluent, based on defensible analytical results, in consistent compliance with established local discharge limits such as BOD, TSS, FOG or other parameters as determined by the POTW; or
 - ii. Less than twenty-five percent (25%) 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.
 - d. In any event, a grease trap and/or grease interceptor shall be fully evacuated, cleaned and inspected at least once every one hundred eighty (180) days.
- 5. Manifest requirements.
 - a. Each pump-out of a grease trap or interceptor must be accompanied by a manifest to be used for record-keeping purposes.
 - b. Persons who generate, collect and/or transport grease waste shall maintain a record of each individual collection and deposit. Such records shall be in the form of a manifest. The manifest shall include:
 - i. Name, address, telephone and commission registration number of transporter;
 - ii. Name, signature, address and phone number of the person who generated the waste and the date collected;

- iii. Type and amount(s) of waste collected or transported;
 - iv. Name(s) and signature(s) of responsible person(s) collecting, transporting and depositing the waste;
 - v. Date and place where the waste was deposited;
 - vi. Identification (permit or site registration number, location and operator) of the facility where the waste was deposited;
 - vii. Name and signature of facility on-site representative acknowledging receipt of the waste and the amount of waste received;
 - viii. The volume of the grease waste received; and
 - ix. A consecutive numerical tracking number to assist transporters, waste generators and regulating authorities in tracking the volume of grease transported.
- c. Manifests shall be divided into five parts and records shall be maintained as follows:
- i. One part of the manifest shall have the generator and transporter information completed and shall be given to the generator at the time of waste pickup.
 - ii. The remaining four parts of the manifest shall have all required information completely filled out and signed by the appropriate party before distribution of the manifest.
 - iii. One part of the manifest shall go to the receiving facility.
 - iv. One part shall go to the transporter, who shall retain a copy of all manifests showing the collection and disposition of waste.
 - v. One copy of the manifest shall be returned by the transporter to the person who generated the wastes within fifteen (15) calendar days after the waste is received at the disposal or processing facility.
 - vi. One part of the manifest shall go to the local authority.
- d. Copies of manifests returned to the waste generator shall be retained for five years and shall be readily available for review by the POTW.
6. Alternative treatment.
- a. A person commits an offense if the person introduces, causes, permits or suffers the introduction of any surfactant, solvent or emulsifier into a grease trap. Surfactants, solvents and emulsifiers are materials that allow the grease to pass from the trap into the collection system, and include, but are not limited to, enzymes, soap, diesel, kerosene, terpene and other solvents.
 - b. It is an affirmative defense to an enforcement of division (D)(6)(a) above that the use of surfactants or soaps is incidental to normal kitchen hygiene operations.
 - c. Bioremediation media may be used with the POTW's approval if the person requesting use of bioremediation media has proved to the satisfaction of the POTW that laboratory testing, appropriate for the type of grease trap to be used, has verified that:

- i. The media is a pure live bacterial product that is not inactivated by the use of domestic or commercial disinfectants and detergents, strong alkalis, acids and/or water temperatures of 160°F (71°C).
 - ii. The use of the media does not reduce the buoyancy of the grease layer in the grease trap and does not increase the potential for oil and grease to be discharged to the sanitary sewer.
 - iii. The use of the bioremediation media does not cause foaming in the sanitary sewer.
 - iv. The BOD, COD and TSS discharged to the sanitary sewer after use of the media does not exceed the BOD, COD and TSS that would be discharged if the product were not being used, and the grease trap was being properly maintained. pH levels must be between 5 and 11.
- d. All testing designed to satisfy the criteria set forth in division (D)(6)(c) shall be scientifically sound and statistically valid in the opinion of the POTW. All tests to determine oil and grease, TSS, BOD, COD, pH and other pollutant levels shall use appropriate tests that have been approved by the Environmental Protection Agency and the Texas Commission on Environmental Quality, and which are defined in 40 CFR 136 or 30 Texas Administrative Code § 319.11. Testing shall be open to inspection by the POTW and shall meet the POTW's approval.

E. *Schedule of penalties.*

1. If the POTW determines that a generator is responsible for a blockage of a collection system line, the generator shall owe a civil penalty of \$1,000.00 for the first violation, \$1,500.00 for a second violation, and \$2,000.00 for the third violation within a two-year period. Continuous violations shall result in an increase in penalty by \$500.00 and may also result in termination of services.
2. Any person violating any of the provisions of this section shall be subject to a written warning for the first violation, a \$1,000.00 civil penalty for the second violation, a \$1,500.00 civil penalty for the third violation, and a \$2,000.00 civil penalty for the fourth violation within a two-year period. Consistent violations will result in a \$500.00 increase in civil penalty and may result in termination of service.

(Ord. 2013-03, passed 4-2-2013)

Secs. 50.28—50.39. - Reserved.

ARTICLE III. – INDIVIDUAL WASTEWATER DISCHARGE PERMITS

Sec. 50.40. – Individual Wastewater Discharge Permit required.

A. *Wastewater Analysis*

When requested by the Superintendent, a User must submit information on the nature and characteristics of its wastewater within one-hundred twenty (120) days of the request. The Superintendent is authorized to prepare a form for this purpose and may periodically require Users

to update this information and may require other Users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this ordinance.

B. *Individual Wastewater Discharge Permit Requirement*

1. No Significant Industrial User shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the Superintendent, except that a Significant Industrial User that has filed a timely application pursuant to Section 50.40.C of this ordinance may continue to discharge for the time period specified therein.
2. It shall be unlawful for any significant industrial discharger to discharge to the POTW any wastewater without a permit issued by the Control Authority in accordance with the provisions of this chapter. The Superintendent may require other Users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this ordinance.
3. Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 50.80 to 50.90 of this ordinance. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

C. *Individual Wastewater Discharge Permitting: Existing Connections*

1. All significant industrial dischargers proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing significant industrial dischargers connected to or contributing to the POTW shall obtain a discharge permit within sixty (60) days after the effective date of this chapter.
2. Any User required to obtain an individual wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within sixty (60) days after said date, apply to the Control Authority for an individual wastewater discharge permit in accordance with Section 50.41 of this ordinance, and shall not cause or allow discharges to the POTW to continue after one-hundred twenty (120) days of the effective date of this ordinance except in accordance with an individual wastewater discharge permit issued by the Control Authority.

D. *Individual Wastewater Discharge Permitting: New Connections*

Any User required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit, in accordance with Section 50.41 of this ordinance must be filed at least 120 days prior to the date upon which any discharge will begin or recommence.

(1975 Code, § 19-16(A) and (B); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Cross reference— Penalty, see Sec. 50.995.

Sec. 50.41. – Individual Wastewater Discharge Permit Application Contents.

All Users required to obtain an individual wastewater discharge permit must submit a permit. The Superintendent may require Users to submit all or some of the following information as part of a permit application:

A. *Identifying information*

1. The name and address of the facility, including the name of the operator and owner.
2. Contact information, description of activities, facilities, and plant production processes on the premises
3. NAICS code number according to the North American Industry Classification System.

B. *Environmental Permits.*

A list of any environmental control permits held by or for the facility.

C. *Description of Operations.*

A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

1. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
2. Number and type of employees, hours of operation, and proposed or actual hours of operation;
3. Type and amount of raw materials processed (average and maximum per day);
4. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

D. *Time and duration of discharges;*

E. *Flow Measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 50.21.2 (40 CFR 403.6(e))

F. *The location for monitoring all wastes covered by the permit.* Site plans, floor plans, plumbing plans and details to show all sewers, floor drains, sewer connections and appurtenances by the size, location and elevation;

G. *Measurement of Pollutants*

1. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
2. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Superintendent, of regulated pollutants in the discharge from each regulated process.
3. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.

4. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 50.26.J of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the Superintendent or the applicable Standards to determine compliance with the Standard.
 5. Sampling must be performed in accordance with procedures set out in Section 50.26.K of this ordinance.
- H. *Wastewater constituents and characteristics*, including any pollutants in the discharge which are limited by any city, state or federal pretreatment requirements, and a statement regarding whether or not the pretreatment requirements are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the discharger to meet applicable pretreatment requirements;
- I. *If additional pretreatment* and/or O&M will be required to meet the pretreatment requirements; the shortest time schedule by which the discharger will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment requirement. The following conditions shall apply to this schedule:
1. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the discharger to meet the applicable pretreatment requirements (for example, hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction and the like);
 2. No increment referred to in subsection (1) shall exceed nine (9) months, nor shall the total compliance period exceed eighteen (18) months; and
 3. Not later than 14 days following each date in the schedule and the final date for compliance, the discharger shall submit a progress report to the Control Authority including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the discharger to return the construction to the schedule established. In no event shall more than nine months and fourteen (14) days elapse between such progress reports to the Control Authority;
- J. *Any other information as may be deemed by the Control Authority to be necessary to evaluate the permit application*; and
- K. *Application Signatories and Certifications*
1. All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 50.26.N.1.
 2. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Superintendent prior to or together with any reports to be signed by an Authorized Representative.

3. A facility determined to be a Non-Significant Categorical Industrial User by the Superintendent pursuant to 50.1.A must annually submit the signed certification statement in Section 50.26 N.2.

L. *Individual Wastewater Discharge Permit Decisions.*

The Control Authority will evaluate the data furnished by the User and may require additional information. Within sixty (60) days of receipt of a complete permit application, the Control Authority will determine whether to issue an individual wastewater discharge permit. The Control Authority may deny any application for an individual wastewater discharge permit. If the permit is issued, it shall be subject to terms and conditions provided herein. If the application is denied, the applicant shall be notified in writing within thirty (30) days of the reasons for such denial. If denial is based on the Control Authority's determination that the applicant cannot meet the pretreatment requirements specified in this chapter, the Control Authority may specify that additional pretreatment operations will be required of the applicant in compliance with section 50.41.I.

- M. *Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 50.26.D.*

(1975 Code, § 19-16(C); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Cross reference— Penalty, see Sec. 50.995.

Sec. 50.42. - INDIVIDUAL WASTEWATER DISCHARGE PERMIT ISSUANCE

A. *Individual Wastewater Discharge Permit Duration*

An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Control Authority. Each individual wastewater discharge permit will indicate a specific date upon which it will expire.

(1975 Code, § 19-16(D); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.43. – Individual Wastewater Discharge Permit Contents.

- A. An individual wastewater discharge shall be subject to all provisions of this chapter and all other applicable regulations, industrial waste surcharges and fees established by the city and shall include such conditions as are deemed reasonably necessary by the Control Authority to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.
- B. Individual wastewater discharge permits must contain:
1. A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;
 2. A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with Section 50.46 of this ordinance and provisions for

furnishing the new owner or operator with a copy of the existing wastewater discharge permit.

3. Effluent limits, including Best Management practices, based on applicable pretreatment standards;
 4. Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law.
 5. The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with Section 50.26.D.
 6. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
 7. Requirements to control Slug Discharge, if determined by the Control Authority to be necessary.
 8. Any grant of the monitoring waiver by the Control Authority must be included as a condition in the User's permit.
- C. Individual wastewater discharge permits may contain, but shall not be limited to, the following:
1. Limits on the average and/or maximum rate of discharge, time of discharge and/or requirements for flow regulation and equalization;
 2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
 3. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
 4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
 6. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
 7. A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the individual wastewater discharge permit; and
 8. Other conditions as deemed appropriate by the Control Authority to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

(1975 Code, § 19-16(E); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.44. – Permit Modification.

The Control Authority may modify an individual wastewater discharge permit for good cause including, but not limited to, the following reasons:

1. To incorporate any new or revised federal, state or local pretreatment standards or requirements;
2. To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;
3. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
4. Information indicating that the permitted discharge poses a threat to the Control Authority's collection and treatment systems, POTW personnel or the receiving waters, and POTWs beneficial sludge use;
5. Violation of any terms or conditions of the individual wastewater discharge permit;
6. Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting;
7. Revision of or a grant of variance from federal categorical pretreatment standards pursuant to 40 CFR 403.13;
8. To correct typographical or other errors in the individual wastewater discharge permit; or
9. To reflect transfer of the facility ownership and/or operation to a new owner/operator where requested in accordance with Section 50.46.

(1975 Code, § 19-16(F); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.45. – Permit Issuance Process and Appeal Procedures.

- A. *Public notification.* The Control Authority shall provide personal notice to the permittee and published notice in a newspaper of general circulation in the city of intent to issue a discharge permit at least thirty (30) days prior to issuance. The notice shall indicate a location where the draft permit may be reviewed and an address where written comments may be submitted.
- B. *Permit appeals.* The Control Authority shall provide all requesting interested persons with notice of final permit decisions. Upon notice by the Control Authority, any person, including the industrial user, may petition for reconsideration of the terms of the permit within thirty (30) days of the notice.
 1. In its petition, the appealing party must indicate any permit provision objected to, the reason for the objection and the alternative condition, if any, it seeks to be placed in the permit.
 2. The effectiveness of the permit shall not be stayed pending a reconsideration by the Control Authority unless the Control Authority expressly so indicates.
 3. The Control Authority shall respond in writing to any petition for reconsideration within 30 days.
 4. In its response, the Control Authority shall indicate its decision whether to affirm, vacate or modify the terms of the permit issued.

5. The Control Authority's action upon any petition for reconsideration shall be considered final for purposes of any judicial review.

(1975 Code, § 19-16(G); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.46. – Individual Wastewater Discharge Permit Transfer.

Individual wastewater discharge permits or coverage under may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the Control Authority and the Control Authority approves the individual wastewater discharge permit transfer.

The notice to the Control Authority must include a written certification by the new owner or operator which:

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur; and
- C. Acknowledges full responsibility for complying with the existing individual wastewater discharge permit.

Failure to provide advance notice of a transfer renders the individual wastewater discharge permit void as of the date of facility transfer.

(1975 Code, § 19-16(H); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.47. - Individual Wastewater Discharge Permit Revocation.

The Control Authority may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify the Control Authority of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the Control Authority of changed conditions pursuant to Section 50.26.E of this ordinance.
- C. Misrepresentation or failure to fully disclosure all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports and certification statements;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the Control Authority timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay penalties imposed pursuant to section 50.995;
- I. Failure to pay sewer charges; or
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;

- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- M. Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or this ordinance.

Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a User are void upon the issuance of a new individual wastewater discharge permit to that User.

(1975 Code, § 19-16(I); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.48. – Individual Wastewater Discharge Permit Reissuance.

A user with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 50.41. of this ordinance, a minimum of ninety (90) days prior to the expiration of the User's existing individual wastewater discharge permit.

(1975 Code, § 19-16(J); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.49. - Continuation of expired permits.

An expired permit will continue to be effective and enforceable until the permit is reissued if the following occur:

- A. The discharger has submitted a complete permit application at least ninety (90) days prior to the expiration date of the discharger's existing permit; or
- B. The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the discharger.

(1975 Code, § 19-16(K); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.50. - Petition for relief.

- A. Any discharger under a permit issued pursuant to this subchapter may petition the Control Authority to find the following:
 1. The discharger no longer meets any of the criteria to be a significant industrial discharger as defined in section 50.1.A.;
 2. The discharger has not met any of those criteria for the immediately preceding three years; and
 3. Therefore, the permitting requirements of this subchapter should no longer apply to the discharger.
- B. The petitioning discharger shall produce all information relevant to the requested findings.
- C. The Control Authority shall afford reasonable opportunity for a hearing on any relevant factual issues upon request of the petitioning discharger.
- D. If the Control Authority finds that the discharger does not meet any of the criteria to be a significant industrial discharger as defined in section 50.1.A and that the discharger has not met any of those

criteria for the immediately preceding three years, the Control Authority shall cancel any existing permit issued to the discharger, and the discharger shall be relieved of any further obligation to comply therewith.

- E. No such permit cancellation shall affect any later determination that a discharger subsequently meets the criteria for a significant industrial discharger.

(1975 Code, § 19-16(L); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.51. - Liquid Waste Hauler Permit.

- A. No person shall drain, flush or clean out any tanks or basins containing chemical liquid wastes, septic tank wastes, oil and grease trap wastes or any other type of domestic or nondomestic liquid wastes within the city unless the person is issued a permit by the Control Authority, authorizing such acts or services. The permit shall also be required of all persons disposing of such waste within the city, regardless of point of origin.
- B. No such liquid waste hauler shall discharge of wastewater or any other waste into the POTW in violation of the standards, limitations and other requirements specified in this chapter.
- C. Any disposal site within the city, and any method of disposal, must be approved by the Control Authority. Copies of trip tickets shall be maintained and made available for inspection at any reasonable time.
- D. Any liquid waste hauler who is a significant industrial discharger shall also obtain a discharge permit pursuant to sections 50.40 through 50.50.
- E. Septic tank waste may be introduced into the POTW only at locations designated by the Superintendent, and at such times as are established by the Superintendent. Such waste shall not violate Section 50.20 of this ordinance or any other requirements established by the City. The Superintendent may require septic tank waste haulers to obtain individual wastewater discharge permits.
- F. The Superintendent may require haulers of industrial waste to obtain individual wastewater discharge permits. The Superintendent may require generators of hauled industrial waste to obtain individual wastewater discharge permits. The Superintendent also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
- G. Industrial waste haulers may discharge loads only at locations designated by the Superintendent. No load may be discharged without prior consent of the Superintendent. The Superintendent may collect samples of each hauled load to ensure compliance with applicable Standards. The Superintendent may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- H. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identifications, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(1975 Code, § 19-17; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Cross reference— Penalty, see Sec. 50.995.

Secs. 50.52 Revocation of permit.

In accordance with the procedures in sections 50.80 through 50.84 of this subchapter, the Control Authority may revoke the permit of any discharger which does the following:

- A. Fails to factually report the wastewater constituents and characteristics of its discharge;
- B. Fails to report significant changes in wastewater constituents or characteristics;
- C. Refuses to allow reasonable and timely access to the discharger's premises by representatives of the Control Authority for the purpose of inspection or monitoring;
- D. Fails to fulfill the conditions of its permit;
- E. Fails to meet pretreatment requirements;
- F. Fails to pay penalties imposed pursuant to section 50.995 of this chapter;
- G. Fails to pay bills for sewer services; or
- H. Fails to meet compliance schedules.

Sec. 50.53 Regulation of Waste Received from Other Jurisdictions

- A. If another municipality, or User located within another municipality, contributes wastewater to the POTW, the Control Authority shall enter into an inter-municipal agreement with the contributing municipality.
- B. Prior to entering into an agreement required by paragraph A, above, the Control Authority shall request the following information from the contributing municipality:
 1. A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
 2. An inventory of all Users located within the contributing municipality that are discharging to the POTW; and
 3. Such other information as the Control Authority may deem necessary.
- C. An inter-municipal agreement, as required by paragraph A, above, shall contain the following conditions:
 1. A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in Section 50.21.A.3. of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or Local Limits;

2. A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;
3. A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Control Authority; and which of these activities will be conducted jointly by the contributing municipality and the Control Authority;
4. A requirement for the contributing municipality to provide the Control Authority with access to all information that the contributing municipality obtains as part of its pretreatment activities;
5. Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
6. Requirements for monitoring the contributing municipality's discharge;
7. A provision ensuring the Control Authority access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Control Authority; and
8. A provision specifying remedies available for breach of the terms of the inter-municipal agreement.

Secs.50.54—50.64. - Reserved.

ARTICLE IV. - BILLING; CHARGES

Sec. 50.65. - Billing.

Industrial waste surcharges provided for in this chapter shall be included as a separate item on the regular bill for water and sewer charges and shall be paid monthly in accordance with the existing practices. Surcharges will be paid at the same time that the water, sewer and sanitation charges of the persons become due. The Control Authority shall specify in each bill the determination of the amount due for all surcharges. Payment for water, sewer and sanitation services shall not be accepted without payment also of sewer service charges and surcharges.

(1975 Code, § 19-33; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.66. - Failure to pay bills.

If a discharger's payment of its monthly bills for water and sewer services, including any industrial waste surcharges, is more than sixty (60) days overdue, the Control Authority may disconnect all connections to the water and sanitary sewer mains to the city. The same penalties and charges now or hereafter provided for by the ordinances of the city for failure to pay the bill for water service when due shall be applicable in a like manner in case of failure to pay the established surcharge for industrial waste discharged to the sanitary sewer mains as established in section 50.85.

(1975 Code, § 19-34; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.67. - Monitoring and pretreatment charges.

The Control Authority may make such charges, known as monitoring and pretreatment charges, as are reasonable for services rendered in administering the programs outlined in this chapter. Such charges shall be equitable as between users of the POTW system. The Control Authority shall provide, upon request, documentation and justification for all calculations in determining the charges. The charges may include, but are not limited to, the following:

- A. Permitting industrial facilities;
- B. Inspection;
- C. Sample analysis;
- D. Monitoring; and
- E. Enforcement.

(1975 Code, § 19-35(D); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.68. - Industrial waste surcharge.

Persons discharging wastes or wastewaters which exhibit none of the characteristics of wastes prohibited in section 50.21.A., other than excessive BOD or suspended solids, but having an average concentration during a 24-hour period of suspended solids or BOD content in excess of normal domestic sewage, as defined in section 50.1.A. shall be required to pretreat the industrial wastes to meet the requirements of normal domestic sewage; however, such wastes may be accepted for treatment if all the following requirements are met:

- A. The wastes will not cause damage to the collection system; and
- B. The wastes shall not cause interference to the treatment process.
- C. The donor of wastes enters into a contractual agreement with the city providing for a surcharge over and above published water and sewer rates. The basis for surcharge on industrial waste shall be established by separate ordinance for waste load measurements exceeding normal domestic sewage limits set forth in the definition in section 50.21.A., such rate to continue until changed by regulation or an amendment of this chapter. The above described surcharge shall be calculated by the following:

BOD Surcharge, \$/day = (Rate/lb)(million gallons per day)(BOD mg/L minus 225 mg/L)(8.34 lb/gal).

TSS Surcharge, \$/day = (Rate/lb)(million gallons per day)(TSS mg/L minus 225 mg/L)(8.34 lb/gal).

- D. Monitoring for surcharge determination(s) may be conducted by the city on a random basis and shall consist of time or flow-weighted 24 composite samples. Monitoring frequency and application of monitoring results shall be as determined by the city or, where applicable, as specified in industrial user permits.

(1975 Code, § 19-24; Am. Ord. 1990-18, passed 12-4-90; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Secs. 50.69—50.79. - Reserved.

ARTICLE V. - ADMINISTRATIVE ENFORCEMENT REMEDIES

Sec. 50.80. - Administration

Except as otherwise provided herein, the Control Authority shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Control Authority may be delegated by the Control Authority to a duly authorized City employee.

(1975 Code, § 19-25(A); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.81. - Notification of violation.

Whenever the Control Authority finds that a User has violated, or continues to violate, any provision of this ordinance, an individual discharge permit, or order issued hereunder, or any other Pretreatment Standard or requirement, the Control Authority may serve upon that User a written notice of violation. Within thirty (30) days of the date of such notice, an explanation of the violation and a plan for satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Control Authority. Submission of such a plan in no way relieves the User 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 Control Authority to take any action, including emergency actions or any other enforcement actions, without first issuing a Notice of Violation.

(1975 Code, § 19-25(B); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.82. - Show cause hearing and consent orders.

A. Show cause hearing: The Control Authority may order a User which has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Control Authority and show cause why the proposed enforcement action should not be taken.

Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least thirty (30) days prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in Section 50.1.A. and required by Section 50.41.K. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

B. Consent order: The Control Authority may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 50.83 and 50.84 of this ordinance and shall be judicially enforceable.

(1975 Code, § 19-25(C); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.83. - Action following hearing.

After the Control Authority has reviewed the evidence, it may issue an order to the discharger responsible for any violation found to have been committed, directing that, following a specified time period, the sewer service is to be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued, including revocation or suspension of any discharge permit.

A. Compliance Orders

When the Control Authority finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Control Authority may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. 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 User 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 User.

B. Cease and Desist Orders

When the Control Authority finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Control Authority may issue an order to the User directing it to cease and desist all such violations and directing the User to:

1. Immediately comply with all requirements; and
2. 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. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

C. Administrative Fines

1. When the Control Authority finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Control Authority may fine such User in an amount not to exceed \$1,000 per day. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
2. Unpaid charges, fines, and penalties shall, after ninety (90) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent (10%) per month. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.

3. Users desiring to dispute such fines must file a written request for the Control Authority to reconsider the fine along with full payment of the fine amount within **thirty (30)** days of being notified of the fine. Where a request has merit, the Control Authority may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. the Control Authority may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
4. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

(1975 Code, § 19-25(D); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.84. - Right to appeal.

Following the entry of the order by the Control Authority with respect to the conduct of a discharger, the discharger may file an appeal in an appropriate court of competent jurisdiction challenging the Control Authority's order.

(1975 Code, § 19-25(E); Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.85. - Publication of industrial users in significant noncompliance.

The city shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdiction served by the POTW, a list of the industrial users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all Significant Industrial Users (or any Industrial User that violates paragraph (C), (D), or (H) of this section) and shall mean the following:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 50.1.A.;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirements including Instantaneous limits, as defined by Section 50.1.A. multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease and 1.2 for all other pollutants except pH);
- C. Any other violation of a Pretreatment Standard or Requirement as defined by Section 50.1.A. (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the city determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of city personnel or the general public);
- D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;

- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction or attaining final compliance;
- F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, , reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s), which may include a violation of Best Management Practices, which the city determines will adversely affect the operation or implementation of the local pretreatment program.

(1975 Code, § 19-23; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.86. - Emergency suspension of service and/or discharge permits.

- A. The Control Authority may immediately suspend the User's discharge and/or permit, after informal notice to the User, when such suspension is necessary, in the opinion of the Control Authority, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the city to violate any condition of its NPDES permit. Also, the Control Authority may suspend wastewater treatment service and/or a wastewater discharge permit whenever acids and chemicals damaging the sewer lines or treatment processes are released to the sewer causing rapid deterioration of such structures or interfering with proper treatment of sewage.
- B. Any User notified of a suspension of the wastewater treatment service and/or its wastewater discharge permit shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Control Authority shall take such steps as deemed necessary, including immediate disconnection of the discharger's sewer and/or water service connection, to prevent or minimize damage to the POTW system or endangerment to any individuals or the environment. The Control Authority may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Control Authority that the period of endangerment has passed, unless the termination proceedings in Section 50.47 of this Ordinance are initiated against the User.
- C. In the case of emergency disconnection of service, the Control Authority shall make reasonable attempts to notify the discharger or user of the premises where such offending discharge is generated before disconnecting the water or sewer service line. The party whose service has been disconnected shall have an opportunity for a hearing on the issue of the offending discharge and the disconnection as soon as possible after the disconnection has taken place.
- D. The Control Authority shall reinstate the wastewater discharge permit and/or the wastewater treatment and/or water service upon proof of the elimination of the offending discharge. A detailed written statement by the discharger describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Control Authority within fifteen (15) days of the date of the occurrence. The city water and/or wastewater service shall be reconnected only at the discharger's expense.

(1975 Code, § 19-26; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Cross reference— Penalty, see Sec. 50.995.

Sec. 50.87. - Legal action.

If any person discharges wastewater or other wastes into the city's POTW contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the city, the City Attorney may commence an action for appropriate legal and/or equitable relief in any court of competent jurisdiction.

(1975 Code, § 19-27; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.88. - Protection from damage.

No unauthorized person shall maliciously or willfully break, damage, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest under the charge of disorderly conduct.

(1975 Code, § 19-28; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Cross reference— Penalty, see Sec. 50.995.

Sec. 50.89. - Recovery of costs incurred by control authority.

Any discharger violating any of the provisions of this chapter or causing damage to or impairing the city's wastewater disposal system shall be liable to the city for any expense, loss or damage caused by such violation or discharge. The city shall bill the discharger for the cost incurred by the city for any cleaning, repair or replacement work caused by the violation or discharge.

A. Pretreatment Charges and Fees

The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's Pretreatment Program, which may include:

1. Fees for wastewater discharge permit applications including the cost of processing such applications;
2. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports and certification statements submitted by Users;
3. Fees for reviewing and responding to accidental discharge procedures and construction;
4. Fees for filing appeals;
5. Fees to recover administrative and legal costs (not included in Section 50.89.A. associated with the enforcement activity taken by the Control Authority to address IU noncompliance; and
6. Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the City.

(1975 Code, § 19-29; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.90. - Acts of God defense.

The Act of God defense constitutes a statutory affirmative defense (V.T.C.A. Water Code § 7.251) in an action brought in municipal or state court. If a person can establish that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of the ordinance or permit.

- A. *Defense.* An industrial user who wishes to establish the Act of God affirmative defense shall demonstrate, through relevant evidence that:
1. An event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance occurred, and the sole cause of the event was an act of God, war, strike, or other catastrophe; and
 2. The industrial user has submitted the following information to the POTW (Public Owned Treatment Works) and the city within twenty-four (24) hours of becoming aware of the event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance (if this information is provided orally, a written submission must be provided within five (5) days):
 - a. A description of the event, and the nature and cause of the event;
 - b. The time period of the event, including exact dates and time or, if still continuing, the anticipated time the event is expected to continue; and
 - c. Steps being taken or planned to reduce, eliminate and prevent recurrence of the event.
- B. *Burden of proof.* If any enforcement proceeding, the industrial user seeking to establish the Act of God affirmative defense shall have the burden of proving by a preponderance of the evidence that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot, or other catastrophe.

(Ord. 2004-06, passed 2-3-04)

Sec. 50.91. - Variances.

A discharger may apply to the city for a variance from any discharge limitation specified in section 50.21.B. The city may grant the variance if the discharge limitation does not prevent and is not designed to prevent the following: pass through; interference; a violation of the discharger's categorical pretreatment standards; any adverse damage to the health and safety of personnel maintaining and operating the POTW; or any exceedance of the criteria for water quality developed by EPA pursuant to section 304 of the Clean Water Act, 33 USC 1314.

(1975 Code, § 19-31; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

Sec. 50.92 - Prohibited Discharge Standards

User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 50.21.A.1. of this ordinance or the specific prohibitions in Sections 50.21.A.2.a. through 50.21.A.2.r. of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:

- A. A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
- B. No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

Secs. 50.93-990 Reserved

Sec. 50.994 Injunctive Relief

When the Control Authority finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Control Authority may petition the Municipal Court of City of Stephenville through The City of Stephenville's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the User. The Control Authority may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

Sec. 50.995 Civil Penalties

- A. A User who has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a maximum civil penalty of \$1,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
 - 1. If any person intentionally, knowingly or recklessly violates any of the provisions of this chapter or of this code, he/she shall be guilty of a misdemeanor and, upon conviction in the municipal court, shall be punished by a fine not exceeding \$1,000.00 for each offense. Each day on which such a violation shall occur or continue shall be deemed a separate offense.
 - 2. Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter or wastewater discharge permit or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter,

shall, for each offense, be guilty of a misdemeanor and, upon conviction in the municipal court, shall be punished by a fine of not more than \$1,000.00.

- B. The Control Authority may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

Sec. 50.996 Criminal Prosecution

- A. A User who willfully or negligently violates any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1,000 per violation, per day, or imprisonment for not more than five (5) years, or both.
- B. A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a [misdemeanor] and be subject to a penalty of at least \$1,000, or be subject to imprisonment for not more than five (5) years, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- C. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than [insert maximum fine allowable under State law] per violation, per day, or imprisonment for not more than five (5) years, or both.
- D. In the event of a second conviction, a User shall be punished by a fine of not more than \$1,000 per violation, per day, or imprisonment for not more than five (5) years, or both.

Sec. 50.997 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The Control Authority may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the

Control Authority may take other action against any User when the circumstances warrant. Further, the Control Authority is empowered to take more than one enforcement action against any noncompliant User.

Sec. 50.998—Supplemental Enforcement Action

- A. *Penalties for Late Reports* - A penalty of \$10 (ten dollars) shall be assessed to any User for each day that a report required by this ordinance, a permit or order issued hereunder is late, beginning five (5) days after the date the report is due [higher penalties may also be assessed where reports are more than 30-45 days late].

Actions taken by the Control Authority to collect late reporting penalties shall not limit the Control Authority's authority to initiate other enforcement actions that may include penalties for late reporting violations.

- B. *Performance Bonds* - The Control Authority may decline to issue or reissue an individual wastewater discharge permit to any User who has failed to comply with any provision of this ordinance, a previous individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless such User first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the Control Authority to be necessary to achieve consistent compliance.
- C. *Liability Insurance* - The Control Authority may decline to issue or reissue an individual wastewater discharge to any User who has failed to comply with any provision of this ordinance, a previous individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.
- D. *Payment of Outstanding Fees and Penalties* - The Control Authority may decline to issue or reissue an individual wastewater discharge permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this ordinance, a previous individual wastewater discharge permit, or order issued hereunder.
- E. *Water Supply Severance* - Whenever a User has violated or continues to violate any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the User may be severed. Service will recommence, at the User's expense, only after the User has satisfactorily demonstrated its ability to comply.
- F. *Public Nuisances* - A violation of any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Control Authority. Any person(s) creating a public nuisance shall be subject to the provisions of Chapter 94 governing

such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance.

- G. *Informant Rewards* - The Control Authority may pay up to one thousand dollars (\$1,000) for information leading to the discovery of noncompliance by a User. In the event that the information provided results in a civil penalty or an administrative fine levied against the User, the Control Authority may disperse up to five percent (5%) of the collected fine or penalty to the informant. However, a single reward payment may not exceed one thousand dollars (\$1,000).
- H. *Contractor Listing* - Users which have not achieved compliance with applicable Pretreatment Standards and Requirements are not eligible to receive a contractual award for the sale of goods or services to the City. Existing contracts for the sale of goods or services to the City held by a User found to be in Significant Noncompliance with Pretreatment Standards or Requirements may be terminated at the discretion of the Control Authority.
- I. *Severability* - If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

Sec. 50.999. – EFFECTIVE DATE

This ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

(1975 Code, § 19-32; Am. Ord. 1996-13, passed 5-7-1996; Am. Ord. 1998-11, passed 5-5-1998)

ORDINANCE NO. 2021-O-____**AN ORDINANCE OF THE CITY OF STEPHENVILLE, TEXAS, REPEALING AND REPLACING CHAPTER 50 SEWER AND WATER SERVICE OF THE CITY OF STEPHENVILLE CODE OF ORDINANCES REGARDING THE INDUSTRIAL PRETREATMENT PROGRAM TO INCORPORATE THE PRETREATMENT STREAMLINE RULE AS REQUIRED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY.**

WHEREAS this ordinance repeals and replaces Chapter 50 *Sewer and Water Service* in order to comply with the Environmental Protection Agency (EPA) and the Texas Commission on Environmental Quality (TCEQ);

WHEREAS these amendments incorporate the Pretreatment Streamline Rule [rev. Federal Register/Vol. 70, No. 198/Friday, October 14, 2005/ Rules and Regulations, pages 60134-60798] into the City of Stephenville's Pretreatment Program as a substantial modification to the program; and

WHEREAS TCEQ has determined that the substantial program modification submission was technically complete and approved for adoption by City Council;

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

SECTION 1.

Chapter 50 of the City Code of Ordinances is hereby repealed in its entirety and replaced as set forth in Exhibit A.

SECTION 2.

It is the intention of the City Council that this ordinance shall become a part of the Code of the City of Stephenville, Texas, and it may be renumbered and codified therein accordingly. The Code of Ordinances of the City of Stephenville, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 3.

If any provision of this ordinance, or the application thereof to any person or circumstances, shall be held invalid or unconstitutional by a Court of competent jurisdiction, such invalidity shall not affect the other provisions, or application thereof, of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 4.

This ordinance shall become effective 10 days after final passage and approval by the City Council of the City of Stephenville, Texas.

PASSED AND APPROVED this 5th day of January, 2021.



STAFF REPORT

SUBJECT: Annual Incode 10 Software Maintenance

DEPARTMENT: Finance

STAFF CONTACT: Monica Harris

RECOMMENDATION:

Staff recommends approval of expenditure for annual Incode 10 software maintenance and support invoice of \$34,164.82.

BACKGROUND:

Finance updated to the Incode 10 platform last fiscal year. Tyler Technology charges an annual fee per module for software updates and technical support, which allows staff to get assistance with software issues and well as real-time information on how to use the software. The annual fee for Utility Billing and Accounts Receivable Customer Information System (CIS) and Customer Relationship Management (CRM), Financials, Technical Service, and the online payment Third Party System is \$34,164.82.

FISCAL IMPACT SUMMARY:

The budget includes \$36,146 for Incode 10 software maintenance and support.

ALTERNATIVES

Not approve the expenditure, which would be extremely detrimental in the utilization of the software.



Remittance:

Tyler Technologies, Inc.
(FEIN 75-2303920)
P.O. Box 203556
Dallas, TX 75320-3556

Invoice

Invoice No	Date	Item 30.
025-315473	12/01/2020	

Questions:

Tyler Technologies - Local Government
Phone: 1-800-772-2260 Press 2, then 2
Email: ar@tylertech.com



Bill To: City of Stephenville
298 West Washington
Stephenville, TX 76401

Ship To: City of Stephenville
298 West Washington
Stephenville, TX 76401

Cust No.-BillTo-ShipTo	Ord No	PO Number	Currency	Terms	Due Date
44685 - MAIN - MAIN	135152		USD	NET30	12/31/2020

Date	Description	Units	Rate	Extended Price
Maintenance: Start: 01/Jan/2021, End: 31/Dec/2021				
	Incode CIS/CRM Annual Fees	1		\$15,825.73
	Incode Financials Annual Fees	1		\$16,060.89
	Technical Services Annual Fees	1		\$1,782.18
	Third Party System Software	1		\$496.02

****ATTENTION****
Order your checks and forms from Tyler Business Forms at 877-749-2090 or tylerbusinessforms.com to guarantee 100% compliance with your software.

Subtotal	34,164.82
Sales Tax	0.00
Invoice Total	34,164.82

Public Works
STAFF REPORT



SUBJECT: 377 Ground Storage Tank Rehab Project
MEETING: City Council Meeting - 05 Jan 2021
DEPARTMENT: Public Works
STAFF CONTACT: Nick Williams

RECOMMENDATION:

Staff recommends awarding the contract for \$393,825.00 for the 377 Ground Storage Tank Rehabilitation Project to D&M Tank, LLC of Kennedale, Texas.

BACKGROUND:

Bids for the 377 Ground Storage Tank Rehabilitation Project were opened on December 21, 2020. Nine (9) bids were received as shown in the table below:

A bid recommendation letter from the engineer of record with Provenance Engineering is attached indicating the apparent low bidder does not meet the minimum qualifications for experience. The Engineer of Record also vetted the second lowest bidder and recommends awarding the contract to D&M Tank, LLC of Kennedale, Texas for \$393,825.00.

FISCAL IMPACT SUMMARY:

The FY20-21 budget allocated \$675,000 for the work. \$85,200.00 has been allocated for professional services including design and structural and coating inspection services leaving an available balance of \$589,800 to complete the construction. Including the \$393,825.00 bid by D&M Tank, LLC, the total project is anticipated to cost \$479,025 leaving approximately \$195,975, which may be applied to infrastructure maintenance and/or other capital projects.

Below is a tabulation of bids for the project.

377 One Million Gallon Ground Storage Tank Rehabilitation Project
City of Stephenville, TX
Bids Opened December 21, 2020

#	VENDOR	LOCATION	AMOUNT
1	Steel Tank Painting, LLC	Mineral Wells, TX	\$321,648.00
2	D&M Tank, LLC	Kenedale, TX	\$393,825.00
3	Tankez Coatings, Inc.	Sumner, TX	\$395,400.00
4	M.K. Painting	Wyandotte, MI	\$446,000.00
5	N.G. Painting	Kerrville, TX	\$455,000.00
6	Blastco Texas, Inc.	Channelview, TX	\$528,437.00
7	A&M Construction and Utilities, Inc.	Rowlett, TX	\$543,000.00
8	Classic Protective Coatings	Menomonie, WI	\$631,850.00
9	TMI Coatings	Saint Paul, MN	\$645,000.00

ATTACHMENTS:

Attached is copy of the contractor recommendation letter received from Provenance Engineering.

[2021_01-05 377 GST Rehab Project –Bid Recommendation Letter](#)



December 31, 2020

Mr. Nick Williams, PE, CFM
Director of Public Works
City of Stephenville
298 W. Washington St.
Stephenville, TX 76401

Subject: 377 Ground Storage Tank Rehabilitation Project – Bid Recommendation

Dear Mr. Williams:

Bids were received Monday, December 21, 2020 and publicly read for the 377 Ground Storage Tank Rehabilitation Project. Nine general contractors submitted bid proposals with each Contractor providing a bid bond. The Provenance Engineering team has reviewed the five lowest bids for their completeness. The detailed bid tabulation is enclosed in Attachment A.

The Engineer's opinion of probable construction cost prepared by Provenance Engineering was \$590,000.00. Steel Tank Painting submitted an apparent low bid with a total bid price of \$321,648.00. However, after review of Steel Tank Painting's bid proposal, the business does not meet the requirements of operating under their current business name for a minimum of 7 years, completing a minimum of five potable water ground storage tank rehabilitations with a minimum size of 500,000 gallons in the State of Texas, and the absence of a preliminary or final contaminant drawing. Steel Tank Painting also had some unfavorable performance reviews in our evaluations.

The next lowest bidder, D&M Tank LLC, submitted a bid with a total bid price of \$393,825.00. D&M Tank LLC's bid packets are attached in Attachment B. Provenance Engineering team conducted phone interviews various references with D&M Tank LLC. The results of our team's discussions with D&M's work performance was favorable on previous projects. It is our recommendations the City of Stephenville consider entering into a contract with D&M Tank LLC to perform the 377 Ground Storage Tank Rehabilitation project. Please contact me if you have any questions.

Sincerely,

Kent Riker, P.E.
President
Provenance Engineering Inc.

Enclosure