

## Notice Regarding Public Participation and City Council/City Staff Attendance

Due to the COVID-19 (coronavirus) public health emergency, and in an effort to reduce in-person meetings that assemble large groups of people, Governor Greg Abbott has granted a temporary suspension of certain rules to allow for (1) city council members and city employees to participate in a city council meeting via videoconference call or other remote electronic means without a physical quorum of council members being present at the site of the meeting; and (2) the use of videoconferencing and other remote means to allow the public to observe the meeting and, when required, to participate in the ***Public Hearing***.

In an effort to reduce the spread of the virus, for the May 4, 2020 City Council meeting, ***individuals will not be allowed to physically attend the meeting***. Individuals will be able to address the Council via telephone conference call on ***Public Hearing*** items only.

To participate in the telephone conference call, dial any of the following phone numbers:

1 (346) 248-7799

1 (253) 215-8782

1 (888) 475-4499

**Enter Meeting ID: 984 4458 9560**

**Enter Meeting Password: 611643**

To request to speak at one of the public hearings on the agenda, wait for that item to be announced and enter **\*9**. The meeting moderator will acknowledge your request in turn and allow you to speak.

**If you encounter any problems joining or participating in the meeting, please call our help line at (469) 309-4012**

If you wish to watch the meeting but not participate in the meeting, the City Council meeting will be live streamed on the city's website at:

[http://www.waxahachie.com/government/city\\_council/city\\_council\\_meeting\\_live\\_stream.php](http://www.waxahachie.com/government/city_council/city_council_meeting_live_stream.php)

Pursuant to Section 551.007 of the Texas Government Code, individuals wishing to address the City Council for items listed as ***Public Hearings*** will be recognized when the public hearing is opened.

A physical quorum of the City Council may not be present during the meeting as some Council Members may choose to participate in the meeting remotely as permitted by Governor Abbott's suspension of various statutes that may be interpreted to require face-to-face interaction between members of the public and public officials.

# **A G E N D A**

A regular meeting of the Mayor and City Council of the City of Waxahachie, Texas to be held in the Council Chamber at City Hall, 401 S. Rogers on ***Monday, May 4, 2020 at 7:00 p.m.***

Council Members: David Hill, Mayor  
Mary Lou Shipley, Mayor Pro Tem  
Chuck Beatty, Councilmember  
Kevin Strength, Councilmember  
Melissa Olson, Councilmember

1. Call to Order
2. Invocation
3. Pledge of Allegiance and Texas Pledge of Allegiance
4. ***Consent Agenda***

All matters listed under Item 4, Consent Agenda, are considered to be routine by the City Council and will be enacted by one motion. There will not be separate discussion of these items. Approval of the Consent Agenda authorizes the Mayor/City Manager to execute all matters necessary to implement each item. Any item may be removed from the Consent Agenda for separate discussion and consideration by any member of the City Council.

- a. Minutes of the City Council meeting of April 20, 2020
  - b. Minutes of the City Council Emergency meeting of April 23, 2020
  - c. Minutes of the City Council and Economic Development Commission  
Emergency meeting of April 17, 2020
  - d. Public Safety Radio System Interlocal Agreement between City of Midlothian,  
City of Red Oak, City of Waxahachie, and Ellis County
5. ***Present*** Proclamation proclaiming May 3-9, 2020 as National Travel and Tourism Week
6. ***Present*** Proclamation proclaiming May 2020 as National Preservation Month in Waxahachie
7. ***Present*** Proclamation proclaiming May 4-9, 2020 as National Economic Development week
8. ***Public Hearing*** on a request by Kevin Patel, Triangle Engineering, for a detailed Site Plan review for a proposed Hotel development within a Planned Development zoning district, located at the SW corner of Rae Boulevard and John Arden Drive (Property ID 208656) – AKSHAR 4 LLC (ZDC-000048-2020)
9. ***Consider*** approval of ZDC-000048-2020
10. ***Consider*** Development Agreement for ZDC-000048-2020

11. **Public Hearing** on a request by Dalton Bradbury, Acker Construction, for a Specific Use Permit (SUP) for a Drive-Through Establishment use within a General Retail zoning district, located at the corner of Corporate Parkway and U.S. N Highway 77 (Property ID 273975) – Owner: ROUX PROPERTIES LLC (ZDC-000052-2020)
12. **Consider** proposed Ordinance approving ZDC-000052-2020
13. **Consider** authorizing an oversized participation agreement with Connell Realty Services, Inc. associated with the construction of a segment of the proposed Cardinal Road Water Line
14. **Consider** a resolution authorizing the reimbursement of the Water Fund from the proceeds of future debt associated with an oversized participation agreement for the construction of a segment of the proposed Cardinal Road Water Line
15. **Consider** authorizing professional engineering services with Craido Civil Engineering for the rehabilitation of Wyatt and Hill Street sewer line
16. **Consider** proposed Second Ordinance declaring a local state of disaster due to a public health emergency and enacting regulations related thereto
17. Comments by Mayor, City Council, City Attorney and City Manager
18. Adjourn

**The City Council reserves the right to go into Executive Session on any posted item.**

This meeting location is wheelchair-accessible. Parking for mobility-impaired persons is available. Any request for sign interpretive services must be made forty-eight hours ahead of the meeting. To make arrangements, call the City Secretary at 469-309-4005 or (TDD) 1-800-RELAY TX

A regular meeting of the Mayor and City Council of the City of Waxahachie, Texas was held in the Council Chamber at City Hall, 401 S. Rogers on Monday, April 20, 2020 at 7:00 p.m.

Councilmembers Present: David Hill, Mayor  
Mary Lou Shipley, Mayor Pro Tem

Via Teleconference: Chuck Beatty, Councilmember  
Kevin Strength, Councilmember  
Melissa Olson, Councilmember

Others Present: Michael Scott, City Manager  
Albert Lawrence, Assistant City Manager  
Tommy Ludwig, Assistant City Manager  
Lori Cartwright, City Secretary

Via Teleconference: Robert Brown, City Attorney

**1. Call to Order**

Mayor David Hill called the meeting to order and did a roll call for members in attendance via teleconference. Members present via teleconference included Councilmember Chuck Beatty, Councilmember Kevin Strength, and Councilmember Melissa Olson.

**2. Invocation**

**3. Pledge of Allegiance and Texas Pledge of Allegiance**

City Manager Michael Scott gave the invocation and led the Pledge of Allegiance and the Texas Pledge of Allegiance.

**4. Consent Agenda**

- a. Minutes of the City Council meeting of April 6, 2020
- b. Award of contract for Waxahachie Sports Complex Parking Lot Phase III
- c. Resolution to deny Oncor's request to increase its distribution rates within the City; authorizing participation with the Oncor Cities Steering Committee; and authorizing the hiring of legal counsel and consulting services
- d. Consider acceptance of quote for Lee Penn Park Football fence

**RESOLUTION NO. 1284**

**Item C: A RESOLUTION OF THE CITY OF CITY OF WAXAHACHIE, TEXAS FINDING THAT ONCOR ELECTRIC DELIVERY COMPANY LLC'S APPLICATION FOR APPROVAL TO AMEND ITS DISTRIBUTION COST RECOVERY FACTOR TO INCREASE DISTRIBUTION RATES WITHIN THE CITY SHOULD BE DENIED; AUTHORIZING PARTICIPATION WITH ONCOR CITIES STEERING COMMITTEE; AUTHORIZING THE HIRING OF LEGAL COUNSEL AND CONSULTING SERVICES; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE COMPANY; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW;**

(42)

**REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL**

**Action:**

*Mayor Pro Tem Mary Lou Shipley moved to approve items a. through d. on the Consent Agenda. Councilmember Kevin Strength seconded, All Ayes.*

5. **Continue Public Hearing on a request by Jimmie L. Hutton for a Specific Use Permit (SUP) for a Used Auto Sales use within a Planned Development-35-Commercial zoning district located at 2004 Howard Road, Suite C (Property ID 175299) – Owner: Waxahachie Flea Market (ZDC-000025-2020)**

Mayor Hill opened the Public Hearing and announced the applicant requested to continue ZDC-000025-2020 to the City Council meeting of June 1, 2020.

6. **Consider proposed Ordinance approving ZDC-000025-2020**

**Action:**

*Councilmember Chuck Beatty moved to continue the Public Hearing on a request by Jimmie L. Hutton for a Specific Use Permit (SUP) for a Used Auto Sales use within a Planned Development-35-Commercial zoning district located at 2004 Howard Road, Suite C (Property ID 175299) – Owner: Waxahachie Flea Market (ZDC-000025-2020) to the City Council meeting of June 1, 2020. Councilmember Melissa Olson seconded, All Ayes.*

7. **Continue Public Hearing on a request by Jeff Crannell, CCM Engineering, for a Zoning Change from a Planned Development-34-Multiple Family-1/General Retail, Single Family-3 and Multiple Family-1 zoning district to Planned Development-Two Family Residential Duplex, with Concept Plan, located at the NW corner of Peters Street at Graham Street (Property ID 193944) - Owner: WAXAHACHIE ISD (ZDC-000017-2020)**

Mayor Hill continued the Public Hearing.

Director of Planning Shon Brooks stated the applicant proposes to create a residential planned development that allows for 120 townhome lots to include a Home Owner's Association. Dedicate 8 acres of land to the City of Waxahachie and dedicate 1 acre of land to the adjacent Friendship Missionary Baptist Church. Provide walking trail that will connect to Lee Penn Park. In addition, a six foot screening wall will be constructed along Graham Street, minimum masonry wall will be 75%, masonry products will offer a selection of brick and stone accents, outside storage is prohibited, carports are prohibited and a sidewalk will be constructed along Graham Street.

Those who spoke for ZDC-000017-2020:

Mr. Jeff Crannell, CCM Engineer  
Mr. Joe Rust, representing WISD

(4a)

Those who spoke against ZDC-000017-2020:

Ms. Betty Square Coleman

After a lengthy discussion, City Council expressed concern with the proposed townhomes and recommended to meet again with the applicant to design a better use of the development.

There being no others to speak for or against ZDC-000017-2020, Mayor Hill closed the Public Hearing.

**8. Consider proposed Ordinance approving ZDC-000017-2020**

**Action:**

*Councilmember Kevin Strength moved to deny ZDC-000017-2020. Councilmember Chuck Beatty seconded. All Ayes.*

**9. Consider Development Agreement for ZDC-000017-2020 located at the Northwest corner of Peters Street and Graham Street**

**Action:**

*The Development Agreement for ZDC-000017-2020 was denied with Item 8.*

**10. Public Hearing on a request by Michael Westfall, Westfall Engineering, for Voluntary Annexation on approximately 98.740 acres situated in the JB and Ann Adams Survey, Abstract No 5 (Property ID 178972) - Owner: Dirk Nowitzki (ANX-DNX-000011-2020)**

Mayor Hill opened the Public Hearing.

There being no others to speak for or against ANX-DNX-000011-2020, Mayor Hill closed the Public Hearing.

**11. Consider proposed Ordinance approving ANX-DNX-000011-2020**

**ORDINANCE NO. 3183**

**AN ORDINANCE PROVIDING FOR THE VOLUNTARY ANNEXATION OF PROPERTY ID 178972 OF THE J.B. AND ANN ADAMS ABSTRACT, APPROXIMATELY 98.740 ACRES, SITUATED GENERALLY WEST OF BROADHEAD ROAD AND YOUNGBLOOD ROAD, OF THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS**

**Action:**

*Councilmember Kevin Strength moved to approve Ordinance No. 3183. Councilmember Chuck Beatty seconded, All Ayes.*

(42)

12. **Continue Public Hearing on a request by Michael Westfall, Westfall Engineering, to establish a Planned Development-Single Family-3 zoning district on approximately 98.695 acres situated in the JB and Ann Adams Survey, Abstract No 5 (Property ID 178972) - Owner: Dirk Nowitzki (ZDC-000024-2020)**

Mayor Hill continued the Public Hearing.

Mr. Brooks reported the applicant proposes approval for a zoning change to accommodate a development of a single family residential development consisting of 236 dwelling unit lots; 8 open/space common areas lots, located on 98.7 acres located at the West side of Broadhead Road at Youngblood Road. Staff recommended approval based on a Developers Agreement.

The city received 3 letters in support of ZDC-000024-2020 and 7 letters in opposition of ZDC-000024-2020.

Mr. Brooks stated the applicant has addressed all staff concerns and recommended approval.

There being no others to speak for or against ZDC-000024-2020, Mayor Hill closed the Public Hearing.

13. **Consider proposed Ordinance approving ZDC-000024-2020**

**ORDINANCE NO. 3184**

**AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM FUTURE DEVELOPMENT (FD) TO PLANNED DEVELOPMENT-SINGLE FAMILY-3 (PD-SF3), WITH CONCEPT PLAN TO ALLOW A SINGLE FAMILY RESIDENTIAL SUBDIVISION, LOCATED WEST OF BROADHEAD ROAD AND YOUNGBLOOD ROAD IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 98.7 ACRES KNOWN AS A PORTION OF PROPERTY ID 178972 OF THE J.B. AND ANN ADAMS ABSTRACT, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE**

**Action:**

*Mayor Pro Tem Mary Lou Shipley moved to approve Ordinance No. 3184. Councilmember Kevin Strength seconded, All Ayes.*

14. **Consider Development Agreement for ZDC-000024-2020 located at the West side of Broadhead Road and Youngblood Road**

**Action:**

*Councilmember Kevin Strength moved to approve a Development Agreement for ZDC-000024-2020 located at the West side of Broadhead Road and Youngblood Road. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

(4A)

15. **Continue Public Hearing on a request by Barbara Clark, Hope Clinic, for a Zoning Change from a Single Family-2 zoning district to Planned Development-Commercial, with Concept Plan, located at the SE corner of Farley Street at Coleman Street (Property ID 273695) - Owner: CITY OF WAXAHACHIE (ZDC-000022-2020)**

Mayor Hill continued the Public Hearing.

Mr. Brooks reported the applicant meets all the requirements for the proposed development. He showed a rendering of the facility noting the applicant will meet the brick requirements through a Developers Agreement. There were 4 letters of support and 7 letters of opposition.

Those whose spoke for ZDC-000022-2020:

Via telephone conference, Ms. Barbara Clark, Hope Clinic

Via telephone conference, Architect Anthony Mottla

There being no others to speak for or against ZDC-000022-2020, Mayor Hill closed the Public Hearing.

16. **Consider proposed Ordinance approving ZDC-000022-2020**

**ORDINANCE NO. 3185**

**AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM SINGLE FAMILY-2 (SF2) TO PLANNED DEVELOPMENT-COMMERCIAL (PD-C), WITH CONCEPT PLAN TO ALLOW A HEALTH CLINIC, LOCATED AT THE SOUTHEAST CORNER OF FARLEY STREET AND COLEMAN STREET IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 7.5 ACRES KNOWN AS A PORTION OF PROPERTY ID 273695, LOT 3 BLOCK A, OF THE CITY OF WAXAHACHIE PUBLIC SAFETY CAMPUS ADDITION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE**

**Action:**

*Councilmember Chuck Beatty moved to approve Ordinance No. 3185. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

17. **Consider Development Agreement for ZDC-000022-2020 located at the Southeast corner of Farley Street and Coleman Street**

**Action:**

*Mayor Pro Tem Mary Lou Shipley moved to approve a Development Agreement for ZDC-000022-2020 located at the Southeast corner of Farley Street and Coleman Street. Councilmember Melissa Olson seconded, All Ayes*

18. **Consider request by Leslie Porterfield for a Replat of Tract 3, Allen Family Estates, to create Tracts 3A and 3B, Allen Family Estates, 4.833 acres (Property ID 147329) in the Extra Territorial Jurisdiction – Owner: LESLIE PORTERFIELD (SUB-000038-2020)**



(4a)

Mr. Brooks reported the plat was shown to the City Council on February 17, 2020 and it was denied due to lack of Right-of-Way dedication. On April 15, 2020, the Planning and Zoning Commission voted 6-0 to deny due to the applicant's refusal to dedicate necessary Right-of-Way.

**Action:**

*Kevin Strength moved to approve a request by Leslie Porterfield for a Replat of Tract 3, Allen Family Estates, to create Tracts 3A and 3B, Allen Family Estates, 4.833 acres (Property ID 147329) in the Extra Territorial Jurisdiction – Owner: LESLIE PORTERFIELD (SUB-000038-2020) waiving the 10 foot Right-of-Way dedication. Councilmember Chuck Beatty seconded. The vote was as follows:*

*Ayes:               David Hill  
                          Chuck Beatty  
                          Kevin Strength  
                          Melissa Olson*

*Noes:               Mary Lou Shipley*

***The motion carried.***

- 19.     Public Hearing on a request by Robert G. Scruggs for a Zoning Change from a Future Development zoning district to Single Family Residential-1, located at 3273 Howard Road (being a portion of Property ID 182107) - Owner: ROBERT G AND SUSAN C SCRUGGS (ZDC-000031-2020)**

Mayor Hill opened the Public Hearing.

Mr. Brooks reported the applicant is requesting approval for a zoning change to accommodate development of three (3) single family residences. Each single family residential lot is proposed to meet all Single Family-1 zoning district requirements.

There being no others to speak for or against ZDC-000031-2020, Mayor Hill closed the Public Hearing.

- 20.     Consider proposed Ordinance approving ZDC-000031-2020**

**ORDINANCE NO. 3186**

**AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM FUTURE DEVELOPMENT (FD) TO SINGLE FAMILY-1 (SF1), WITH CONCEPT PLAN LOCATED AT 3273 HOWARD ROAD IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 8.4 ACRES KNOWN AS A PORTION OF PROPERTY ID 182107 OF ABSTRACT 272 OF THE S.M. DURRETT SURVEY, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE**

(4a)

**Action:**

*Councilmember Kevin Strength moved to approve Ordinance No. 3186. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

**21. Consider Development Agreement for ZDC-000031-2020 located at 3273 Howard Road**

**Action:**

*Councilmember Kevin Strength moved to approve a Development Agreement for ZDC-000031-2020 located at 3273 Howard Road. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

**22. Public Hearing on a request by Randy Eardley, Wier and Associates, for a Specific Use Permit (SUP) for a Medical Facility use within a Planned Development-1-Commercial zoning district located at the corner of RVG Parkway at 287 (Property ID 238268) – Owner: CRUX INVESTMENTS (ZDC-000042-2020)**

Mayor Hill opened the Public Hearing.

Mr. Brooks reported the request meets the zoning requirements. He reported the applicant requested a relief of sidewalks required on all four sides of the facility and suggested sidewalks on two sides only. Applicant requested a variance of 15' side yard setback along Chennault Road.

Those who spoke for ZDC-000042-2020:

Via telephone conference, applicant, Randy Eardley, Wier & Associates, Inc.

Via telephone conference, Colby Rodgers, representing applicant

Via telephone conference, Dr. Fieaga, owner

There being no others to speak for or against ZDC-000042-2020, Mayor Hill closed the Public Hearing.

**23. Consider proposed Ordinance approving ZDC-000042-2020**

**ORDINANCE NO. 3187**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A MEDICAL FACILITY USE WITHIN A PLANNED DEVELOPMENT-1-COMMERCIAL (PD-1-C) ZONING DISTRICT, LOCATED AT THE NORTHEAST CORNER OF U.S. HIGHWAY 287 AND RVG PLAZA, BEING PROPERTY ID 238268, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 1 & 2, BLOCK B OF THE RVG PLAZA ADDITION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE**

**Action:**

*Councilmember Kevin Strength moved to approve Ordinance No. 3187 as amended to allow sidewalks on two sides of the facility and variance of 15' sideyard setback. Councilmember Chuck Beatty seconded, All Ayes.*

(41)

24. **Consider Development Agreement for ZDC-000042-2020 located at the Northeast corner of US Highway 287 and RVG Plaza**

**Action:**

*Councilmember Kevin Strength moved to approve a Development Agreement for ZDC-000042-2020 located at the Northeast corner of US Highway 287 and RVG Plaza. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

25. **Public Hearing on a request by Alan Lauhoff, P.E., Atlas Associates Inc., for a Zoning Change from a Single Family-2 zoning district to Planned Development-Single-Family Residential-3, with Concept Plan, located South of Blue Bonnet Trails Phases 1 and 2 (Property ID 264992 and 182275) - Owner: BLUE BONNET TRAILS LLC (ZDC-000030-2020)**

Mayor Hill announced the applicant withdrew ZDC-000030-2020.

26. **Consider proposed Ordinance approving ZDC-000030-2020**

**Action:**

*None*

27. **Public Hearing on a request by Clyde Hargrove, WP Legacy LTD, for Voluntary Annexation on approximately 82+/- acres situated off of Farm to Market Road 877 (Property ID 183566) - Owner: CLYDE HARGROVE (ANX-DNX-000039-2020)**

Mayor Hill opened the Public Hearing.

Mr. Brooks presented a voluntary annexation for a Single-Family Development. He noted part of the property is in the city and part in the ETJ and the annexation will have both properties in one entity.

There being no others to speak for or against ANX-DNX-000039-2020, Mayor Hill closed the Public Hearing.

28. **Consider proposed Ordinance approving ANX-DNX-000039-2020**

**ORDINANCE NO. 3188**

**AN ORDINANCE PROVIDING FOR THE VOLUNTARY ANNEXATION OF PROPERTY ID 183566 OF THE A.B. FLUERY, M. RAFFERTY, AND WC COLEMAN ABSTRACT, APPROXIMATELY 81.454 ACRES, SITUATED GENERALLY EAST OF THE INTERSECTION OF HUNTER PASS AND FM 877, OF THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS.**

**Action:**

*Mayor Pro Tem Mary Lou Shipley moved to approve Ordinance No. 3188. Councilmember Kevin Strength seconded, All Ayes.*

(4a)

29. **Public Hearing on a request by Clyde Hargrove, WP Legacy LTD, for a Zoning Change from Planned Development-23-Single Family Residential-1 to Single Family Residential-1 situated generally on FM 877 just Southeast of Lake Waxahachie (Property ID 183566) - Owner: CLYDE HARGROVE (ZDC-000040-2020)**

Mayor Hill opened the Public Hearing.

Mr. Brooks reported each lot within the development will be one acre minimum lots, and the applicant intends to meet all Single-Family-1 zoning district requirements. The concept plan includes open space/common area and a community pond.

Those who spoke for ZDC-000040-20:

Mr. Clyde Hargrove, WP Legacy, LTD

There being no others to speak for or against ZDC-000040-2020, Mayor Hill closed the Public Hearing.

30. **Consider proposed Ordinance approving ZDC-000040-2020**

**ORDINANCE NO. 3189**

**AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM PLANNED DEVELOPMENT-23-SINGLE FAMILY-1 (PD-23-SF1) TO SINGLE FAMILY-1 (SF1), WITH CONCEPT PLAN LOCATED EAST OF THE INTERSECTION OF HUNTER PASS AND FM877 IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 110.484 ACRES KNOWN AS A PORTION OF PROPERTY ID 183566 OF ABSTRACT 374 OF THE A.B. FLEURY SURVEY, ABSTRACT 898 M. RAFFERTY SURVEY, AND ABSTRACT 204 OF THE WC COLEMAN SURVEY, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE**

**Action:**

*Councilmember Kevin Strength moved to approve Ordinance No. 3189. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

31. **Consider Development Agreement for ZDC-000040-2020 located east of the intersection of Hunter Pass and FM 877**

**Action:**

*Councilmember Chuck Beatty moved to approve a Development Agreement for ZDC-000040-2020 located east of the intersection of Hunter Pass and FM 877. Councilmember Melissa Olson seconded, All Ayes.*

32. **Consider request by Clyde Hargrove, WP Legacy LTD, for a Plat of Lakeway Estates for 86 residential lots and 1 common area lot, being 110.484 acres situated in the WC Coleman Survey, Abstract 204, the AB Fleury Survey, Abstract 374, and the M**

(4a)

**Rafferty Survey, Abstract 898 (Property ID 183566) – Owner: CLYDE HARGROVE (SUB-000041-2020)**

**Action:**

*Councilmember Kevin Strength moved to approve a request by Clyde Hargrove, WP Legacy LTD, for a Plat of Lakeway Estates for 86 residential lots and 1 common area lot, being 110.484 acres situated in the WC Coleman Survey, Abstract 204, the AB Fleury Survey, Abstract 374, and the M Rafferty Survey, Abstract 898 (Property ID 183566) – Owner: CLYDE HARGROVE (SUB-000041-2020). Councilmember Chuck Beatty seconded, All Ayes.*

**33. Consider a petition for relief request for an impact fee waiver associated with the Lakeway Estates plat (SUB-000041-2020)**

The applicant requested relief of impact fees. Discussion was held and it was determined to waive park dedication fees. Roadway impact fees are waived for the 86 lots to be annexed into the City and roadway impact fees are to be paid for the 24 lots which were previously located in the City. The owner shall pay the total amount of water impact fees for the development.

**Action:**

*Councilmember Melissa Olson moved to approve a petition for relief request for an impact fee waiver associated with the Lakeway Estates plat (SUB-000041-2020) as presented. Councilmember Kevin Strength seconded, All Ayes.*

**34. Consider award of a bid to J & K Excavation, LLC for the phase I corridor rehabilitation of Kaufman Street**

Mr. Jim Lockart, Assistant Director of Utilities, reported bids were recently received and J&K Excavation LLC was the lowest bid in the amount of \$1,048,295.00. Staff is also recommending City Council approve funding for a project contingency in the amount of \$50,000.00. Mr. Lockart stated the project is a planned expense and the City has budgeted for it as part of the FY19-20 Bond Issuance.

**Action:**

*Mayor Pro Tem Mary Lou Shipley moved to award a bid to J & K Excavation, LLC for the phase I corridor rehabilitation of Kaufman Street as presented including the contingency funds. Councilmember Kevin Strength seconded, All Ayes.*

**35. Consider a resolution authorizing the reimbursement of the General Fund from the proceeds of future debt for the corridor rehabilitation of Kaufman Street**

Assistant City Manager Tommy Ludwig presented the following reimbursement expenditures resolution with proceeds of future debt for the corridor rehabilitation of Kaufman Street.

**RESOLUTION NO. 1285**

**A RESOLUTION DECLARING INTENT TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE DEBT FOR THE PURPOSE OF CONSTRUCTION OF THE KAUFMAN STREET CORRIDOR REHABILITATION PHASE 1 PROJECT**

(4a)

**Action:**

*Councilmember Kevin Strength moved to approve Resolution No. 1285 as presented. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

**36. Consider award of a bid to Circle H Contractors, LP for the corridor rehabilitation of Cumberland Street**

Mr. Lockart reported bids were recently received and Circle H Contractors, LP was the lowest bid in the amount of \$1,521,436.00. Staff is also recommending City Council approve funding for a project contingency in the amount of \$75,000.00. Mr. Lockart stated the project is a planned expense and the City budgeted \$1,625,000 in the FY19-20 operations and maintenance budget for this construction.

**Action:**

*Mayor Pro Tem Mary Lou Shipley moved to approve a bid to Circle H Contractors, LP for the corridor rehabilitation of Cumberland Street as presented including the contingency funds. Councilmember Kevin Strength seconded, All Ayes.*

**37. Consider a resolution authorizing the reimbursement of the General Fund from the proceeds of future debt for the corridor rehabilitation of Cumberland Street**

Mr. Ludwig presented the following reimbursement expenditures resolution with proceeds of future debt for the construction of the Cumberland Street Corridor Rehabilitation project.

**RESOLUTION NO. 1286**

**A RESOLUTION DECLARING INTENT TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE DEBT FOR THE PURPOSE OF CONSTRUCTION OF THE CUMBERLAND ROAD CORRIDOR REHABILITATION PROJECT**

**Action:**

*Mayor Pro Tem Mary Lou Shipley moved to approve Resolution No. 1286 as presented. Councilmember Chuck Beatty seconded, All Ayes.*

**38. Public Hearing concerning a substandard structure located at 10 Yinger Street**

Mayor Hill opened the Public Hearing.

Via teleconference, Senior Director of Building & Community Services Jose Martinez, presented concerns of a substandard structure located at 10 Yinger Street. He reviewed a proposed City of Waxahachie Substandard Structure Order whereas the property owner is hereby ordered to repair or demolish the structure within 60 days. If after 60 days the Council's order has not been carried out, the City Council authorizes staff to demolish the structure.

There being no others to speak for or against the substandard structure located at 10 Yinger Street, Mayor Hill closed the Public Hearing.

(4A)

- 39. Consider an action to require the substandard structure located at 10 Yinger Street to be secured, repaired, removed, and/or demolished**

**Action:**

*Councilmember Chuck Beatty moved to approve the 60 day City of Waxahachie Substandard Structure Order as presented. Councilmember Kevin Strength seconded, All Ayes.*

*(Contact City Secretary's office for a complete Substandard Structure Order).*

- 40. Public Hearing concerning a substandard structure located at 214 Dunlap Street**

Mayor Hill opened the Public Hearing.

Via teleconference, Senior Director of Building & Community Services Jose Martinez, presented concerns of a substandard structure located at 214 Dunlap Street. He reviewed a proposed City of Waxahachie Substandard Structure Order whereas the property owner is hereby ordered to repair or demolish the structure within 60 days. If after 60 days the Council's order has not been carried out, the City Council authorizes staff to demolish the structure.

Property owner, Ms. Preyonia Anderson, spoke in favor of the 60 day notice.

There being no others to speak for or against the substandard structure located at 214 Dunlap Street, Mayor Hill closed the Public Hearing.

- 41. Consider an action to require the substandard located at 214 Dunlap Street to be secured, repaired, removed, and/or demolished**

**Action:**

*Councilmember Chuck Beatty moved to approve the 60 day City of Waxahachie Substandard Structure Order as presented. Councilmember Kevin Strength seconded, All Ayes.*

*(Contact City Secretary's office for a complete Substandard Structure Order).*

- 42. Public Hearing concerning a substandard structure located at 908 Wyatt Street**

Mayor Hill opened the Public Hearing.

Via teleconference, Senior Director of Building & Community Services Jose Martinez, presented concerns of a substandard structure located at 908 Wyatt Street. He reviewed a proposed City of Waxahachie Substandard Structure Order whereas the property owner is hereby ordered to repair or demolish the structure within 60 days. If after 60 days the Council's order has not been carried out, the City Council authorizes staff to demolish the structure.

There being no others to speak for or against the substandard structure located at 908 Wyatt Street, Mayor Hill closed the Public Hearing.

- 43. Consider an action to require the substandard located at 908 Wyatt Street to be secured, repaired, removed, and/or demolished**

(41)

**Action:**

*Councilmember Chuck Beatty moved to approve the 60 day City of Waxahachie Substandard Structure Order as presented. Councilmember Kevin Strength seconded, All Ayes.*

*(Contact City Secretary's office for a complete Substandard Structure Order).*

**44. Comments by Mayor, City Council, City Attorney and City Manager**

Councilmember Kevin Strength thanked Mayor Hill and Mayor Pro Tem Shipley for their involvement during the pandemic. Councilmember Chuck Beatty stated he appreciates their dedication.

**45. Adjourn**

There being no further business, the meeting adjourned at 8:55 p.m.

Respectfully submitted,

Lori Cartwright  
City Secretary



An emergency meeting of the Mayor and City Council of the City of Waxahachie, Texas was held via teleconference, Thursday, April 23, 2020 at 12:00 p.m.

Councilmembers Present: David Hill, Mayor  
Mary Lou Shipley, Mayor Pro Tem  
Chuck Beatty, Councilmember (telephone)  
Kevin Strength, Councilmember (telephone)  
Melissa Olson, Councilmember

Others Present: Michael Scott, City Manager  
Albert Lawrence, Assistant City Manager  
Lori Cartwright, City Secretary  
Tommy Ludwig, Assist. City Manager (telephone)

Others Absent: Robert Brown, City Attorney

**1. Call to Order**

Mayor David Hill called the meeting to order.

**2. Identification of a quorum (roll call)**

Mayor David Hill did a roll call for members in attendance via teleconference. Members present via teleconference included Councilmember Kevin Strength and Councilmember Chuck Beatty.

**3. Consideration of approval of a COVID-19 related Residential Relief Program**

City Manager Michael Scott reviewed the following concepts of the Residential Relief Program:

- Most of our Waxahachie citizens are conscientious water bill payers each month. For those that are, the City will refund their water deposit funds and not require such a deposit to remain on file with the City. For most, this will equate to \$90 in the form of a check sent back to them. Those that have struggled with timely making their water bill payments would not be entitled to this benefit.
- A residential trash service monthly charge is \$15.32 (including tax). Staff recommended a three-month relief plan that would reduce each residential trash fee to \$.01. This equates to a \$45.89 benefit to our 10,887 residential water customers.
- In addition to these two programs, the City has already enacted residential relief efforts related to waiving late payment fees and suspending water disconnection for non-payment. These programs would continue as well.

**Action:**

*Councilmember Kevin Strength moved approval of a COVID-19 related Residential Relief Program as presented. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

**4. Adjourn**

There being no further business, the meeting adjourned at 12: 09 p.m.

(4b)

Respectfully submitted,

Lori Cartwright  
City Secretary

City Council  
April 17, 2020

(4c)

An emergency meeting of the Mayor and City Council of the City of Waxahachie, Texas and Economic Development Commission was held via teleconference at City Hall, 401 S. Rogers on Friday, April 17, 2020 at 9:00 a.m.

Councilmembers Present: David Hill, Mayor

Via Teleconference: Mary Lou Shipley, Mayor Pro Tem (phone)  
Chuck Beatty, Councilmember (phone)  
Kevin Strength, Councilmember (phone)  
Melissa Olson, Councilmember (phone)

Others Present: Michael Scott, City Manager  
Albert Lawrence, Assistant City Manager  
Tommy Ludwig, Assistant City Manager  
Robert Brown, City Attorney (via Teleconference)  
Amber Villarreal, Assistant City Secretary

Economic Development  
Commission Members Present: David Hill, Mayor

Via Teleconference: Mackey Morgan, President  
Mary Lou Shipley, Mayor Pro Tem  
Rick Keeler  
Rhyan Phillips

Ex-officio Members Present: Michael Scott, City Manager

Via Teleconference: Dr. Bonny Cain, WISD Superintendent (phone)

**1. Call to Order**

Mayor David Hill called the meeting to order.

**2. Identification of a quorum (roll call)**

Mayor Hill did a roll call for Council Members in attendance: David Hill, in person, Mary Lou Shipley, Chuck Beatty, Kevin Strength, and Melissa Olson were present by phone.

Mayor Hill did a roll call for Economic Development Commission Members in attendance: David Hill, in person, Mackey Morgan, Mary Lou Shipley, Rick Keeler, and Rhyan Phillips were present by phone.

**3. Consider resolution to adopt Chapter 380 COVID-19 Emergency Loan for Small Business Program**

City Manager Michael Scott reviewed the proposed Local Stimulus Program for Small Businesses. He explained the purpose is to create a no-interest short-term loan program to assist small businesses who are adversely impacted by the COVID-19 crisis. The purpose of the program is to

assist qualifying businesses in continuing to meet payroll and basic operating expenses in an effort to minimize the layoff of employees and continuation of its operations. Additionally, these funds are not intended to sustain a business long-term, but to instead provide bridge funding until funding from other sources is identified. The program will offer loans up to \$50,000 per business that applies to the City for assistance. The Loan Review Committee will be comprised of the Mayor, City Manager and Chamber of Commerce CEO and will review the applications and support documentation and award funding as it deems appropriate. The criteria for the award will be based on need, business' investment in the community, and funding availability. The short-term loans are being made to provide the business additional working capital to navigate through this uncertain time. The loan first payment will come due 6 months after the loan is granted and will be repaid over a period of up to 24-months without interest and without penalty for prepayment.

Waxahachie Chamber of Commerce CEO Sandy King explained she surveyed Chamber members and non-Chamber members regarding current needs. She received 73 responses noting 93% of small businesses would benefit from this proposed program.

The City Council and Economic Development Commission discussed the positive impact of the program for local small businesses.

City Attorney Robert Brown asked if the local businesses would be negatively affected to receive forgivable loans by the Federal Government and Ms. King noted at this time the Federal Loan Applications do not inquire about local funding received.

Mayor Pro Tem Mary Lou Shipley asked if the survey reflects businesses that have been in business less than one year and Ms. King noted that was not included but that information can be used when reviewing applications.

Councilmember Melissa Olson asked if the Loan Review Committee has experience with risk analysis to review the applications. Mr. Scott noted he does not have underwriting experience; however, the Committee will have input from the Economic Development Department. Mr. Brown noted the resolution does not prohibit the use of additional consulting for reviewing the applications.

Councilmember Olson asked what actions would be taken if a business defaults on their loan. Mr. Brown noted the business would be required to sign a promissory note and would allow the city to explore legal options for defaulted loans.

Ms. King noted she does not have underwriting experience but has experience with financial assistance programs.

**Action:**

*Mayor Pro Tem Mary Lou Shipley moved to recommend approval of the resolution to adopt Chapter 380 COVID-19 Emergency Loan for Small Business Program. Mr. Rick Keeler seconded, All Ayes.*

(4c)

**RESOLUTION NO. 1283**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
WAXAHACHIE, TEXAS, ADOPTING A CHAPTER 380 COVID-19  
LOCAL STIMULUS PROGRAM FOR SMALL BUSINESSES.**

**Action:**

*Councilmember Kevin Strength moved to approve Resolution No. 1283 as presented. Mayor Pro Tem Mary Lou Shipley seconded, the vote was as follows: Ayes: David Hill, Mary Lou Shipley, Chuck Beatty, and Kevin Strength. Noes: Melissa Olson.*

***The motion carried.***

**4. Adjourn**

There being no further business, the meeting adjourned at 9:35 a.m.

Respectfully submitted,

Amber Villarreal  
Assistant City Secretary

## PUBLIC SAFETY RADIO SYSTEM INTERLOCAL AGREEMENT

This Public Safety Radio System Interlocal Agreement ("Agreement") is made between the **City of Midlothian, Texas**, a home-rule municipal corporation, with the authorization of its governing body ("Midlothian"), the **City of Red Oak, Texas**, a home-rule municipal corporation, with the authorization of its governing body ("Red Oak"), the **City of Waxahachie, Texas**, a home-rule municipal corporation, with the authorization of its governing body ("Waxahachie"), and **Ellis County, Texas**, with the authorization of its governing body ("Ellis County"), and sometimes referred to collectively as the "Parties" or individually as a "City", or a "Party", or the "County".

### RECITALS

**WHEREAS**, the Parties are political subdivisions within the State of Texas engaged in the provision of governmental services for the benefit of their citizens; and

**WHEREAS**, the Interlocal Cooperation Act, Texas Government Code, Chapter 791, as amended (the "Act") provides authority for local governments of the State of Texas to enter into inter-local agreements with each other for the purpose of performing governmental functions and services as set forth in the Act; and

**WHEREAS**, in order to increase the functional radio system coverage area for use by the Cities and their respective users (which radio system coverage is essential and a necessary component of providing certain vital governmental services by each City, including, without limitation, police, fire, emergency medical, and public works protection provided by each City for its citizens); the Cities of Midlothian, Red Oak, and Waxahachie retained the services of Motorola Solutions, Inc. ("Motorola") to implement a three-site ASTRO 25 Simulcast Sub-System ("Original System") to be connected to the City of Forth Worth/City of Irving ("CFW/Irving") ASTRO 25 System (the "System"); and

**WHEREAS**, Midlothian, Red Oak, and Waxahachie each own a 1/3 undivided interest in the Original System; and

**WHEREAS**, Midlothian is responsible for the licensing of all frequencies at each of the remote sites and holds title for all licensed frequencies; and

**WHEREAS**, Ellis County desires to join the System by engaging Motorola to construct two additional sites at their sole expense, thereby converting the System to a five-site ASTRO 25 Simulcast System ("Ellis Countywide Radio System") and adding all Ellis County subscriber units as full users, Ellis County retaining sole ownership of the two additional sites; and

**WHEREAS**, the Parties desire to enter this Agreement for the purpose of establishing the agreement of the Parties regarding the sharing of costs for maintenance, operation, management, and use of the Ellis Countywide Radio System;

(4d)

**NOW, THEREFORE**, for and in consideration of the mutual benefits and obligations set forth in this Agreement, the Parties agree as follows:

### **Article I Definitions**

Unless the context clearly indicates a different meaning, the words and phrases set forth in this Article I shall have the following meanings when used in this Agreement:

**"Acceptance Date"** shall have the same meaning as set forth in the System Purchase Agreement ("SPA") between Ellis County and Motorola.

**"Business Day"** means any day other than a Saturday, Sunday, or official city holiday in which Midlothian's City Hall offices are closed for business.

**"CFW"** means the City of Fort Worth's regional radio system organization.

**"FCC Licenses"** means the radio communications licenses granted by the FCC to Midlothian.

**"Effective Date"** means the date this Agreement has been approved by the governing bodies of the Parties and signed by the authorized representatives of each Party.

**"Motorola"** means Motorola Solutions, Inc., a Delaware corporation.

**"Non-Shared Components"** means the subscriber equipment, materials, hardware, firmware, structures, and other items comprising a portion of the Ellis Countywide Radio System which may be purchased separately by each of the respective Parties.

**"Non-Shared Costs"** means the expenses to be incurred by the respective Parties relating to Non-Shared Components purchased by the respective Party.

**"Shared Components"** means the equipment, materials, hardware, firmware, structures, and other items necessary for the proper functioning of each site of the Ellis Countywide Radio System.

**"Shared Costs"** means those costs relating to operation, repair, and/or maintenance of the Ellis Countywide Radio System.

**"Ellis Countywide Radio System"** or **"ECRS"** means the expanded five-site, six channel, ASTRO 25 Simulcast Sub-System connected to the City of Fort Worth/City of Irving ("CFW/Irving") ASTRO 25 System, utilizing 700 MHz.

**"System Maintenance Agreement"** or **"SMA"** for the Ellis Countywide Radio System means a separate System Maintenance Agreement between Motorola (as Seller) and Midlothian

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(as Customer) for years following the initial one-year warranty period of the fourth and fifth sites in Ellis County.

“**Term**” means, collectively, the Initial Term as defined in Section 2.01, together with each Renewal Term, as defined in Section 2.02.

“**User**” means each governmental agency whose subscriber equipment is authorized to use the Ellis Countywide Radio System for Public Safety purposes on a 24/7 basis.

## **Article II**

### **Term**

**2.01 Initial Term.** This Agreement shall commence on the Effective Date and end at 11:59:59 p.m. Central Time on the day prior to the tenth (10<sup>th</sup>) anniversary of the Acceptance Date (“the Initial Term”), unless extended or terminated earlier as provided in this Agreement.

**2.02 Renewal Term.** This Agreement shall be extended automatically for an additional period of five (5) years (“Renewal Term”), the Renewal Term commencing on the tenth (10<sup>th</sup>) anniversary of the Acceptance Date.

**2.03 Early Termination.** Notwithstanding anything to the contrary herein, a Party may terminate without cause its participation as a party to this Agreement subject to the following:

- A. The termination date must fall on September 30 of the year of termination;
- B. The Party desiring to terminate its participation in this Agreement must deliver notice to the other Parties not later than one (1) year prior to the date of termination;
- C. The Party terminating its participation in this Agreement shall not be entitled to reimbursement from the non-terminating Parties for expenditures related to the purchase, installation, or maintenance of the Ellis Countywide Radio System; provided, however:
  - (1) the terminating Party shall be entitled to a proportionate share of the proceeds from the sale of any of the Shared Components by the non-terminating Parties to any third parties; and
  - (2) the terminating Party shall be entitled to receive a refund of payments for any pre-paid preventative maintenance services, if applicable, but only to the extent such refunds may be obtained and received from Motorola or other person or entity providing maintenance services for the Ellis Countywide Radio System; and
- D. The non-terminating Parties shall have the right to continue to access, use, maintain, and repair the Shared Components located on property owned or leased by the



(4d)

terminating Party without compensation to or interference by the terminating Party for a period of fifteen (15) years; and

E. Prior to the date of termination, the terminating Party must pay any remaining financial obligations related to its share of Shared Costs incurred or accrued prior to the date of the termination of the terminating Party's participation in this Agreement.

Except as set forth in this Section 2.03, the terminating Party shall have no obligation to pay any amounts which come due under this Agreement following the effective date of said Party's termination of its participation in this Agreement.

### **Article III**

#### **Operation and Maintenance of Ellis Countywide Radio System**

**3.01 Ratification of Prior Acts of Midlothian.** The Parties understand, acknowledge, and agree that Midlothian will continue to oversee the operation and maintenance of the ECRS and represent the ECRS in all dealings with the City of Fort Worth. As such, Midlothian shall act as gatekeeper for the addition of any future Users of the ECRS beyond the Parties to this agreement.

**3.02 On-Going Operation and Maintenance Expenses.** Midlothian, Red Oak, Waxahachie, and Ellis County hereby warrant and represent they have each identified and appropriated current funds as of the Effective Date to pay their respective portions of the Shared Costs relating to the operation and maintenance of the ECRS. Ellis County hereby warrants and represents that they have identified and appropriated current funds as of the Effective Date to pay for the addition of the fourth and fifth site and the necessary modifications to convert the System to the ECRS. The Parties agree to share the expense of operating and maintaining the ECRS, as described in Section 3.07 below, to include the hardware maintenance contract (SMA) with Motorola, software support (SUAI) through the City of Fort Worth, and management expenses (Section 5.04). This section is amended to incorporate Section 7.19 below.

**3.03 Invoices from Motorola; Payments to Midlothian.** Red Oak, Waxahachie, and Ellis County agree to pay to Midlothian their portion of the on-going expenses, as identified in Section 3.02, upon receipt of an invoice from Midlothian. Midlothian shall furnish copies of invoices from Motorola and Fort Worth to substantiate the allocation of expenses.

**3.04 Disputed Invoices.** If Red Oak, Waxahachie, or Ellis County dispute any amount appearing on an invoice from Motorola or Fort Worth that constitutes their portion of Shared Costs, they shall provide a written notice to Midlothian, not later than ten (10) days following receipt of the invoice, identifying the amount(s) disputed and the basis for the dispute. Red Oak, Waxahachie, and Ellis County shall pay any undisputed amount as required by Section 3.03, above, in accordance within the due date for such amount. If any amount that is disputed by Red Oak, Waxahachie, or Ellis County shall, in fact, be determined to be due, the Party disputing the amount shall be solely responsible for also paying any late fees and/or interest accrued on

(4d)

delinquent payments pursuant to the SMA or SUAII. Payment for goods and services under this contract shall comply with Chapter 2251 of the Texas Government Code, the Texas Prompt Payment Act.

**3.05 Cooperation Regarding Installation, etc.; Mutual Right of Entry.** During the term of this Agreement, or for fifteen (15) years, whichever is greater, each Party agrees to reasonably cooperate with Motorola and the other Parties with respect to the installation and operation, and maintenance of the ECRS and to take such actions that are reasonable and necessary to ensure that Motorola is able to timely perform its obligations under the SPA and SMA. Each Party hereby grants to each other Party the right to enter those portions of each Party's property on which is located any component of the ECRS for the purpose of securing the installation, repair, and/or operation, and/or maintenance of the ECRS. The Parties further agree to grant Motorola, its employees, agents, and/or subcontractors, entry onto the Party's property for the purpose of installing and, as long as the SMA is in effect, operating, repairing, and maintaining the ECRS. Notwithstanding the foregoing, each Party may enforce reasonable and necessary security measures with respect to access to the Party's facilities (including, without limitation, requirements that reasonable notice be given prior to such access) to the extent necessary to protect the Party's property or facilities, the health and safety of the Party's employees, residents, citizens, and/or businesses, or to comply with applicable state and/or federal laws and/or regulations. In the event access to a Party's particular facility or property requires an escort, the Party on whose property the ECRS component is located shall provide, at said Party's sole cost, an employee or other authorized person for such escort within a reasonable time after the request for an escort is received.

**3.06 Ownership of Ellis Countywide Radio System.** The Parties agree that title to the ECRS shall be as follows:

A. Shared Components shall be jointly owned by the Parties in the following shares:

- |     |               |                         |
|-----|---------------|-------------------------|
| (1) | Midlothian:   | 1/5 undivided interest. |
| (2) | Red Oak:      | 1/5 undivided interest. |
| (3) | Waxahachie:   | 1/5 undivided interest  |
| (4) | Ellis County: | 2/5 undivided interest  |

B. A Non-Shared Component shall be owned 100% by the Party paying for the purchase of the Non-Shared Component.

C. Midlothian shall at all times maintain ownership of all radio communication licenses granted by the FCC for operation of the ECRS.

Nothing herein shall be construed as (i) granting a Party any interest in real property owned by another Party merely because a component of the ECRS is located on or attached to the real

property of one of the Parties, or (ii) granting a Party an ownership interest in personal property paid entirely for and owned by another Party merely because said personal property constitutes a component of the ECRS or the cost for operation, maintenance, or repair of the personal property constitutes a Shared Cost.

**3.07 Division of Costs for Operation and Maintenance.** The Parties agree that the costs for the operation and maintenance of the ECRS shall be allocated to each Party and future User of the ECRS as an Annual User Fee, payable to the City of Midlothian, based upon the number of subscriber units authorized to each Party and future User of the ECRS. This fee will include the City of Fort Worth's Infrastructure Support Fee (currently \$2.00/radio/month). The Annual User Fee shall be computed as stipulated in Exhibit A, Item #22. Red Oak, Waxahachie and Ellis County agree to forward funds to Midlothian in a timely manner for their respective portions of the cost of operating and maintaining the ECRS in accordance with Section 3.02 to Section 3.04, above.

**3.08 Console Maintenance.** The post-warranty maintenance and SUAll expenses of those Parties and Users with Motorola Consoles connected to ECRS shall not be included in the Annual Subscriber Unit Fee computed in Section 3.07 above. Console SUAll costs shall be listed separately and payable to Midlothian on the Parties' and Users' invoices. All SUAll costs for ECRS infrastructure and attached Motorola Consoles are billed annually by Motorola to CFW and then reimbursed by Midlothian. Console owners shall be responsible for their own post-warranty maintenance from Motorola, and will not be billed through Midlothian for this expense.

**3.09 Right to Use Property for Ellis Countywide Radio System Facilities.** During the term of this Agreement, or for fifteen (15) years, whichever is greater, the Parties warrant and represent they each own, respectively, a sufficient real property interest (including, but not limited to, a fee simple interest, a fee simple determinable interest, a leasehold interest, and/or an easement) or a license and/or right of entry which will allow the ECRS to be operated and maintained in accordance with the SPA and the SMA. The Parties agree to retain such real property interest at the sole cost of the respective Parties, which cost shall be considered a Non-Shared Cost. If after installation of the ECRS it becomes necessary to relocate any ECRS facilities or equipment because a Party loses the right to use the Party's property for location of those ECRS facilities or equipment, such Party shall be responsible for all costs related to relocating those ECRS facilities or equipment and any expenses related to modifying the ECRS so that the ECRS continues to provide substantially the same coverage and work in substantially the same manner as designed and accepted by the Parties pursuant to this Agreement.

**3.10 FCC Licenses; Frequency Assignment.** Red Oak, Waxahachie, and Ellis County agree that during the Term of this Agreement, they shall be jointly authorized to use the FCC Licenses granted to Midlothian for the purpose of communicating through the ECRS without compensation to Midlothian for this license use. Midlothian shall allocate and assign to Red Oak, Waxahachie, and Ellis County the frequency or frequencies that Red Oak, Waxahachie, and Ellis County will use for transmitting and receiving radio communications with the respective Party's public safety personnel.

(4d)

**3.11 Ellis County System Project Representative.** Not later than five (5) days after the Effective Date, Ellis County shall designate an ECRS Project Representative who shall be the County's primary contact person with Motorola and the other Parties during the installation and acceptance testing of the expanded ECRS.

#### **Article IV**

##### **Ellis Countywide Radio System Maintenance and Operation**

**4.01 Maintenance.** The Parties agree that all costs incurred as a result of routine maintenance or any necessary repairs to the ECRS shall be funded through the mechanism of the Annual Subscriber Unit Fee as described in Section 3.07 above.

**4.02 Right to Access and Use Ellis Countywide Radio System.** During the term of this Agreement, or for fifteen (15) years, whichever is longest, provided Red Oak, Waxahachie, and Ellis County have complied with the provisions of this Agreement including, but not limited to, payment of all their share of the operation and maintenance fees as required by this Agreement, Red Oak, Waxahachie, and Ellis County shall have the right to access and use the ECRS. At no time shall Midlothian exclude either Red Oak, Waxahachie, or Ellis County from accessing or using the ECRS as long as the respective Party is not in default (after notice of such default has been received by Red Oak, Waxahachie, or Ellis County and the defaulting Party has been provided a reasonable opportunity to cure the default) of this Agreement.

**4.03 Line of Site Protection.** During the term of this Agreement, or for fifteen (15) years, whichever is longest, the Parties understand, acknowledge, and agree that the proper operation of the ECRS is dependent on maintaining the line of site between and among the various microwave transmitter/receiver dishes installed as part of the ECRS. The Parties agree to review their respective ordinances governing the location and height of buildings and other structures, and, as soon as reasonably possible after the Effective Date, adopt such ordinances and regulations governing the development of property within their respective Parties to the extent such ordinances and regulations are reasonable and necessary to protect and maintain the ECRS's microwave signal transmission and reception, provided however, that the Party has determined that the adoption of such ordinances and/or regulations is authorized, valid and lawful.

#### **Article V**

##### **Subscriber Equipment**

**5.01 Selection and Purchase.** Each Party shall have the right under this Agreement, and shall at its sole cost, select and purchase the subscriber equipment to be used by that Party's employees and other people authorized by the Party to transmit and receive communications using the ECRS. Each Party shall be solely responsible for determining the compatibility of the subscriber equipment selected by the Party with the ECRS, including TDMA and the capability of being programmed over the air by the City of Midlothian.

**5.02 Maintenance and Installation.** Each Party shall have the right to install and/or maintain its own subscriber equipment or to contract with a third party to perform such maintenance and/or installation. Nothing herein shall be construed as prohibiting the Parties from

negotiating and signing an agreement pursuant to the Act to provide maintenance and/or installation services relating to the subscriber equipment.

**5.03 Programming & Management of Subscribers.** The City of Midlothian shall maintain a Radio Management System (RMS) that provides tracking and over-the-air programming of all subscribers (mobile and portable radios) that use the ECRS on a daily basis. Each Party shall purchase RMS licenses for each of their subscriber units so that the City of Midlothian may enter them into the RMS database and provide on-going management and programming services for all of them.

## **Article VI**

### **Operation and Expansion of the Ellis Countywide Radio System**

**6.01 Radio Management Expenses.** The City of Midlothian within the next two years intends to establish a new Radio Department with at least one person devoted to the full-time position of Radio Manager who will be responsible for the ongoing radio programming (Section 5.03 above) and management of the ECRS infrastructure (to include critical facility maintenance expenses affecting system stability at all sites), as well as acting as a liaison between Midlothian and the City of Fort Worth. These radio management expenses shall be identified and budgeted annually and used along with the SMA and SUAI costs to compute the total Annual Subscriber Unit Fee described in Section 3.07 above. This section is amended by Section 7.20 below.

**6.02 Radio System Advisory Committee.** The Parties agree to the formation of a Radio System Advisory Committee (RSAC) composed of one representative from each Party and chaired by the Radio Manager. The RSAC shall meet at least annually prior to April to review expenditures and make recommendations to the City of Midlothian on radio management budgeting for the following Fiscal Year. This shall include identifying and initiating consideration of system improvements. The City of Midlothian shall also confer with the RSAC as to the advisability of permitting new future Users to join the Ellis Countywide Radio System.

**6.03 Addition of Users.** Upon the approval of the RSAC, future Users may utilize the ECRS for daily, routine use. These future Users must execute a Communications System Agreement with the City of Midlothian agreeing to the fee structure and terms of use for their subscriber units. Intermittent non-routine use of the ECRS for mutual aid and interoperability shall be exempt from this provision. Non-routine or mutual-aid only agencies must execute an agreement with CFW in order to access the interop talk groups on the System. They must also seek and receive permission from each Party or future User whose talk groups they desire to access.

**6.04 Terms of Use.** The Parties agree to the Terms of Use contained in Exhibit A of this Agreement, with the exception of Term #24 that provides a shorter termination period for future Users of the ECRS. The termination notice and provisions for the Parties to this agreement are referenced in Section 2.03 above.

## **Article VII**

### **Miscellaneous**

(4d)

**7.01 Notice.** Any notice required or permitted to be delivered hereunder shall be deemed received when sent in the United States Mail, Postage Prepaid, Certified Mail, Return Receipt Requested, by hand-delivery or facsimile transmission and addressed to the respective Party at the following address:

If intended for:

With copy(ies) to:

City of Red Oak  
Attn: City Manager  
P. O. Box 393  
Red Oak, Texas 75154  
Phone: 972-617-3638

Robert E. Hager  
Nichols, Jackson, Dillard, Hager & Smith, LLP  
500 N. Akard, Suite 1800  
Dallas, Texas 75201  
Phone: 214-965-9900

City of Midlothian  
Attn: City Manager  
104 West Avenue E  
Midlothian, Texas 76065  
Phone: 972-775-3481

Joseph J. Gorfida, Jr.  
Nichols, Jackson, Dillard, Hager & Smith, LLP  
500 N. Akard, Suite 1800  
Dallas, Texas 75201  
Phone: 214-965-9900

City of Waxahachie  
Attn: City Manager  
401 S. Rogers  
Waxahachie, TX 75165  
Phone: 469-309-4002

Robert F. Brown  
Brown & Hofmeister L.L.P.  
740 E. Campbell Rd., Suite 800  
Richardson, TX 75081  
Phone: 214-747-6100

Ellis County  
Attn: County Judge  
101 W. Main Street, Suite 104  
Waxahachie, TX 75165-5138  
Phone: 972-825-5011

Vance Hinds  
Assistant County Attorney  
109 S. Jackson St., 4<sup>th</sup> Floor  
Waxahachie, TX 75165  
Phone: 972-825-5035

**7.02 Governing Law.** The validity of this Agreement and any of its terms and provisions as well as the rights and duties of the Parties shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in the State District Court of Ellis County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

**7.03 Party Responsibility.** To the extent allowed by law, and without waiving any governmental immunity available to the Parties under Texas law, or any other defenses the Parties are able to assert under Texas law, each Party agrees to be responsible for its own negligent or otherwise tortious acts or omissions in the course of performance of this Agreement.

**7.04 Immunity.** It is expressly understood and agreed that, in the performance of this Agreement, none of the Parties waive, nor shall be deemed hereby to have waived, any immunity or defense that would otherwise be available to them against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the Parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in any persons or entities who are not parties to this Agreement.

**7.05 Entire Agreement.** This Agreement represents the entire agreement among the Parties with respect to the subject matter covered by this Agreement. There is no other collateral, oral or written agreement between the parties that in any manner relates to the subject matter of this Agreement.

**7.06 Exhibits.** All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

**7.07 Recitals.** The recitals to this Agreement are incorporated herein.

**7.08 Amendment.** This Agreement may be amended by the unanimous mutual written agreement of the Parties.

**7.09 Place of Performance.** Performance and all matters related thereto shall be in Ellis County, Texas.

**7.10 Authority to Enter Agreement.** Each Party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to sign this Agreement. The persons signing this Agreement hereby represent that they have authorization to sign on behalf of their respective Party.

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

**7.12 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

**7.13 Assignment.** No Party may assign, transfer, or otherwise convey this Agreement without the prior written unanimous consent of the other Parties.

**7.14 Consents.** Unless expressly stated otherwise, whenever the consent or the approval of a Party is required herein, such Party shall not unreasonably withhold, delay or deny such consent or approval.

(4d)

**7.15 Good Faith Negotiation; Dispute Mediation.** Whenever a dispute or disagreement arises under the provisions of this Agreement, the Parties agree to enter into good faith negotiations to resolve such disputes. If the matter continues to remain unresolved, the Parties shall refer the matter to outside mediation, the costs of which shall be shared equally, prior to engaging in litigation (unless delaying the filing of a lawsuit might result in the lawsuit being barred, including but not limited to a bar by a statute of limitations). The provisions of this Section 7 shall survive termination.

**7.16 Survival of Covenants.** Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the Parties, shall endure for the term of the agreement or for fifteen (15) years following execution, whichever is longer.

**7.17 Source of Payment.** Each Party paying for the performance of governmental functions or services pursuant to this Agreement must make those payments from current revenues available to the paying Party or from funds otherwise lawfully available to the Party for use in the payment of the Party's obligations pursuant to this Agreement.

**7.18 Force Majeure.** No Party shall be liable to any or all of the other Parties for any failure, delay, or interruption in the performance of any of the terms, covenants, or conditions of this Agreement due to causes beyond the Party's respective control or because of applicable law, including, but not limited to, war, nuclear disaster, strikes, boycotts, labor disputes, embargoes, acts of God, acts of the public enemy, acts of superior governmental authority, floods, riots, rebellion, sabotage, terrorism, or any other circumstance for which a party is not legally responsible or which is not reasonably within its power to control. The affected Party's obligation shall be suspended during the continuance of the inability then claimed, but for no longer period. To the extent possible, the Party shall endeavor to remove or overcome the inability claimed with all reasonable dispatch.

**7.19 County Funding.** Funds for payment of this contract have been provided through the County budget approved by Commissioners Court for this fiscal year only. State of Texas law prohibits the obligations and expenditures of public funds beyond the fiscal year for which a budget has been approved. However, the performance of this contract may extend beyond the current fiscal year. The fiscal year for Ellis County extends from October 1 of each calendar year to September 30 of the following calendar year. It is the expectation of the County that funding will be available to pay for the expenditures related to this contract. Notwithstanding anything to the contrary within this contract, if at anytime during the term of this contract the Commissioners Court of Ellis County, Texas (1) fails to provide funding for this contract during the following fiscal year; (2) does not adopt a budget for expenditures; or (3) is only able to partially fund the expenditures required by this contract, then Ellis County may, upon giving the Parties written notice of such failure to fund and termination, terminate this contract, or part thereof, without any further liability, effective thirty (30) days after Ellis County notifies Parties in writing of such failure to fund and termination. Ellis County shall pay the Parties for any outstanding invoices up to that date. There shall be no recourse for the Parties as to sums beyond those for services to that date, including no recovery allowed for consequential damages, interruption of business, or lost profits.



(4d)

**7.20 Radio Manager.** The Radio Manager is an employee of the City of Midlothian only. The City of Midlothian solely controls the course and scope of the Radio Manager's employment and is solely responsible for all liabilities and employment responsibilities involved.

**7.21 Relations with Israel.** Pursuant to Section 2270.002, Texas Government Code, by executing this Agreement, the Parties attest that their agencies and their employees (1) do not boycott Israel; and (2) will not boycott Israel during the term of this Agreement.

**7.22 Business with Prohibited Entities.** Pursuant to Section 2252.152, Texas Government Code, by executing this Agreement, the Parties attest that their agencies and their employees are not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.

**7.23 Audit by Ellis County.** The Parties agree that Ellis County shall, until the expiration of twelve (12) months after final payment under this Agreement, have access to and the right to examine at reasonable times any directly pertinent books, documents, papers and records (hard copy, as well as computer generated data) involving those transactions relating to this Agreement. The Parties agree that Ellis County shall have access during normal working hours to all necessary facilities, staff and work space in order to conduct audits. Ellis County shall provide the parties with reasonable advance notice of intended audits. The Parties shall provide records within ten (10) business days or a mutually agreed upon timeline.

*(Signature Page to Follow)*

(4d)

**EXECUTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**City of Midlothian, Texas**

By: \_\_\_\_\_  
Chris Dick, City Manager

Approved as to form:

By: \_\_\_\_\_  
Joseph J. Gorfida, Jr.  
(10-05-2016/80018)

**EXECUTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**City of Red Oak, Texas**

By: \_\_\_\_\_  
Todd Fuller, City Manager

Approved as to form:

By: \_\_\_\_\_  
Robert E. Hager, City Attorney

**EXECUTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**City of Waxahachie, Texas**

By: \_\_\_\_\_  
Michael Scott, City Manager

Approved as to form:

By: \_\_\_\_\_  
Robert F. Brown, City Attorney

(4d)

**EXECUTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**Ellis County, Texas**

By: \_\_\_\_\_  
Todd Little, County Judge

**Approved as to form:**

By: \_\_\_\_\_  
Vance Hinds, Assistant County Attorney

**EXHIBIT A****TERMS OF USE**

The following definitions shall have the meanings set forth below and apply to this Agreement and the Terms of Use set forth herein:

**DEFINITIONS**

**“Annual Subscriber Unit Fee”** shall mean the per-radio fee computed as described in Item 22 of the Terms of Use to determine the total Annual User Fee.

**“Annual User Fee”** shall mean the total annual fee due to Midlothian from each User with Subscriber Radios connected to the Ellis Countywide Radio System (ECRS) and computed as described in Item 22 of the Terms of Use.

**“CFW”** shall mean the City of Fort Worth’s regional radio system organization.

**“Console System”** shall mean all hardware and software associated with any dispatch console or set of consoles operated by the USER that are connected to the CFW Master Switch.

**“Ellis Countywide Radio System” (“ECRS”)** shall mean the five-site 700 MHz trunked radio system owned by the Cities of Midlothian, Red Oak, Waxahachie, and Ellis County and managed by the City of Midlothian to provide Public Safety communications across Ellis County.

**“Infrastructure Support Fee”** shall mean the annual fee charged by CFW to offset costs incurred by the CFW in the operation and maintenance of the Radio System. The annual Infrastructure Support Fee is billed per active subscriber radio ID, payable on an annual basis for all active radio IDs issued to ECRS at the time of the annual billing. Invoicing will occur at the beginning of each CFW fiscal year. There will be no refunds or credits for radios removed from service during the year billed.

**“Interoperable Communications Plan” (the “Plan”)** means the plan developed and established by CFW and the Governance Committee to facilitate, enhance and simplify radio communications among all agencies utilizing the Radio System or connecting their Site Repeater Systems or Console Systems to the CFW Master Switch. The Plan is available upon request from CFW or can be found on the CFW website at <https://fortworthtexas.gov/itsolutions/cfwradios/>.

**“Master Switch”** shall mean the primary processing and network infrastructure to which all Console Systems and Site Repeater Systems must connect in order to operate on the Radio System. The Master Switch is currently located at the CFW Eagle Mountain facility.

**“Over the Air Programming” (“OTAP”)** shall mean the method of implementing programming changes to Subscriber Radios using the over-the-air data capabilities of the Radio System.

**“Radio System Advisory Committee” (RSAC)** shall mean the committee composed of one representative each from Midlothian, Red Oak, Waxahachie and Ellis County, and chaired by the Radio Manager.

**“Site Repeater System”** shall mean the base stations, shelter, tower and all site-specific hardware and software infrastructure associated with the provision of a radio site connected to the CFW Master Switch.

**“System Upgrade Agreement Fee”** shall mean the annual fee charged by CFW to offset cost charged to CFW by Motorola Solutions for the maintenance of the System Upgrade Agreement (SUA or SUAI) applicable to the ECRS’s Console Systems and Site Repeater Systems.

**“Subscriber Radio”** shall mean a radio that has a unique identification number and is programmed to operate on the Radio System. The term shall include, but not be limited to, control stations (desk top radios), mobile radios, and portable radios.

**“Talk Group”** shall mean a specific group of Subscriber Radios allowed to communicate privately within that group over shared infrastructure resources.

**“USER”** shall mean any governmental entity operating Subscriber Radios or Consoles on the ECRS.

#### TERMS OF USE

1. The CFW shall provide and maintain the Motorola Solutions ASTRO 25 Master Site to which the ECRS’s Site Repeater Systems and Consoles System will connect.

2. The CFW shall execute with Motorola Solutions a System Upgrade Agreement (SUA) for the System, every ASTRO 25 radio site connecting to the System, including those owned and operated by the ECRS, and all other hardware such as Console Systems that would be affected by the software upgrades, including those owned and operated by the USERS of the ECRS. Unless Midlothian is notified otherwise, the software for the System, all Site Repeater Systems and all Console Systems will be upgraded to the current level every two years. Midlothian will provide all reasonable coordination necessary for the upgrade of its Site Repeater Systems, and Console owners will provide all reasonable coordination necessary for the upgrade of their respective Console Systems.

3. The ECRS makes no guarantee, either express or implied, as to radio signal strength or a specific level of radio coverage in a particular location. The USER is responsible for conducting appropriate and applicable in-building and geographical coverage testing to determine the expected radio coverage level for USER’s equipment.

4. USER will be responsible for the acquisition and maintenance of all equipment USER will be utilizing in connection with the ECRS infrastructure, including, but not limited to, Subscriber Radios, Consoles, and special equipment. All User Subscriber Radios connected to the

(4d)

ECRS shall be configured to allow for over-the air programming (OTAP) by the City of Midlothian.

5. In order to ensure hardware and software compatibility with the ECRS infrastructure, all Subscriber Radios and Consoles intended for use by USER on the ECRS shall be compliant with Project 25 standards established by the Telecommunications Industry Association. The use of unauthorized radios on the ECRS may result in suspended operation of the radios and/or termination of the Agreement. Subscriber Radios shall operate in the TDMA mode and be capable of OTAP.

6. The CFW shall provide radio IDs for all radios and dispatch Consoles operated on the ECRS. As CFW's customer and managing City, Midlothian must provide written authorization to the CFW prior to the release of the ECRS's radio IDs or any other information to a third party vendor or agency.

7. The continuing operation and maintenance of the ECRS's Site Repeater Systems are the responsibility of the City of Midlothian unless otherwise stated in this Agreement. Midlothian will be responsible for managing infrastructure loading and demand of the ECRS's Site Repeater Systems and will consult with the RSAC prior to entering into a similar agreement with new USERS. The RSAC shall have sole discretion in determining whether to allow additional USERS or Subscriber Radios based upon its determination of whether such addition to the ECRS can be made without adversely impacting the ECRS. Continuing operation and maintenance of dispatch Consoles shall be the sole responsibility of the owner of said Consoles.

8. Midlothian will be responsible for the programming of all USER radios and USER will be responsible for the acquisition and maintenance of all USER radios. All USERS who depend upon Ellis County for their Dispatching services must coordinate their radio programming needs through the Ellis County RSAC representative who will then provide that information to the Radio Manager.

9. Midlothian is the holder of the FCC (Federal Communications Commission) license(s) that the ECRS uses for its operation. Any USER who dispatches using RF Equipment from a fixed location will be responsible for obtaining the appropriate FCC licenses for that site.

10. Midlothian is responsible for providing all leased circuits and associated hardware and software necessary to connect the ECRS Site Repeater Systems and Console Systems of its co-owners to the CFW System. Costs associated with provision of connectivity will be borne by the ECRS and shared among all USERS. Connectivity expenses necessitated by the addition of other USER dispatch Consoles shall be the sole responsibility of that USER.

11. USER shall use due diligence in the maintenance and configuration of its Subscriber Radio equipment to ensure that no USER radio or Console causes a degradation to the ECRS operation. As the CFW contracting customer, Midlothian shall have the right to remove from operation any field radio unit or equipment owned or leased by any USER that is operating on, attached and/or interfaced to the ECRS infrastructure, if Midlothian determines in its sole reasonable discretion that such equipment is causing interference or harm to the ECRS in any way. Midlothian reserves the right to request that USER operated field radio units or equipment

(4d)

operating on, attached and/or interfaced to the infrastructure be tested for proper operation and/or repaired by an authorized radio repair facility approved by Midlothian. The cost of such testing or repair will be the sole responsibility of USER. Furthermore, Midlothian shall have the right to deactivate, without prior notification to or consent of USER, any field radio or other USER equipment suspected of causing interference, intentionally or unintentionally, to any other radios on the ECRS or to the ECRS's overall operation.

12. USER's radios may be used for voice radio communications over the ECRS infrastructure in accordance with the terms and conditions of this Agreement for as long as this Agreement remains in effect.

13. USER is prohibited from utilizing telephone interconnect on the ECRS. This prohibition shall include, but is not limited to, connecting to either the PSTN (Public Switched Telephone Network) or USER's internal phone system(s) through a console patch into the ECRS or to any Subscriber Radio on the ECRS.

14. Due to the radio infrastructure resource allocations required by "Private Call," USER is not permitted to utilize "Private Call" on the ECRS.

15. USER's utilization of data communications on the Radio System will be limited to the ECRS's OTAP functions. Performance of data communications over the ECRS is not guaranteed.

16. The use of Over-the-Air Rekeying (OTAR) in association with Subscriber Radio encryption is prohibited without prior approval of Midlothian. Administration of encryption keys for OTAR will be performed exclusively by Midlothian. USER may utilize and administer other encryption methods as required.

17. Midlothian will assign the USER Talk Group IDs unique to USER operation. All Talk Group names shall include a prefix unique to the USER's agency. No other agency will be authorized to use USER Talk Groups without the express written permission of USER, and a copy of such permission must be on file with Midlothian before such use may occur. Midlothian reserves the right to require certain Talk Group ID's to be programmed in USER radios. Additionally, Midlothian shall have the right to limit the number of Talk Group ID's to be used by USER and to disable Talk Groups ID's as it deems appropriate.

18. The CFW has established a coordinated Interoperable Communications Plan to apply to CFW and the users of its Radio System. USER agrees to participate in the Plan and include the Plan's interoperable Talk Groups in the programming of its Subscriber Radios and Console Systems.

19. Roaming to other systems or the use of USER's Talk Groups on other trunked systems that are interconnected to the CFW Radio System is prohibited without prior approval by CFW. Roaming to other trunked systems will be limited to the Radio System's Interoperable Talk Groups, although this capability may be terminated by CFW if its use is determined to result in performance degradation to either the Radio System or the interconnected trunked system.

(4d)

20. USB ports on the USER's Console Systems must be deactivated except during maintenance activity. All security patches related to operating systems and other associated software must be maintained at current manufacturer-tested levels. If required, all connectivity between the Console Systems and the Radio System is the responsibility of the USER, including software, hardware and carrier services. Associated costs will be incurred by the USER. Unless otherwise approved by CFW, connectivity will be achieved through local terrestrial circuit facilities. The use of other connectivity methods, including but not limited to microwave or fiber, must be approved by the CFW. USER may incur additional costs from CFW for other connectivity methods.

21. The City of Midlothian shall execute with Motorola Solutions a Post Warranty Infrastructure Maintenance Agreement covering all five sites. The cost for this Maintenance Agreement shall be included in the computation of the total Annual User Fee. The CFW will enter into a System Upgrade Agreement (SUA) for the Console Systems and Site Repeater Systems that would be affected by the software upgrades, including those owned (or leased) and operated by the USER. The annual cost of the SUA is passed on through Midlothian as the managing City and will also be included in the computation of the total Annual User Fee. Unless the USER is notified otherwise by CFW, the software for the Radio System, all Site Repeater Systems and all Console Systems will be upgraded to the current level every two years. The USER will provide all reasonable coordination necessary for the upgrade of its Console Systems. USER acknowledges that reductions in functionality may occur during the upgrade process.

#### APPLICABLE FEES; TERMINATION; REFUNDS

22. The ECRS portion of the Annual Subscriber Unit Fee shall be computed by summing the annual infrastructure SMA, annual infrastructure SUAll, and the annual management budget for the ECRS and dividing by the total number of subscriber units authorized 24/7 access to the ECRS. The per-radio annual CFW Infrastructure Support Fee shall then be added to the ECRS portion to produce the total Annual Subscriber Unit Fee. This per-radio fee shall then be multiplied by the number of subscribers USER has registered with the ECRS to obtain the total Annual User Fee due from USER. This fee is payable to Midlothian in advance on an annual basis due on October 1 of each year for all active radio IDs issued to USER at the time of the annual billing. There will be no refunds or credits for radios removed from service during the fiscal year. Each User shall be responsible for notifying Midlothian whenever they decommission a radio so that their next invoice may be adjusted accordingly.

23. Midlothian shall have the right to increase any applicable fees under this Agreement each fiscal year to offset any increased costs passed on to Midlothian from CFW in the operation or maintenance of the ECRS. Any increase in applicable fees will be effective at the beginning of the next ECRS fiscal year. Midlothian shall provide USER with 60 days' written notice of any intended fee increase, provided, however, that this notice period may be less than 60 days if Motorola Solutions provides CFW with less than 60 days' notice of an increase in the System Upgrade Agreement Fee and such reduced notice period shall not impact USER's obligation to pay the increased fee.



(4d)

24. **This provision does not apply to the ECRS Owners whose termination provisions are delineated in Article II of the executed ILA.** Either USER or Midlothian may terminate this Agreement for any reason, with or without cause, upon ninety (90) days written notice to the other party. If USER terminates, there will be no refunds or credits for any fee. If Midlothian terminates, Midlothian will issue a refund to the USER of all fees, except for the SUA Fee, which is non-refundable, pro-rated to the end of the current fiscal year. Midlothian, in its sole discretion, shall have the right to deny USER access to the radio infrastructure and/or the right to terminate the Agreement immediately if USER fails to make full payment of invoiced system fees within thirty (30) days of the date payment is due. Midlothian further reserves the right to terminate this Agreement immediately, or deny access to the USER, upon notice of USER misuse of the ECRS. Notwithstanding the foregoing, Midlothian, in its sole discretion, reserves the right to immediately deny access to the USER if such action is required to prevent the spread of a security breach or threatened security breach or due to an emergency, operational issue, or other critical incident between the Master Switch and the USER's environment. Midlothian will use best efforts to restore access to the USER as soon as possible once the security breach, emergency, operational issue, or critical incident is resolved.

#### COMPLIANCE WITH LAWS

25. The USER shall comply with all current and future Federal, State, and Local laws, Ordinances, and Mandates, including Federal Communications Commission rules and regulations regarding proper use of radio communications equipment. The USER will also comply with the guidelines, or procedures set out in this Agreement. Furthermore, the USER is responsible for enforcing such compliance by its employees, directors, officers, agents, authorized representatives, subcontractors, and consultants for USER Subscriber Radio equipment. Furthermore, the USER will be responsible for payment of any fines and penalties levied against Midlothian (as the license holder) as a result of improper or unlawful use of Subscriber Radio equipment owned or leased by USER.

26. In order to comply with Federal, State, and Local Laws and/ or Mandates, Midlothian, as the license holder, may need to act on behalf of the USER regarding possible modifications, reconfiguration, or exchange of Subscriber Radio equipment in order to meet these obligations. For as long as this Agreement is in force, the USER will allow Midlothian to facilitate such activities on USER's behalf as necessary.

27. In the instance where USER Subscriber Radio equipment is to be replaced in order to be in compliance with Federal, State, and Local Laws and/or Mandates, title and ownership of such replacement Subscriber Radio equipment shall, upon delivery of Subscriber Radio equipment to the USER's site, pass directly to the owner of the equipment that is being replaced. The USER shall provide the CFW, or its designee, with the Subscriber Radio equipment to be replaced, in good working order, as determined by the CFW or its designee. USER shall be liable for payment of any fees associated with radios deemed to be not in proper working order. USER shall be liable for payment of any fees associated with upgrades to Subscriber Radio equipment.

[End of Document]

(5)

# ***PROCLAMATION***

***WHEREAS***, the first full week of May is annually recognized as National Travel and Tourism Week, a tradition first celebrated in 1984; and

***WHEREAS***, travel has a critical role in Waxahachie and the nation's economic prosperity.

***WHEREAS***, travelers' spending directly generate tax revenues for federal, state and local governments, funds used to support essential services and programs; and

***WHEREAS***, meetings, events and incentive travel are core business functions that help companies strengthen business performance, align and educate employees and customers, and reward business accomplishments; and

***WHEREAS***, leisure travel, which accounts for more than three-quarters of all trips taken in the United States, spurs countless benefits to travelers' creativity, cultural awareness, education, happiness, productivity, relationships and wellness; and

***WHEREAS***, even while Texas is limited in welcoming visitors in person, the spirit of travel and hospitality remains the enduring ethos of the travel industry and Waxahachie.

***WHEREAS***, the spirit of travel will be a necessary and prominent component of our return to everyday life and must be supported and protected at all costs.

**NOW, THEREFORE**, be it resolved that I, David Hill, Mayor of the City of Waxahachie, Texas, and on behalf of the Waxahachie City Council, do hereby proclaim May 3-9, 2020 as

## ***"NATIONAL TRAVEL AND TOURISM WEEK"***

in Waxahachie and urge all citizens to join me in recognizing the critical role this industry places in Waxahachie, Texas.

Proclaimed this 4<sup>th</sup> day of May, 2020.

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MAYOR

ATTEST:

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CITY SECRETARY

(6)

## ***PROCLAMATION***

***WHEREAS***, historic preservation is an effective tool for managing growth and sustainable development, revitalizing neighborhoods, fostering local pride and maintaining community character while enhancing livability; and

***WHEREAS***, revitalization through historic preservation is one of the best methods of sustainable economic development in this country; and

***WHEREAS***, historic preservation is relevant for communities across the nation, both urban and rural, and for Americans of all ages, all walks of life and all ethnic backgrounds; and

***WHEREAS***, it is important to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping to preserve the tangible aspects of the heritage that has shaped us as a people; and

***WHEREAS***, preservation has contributed to the beauty and economic vitality of the City of Waxahachie; and

***WHEREAS***, “See! Save! Celebrate!” is the theme for National Preservation Month 2020, sponsored by the National Trust for Historic Preservation; and

**NOW, THEREFORE**, I, David Hill, Mayor of the City of Waxahachie, Texas, along with the entire City Council, do hereby proclaim May 2020 as

### ***“NATIONAL PRESERVATION MONTH”***

and call upon the people of Waxahachie and Texas to join their fellow citizens across the United States in recognizing and participating in this special observance.

Proclaimed this 4<sup>th</sup> day of May, 2020.

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MAYOR

ATTEST:

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CITY SECRETARY



## Memorandum

To: Honorable Mayor and City Council  
From: Kay Brown-Patrick, Economic Development Specialist  
Thru: Michael Scott, City Manager  
Date: April 29, 2020  
Re: National Economic Development Week May 4-9, 2020

---

**Item Description:** Consider a proclamation declaring May 4-9, 2020 Economic Development Week in Waxahachie.

**Item Summary:** Economic Development Week was created by the International Economic Development Council (IEDC) in 2016 to celebrate the achievements of economic developers, increase awareness of local programs that create jobs, advance career development opportunities, and improve the quality of life in communities everywhere. Over the span of four years, more than 450 campaigns have been created throughout the United States and Canada, creating millions of impressions, hundreds of news stories, blog entries, videos, events and other activities. Campaigns occurred in all 50 American states in 2019, with more than 60 communities officially proclaiming Economic Development Week. Economic Development Week is an event created by the International Economic Development Council. The event will occur from May 4-9, 2020. Information can be found at [www.iedconline.org/edw](http://www.iedconline.org/edw).

**About IEDC:** IEDC is a non-profit, non-partisan membership organization serving economic developers. With more than 5,000 members, IEDC is the largest organization of its kind.

**Fiscal Impact:** There would be no financial impact to the budget.

# ***PROCLAMATION***

***WHEREAS***, the International Economic Development Council is the largest professional economic development organization dedicated to serving economic developers; and

***WHEREAS***, the International Economic Development Council provides leadership and excellence in economic development for communities, members, and partners through conferences, training courses, advisory services and research, in-depth publications, public policy advocacy, and initiatives such as the Accredited Economic Development Organization program and the Certified Economic Developer designation; and

***WHEREAS***, economic developers promote economic well-being and quality of life for their communities by creating, retaining, and expanding jobs that facilitate growth, enhance wealth, and provide a stable tax base; and

***WHEREAS***, economic developers stimulate and incubate entrepreneurship in order to help establish the next generation of new businesses, which is the hallmark of the American economy; and

***WHEREAS***, economic developers are engaged in a wide variety of settings including rural and urban, local, state, provincial, and federal governments, public-private partnerships, chambers of commerce, universities, and a variety of other institutions; and

***WHEREAS***, economic developers attract and retain high-quality jobs, develop vibrant communities, and improve the quality of life in their regions; and

***WHEREAS***, economic developers work in the City of Waxahachie within the State of Texas and

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council of the City of Waxahachie do hereby recognize May 4-9, 2020 as

## **“National Economic Development Week”**

BE IT FURTHER RESOLVED that the City Council is authorized and directed to transmit an appropriate copy of this resolution to the Waxahachie Department of Economic Development and the International Economic Development Council.

PROCLAIMED this 4<sup>th</sup> day of May, 2020.

---

David Hill, Mayor

ATTEST:

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Lori Cartwright, City Secretary

(849)

## Planning & Zoning Department

### Zoning Staff Report

Case: ZDC-48-2020



#### MEETING DATE(S)

*Planning & Zoning Commission:* April 28, 2020

*City Council:* May 4, 2020

#### ACTION SINCE INITIAL STAFF REPORT

At the Planning & Zoning Commission meeting, held April 28, 2020, the Commission voted 7-0 to recommend approval of case number ZDC-48-2020, subject to staff comments.

#### CAPTION

**Public Hearing** on a request by Kevin Patel, Triangle Engineering, for a detailed Site Plan review for a proposed Hotel development within a Planned Development zoning district, located at the SW corner of Rae Boulevard and John Arden Drive (Property ID 208656) – AKSHAR 4 LLC (ZDC-000048-2020)

#### APPLICANT REQUEST

The applicant is proposing to construct a four story hotel on 1.8 acres.

#### CASE INFORMATION

*Applicant:* Kevin Patel, Triangle Engineering

*Property Owner(s):* AKSHAR 4 LLC

*Site Acreage:* 1.83 acres

*Current Zoning:* Planned Development-Multi Family

*Requested Zoning:* Planned Development-Multi Family

#### SUBJECT PROPERTY

*General Location:* SW corner of Rae Boulevard and John Arden Drive

*Parcel ID Number(s):* 208656

*Existing Use:* Currently Undeveloped

*Development History:* N/A

1889

**Table 1: Adjoining Zoning & Uses**

Direction	Zoning	Current Use
North	PD-HI	Chevrolet Dealership
East	PD-HI	Currently Undeveloped
South	PD-LI1	Flowers Construction Co.
West	PD-MF-GR	Oxfords at Crossroads Centre

*Future Land Use Plan:*

Mixed Use Non-Residential

*Comprehensive Plan:*

Similar to Mixed Use Residential, land designated with this land use are intended for a mixture of nonresidential and residential uses. The only difference would be that Mixed Use Nonresidential has a greater percentage of nonresidential components than residential. Specifically, 80 percent of the acreage or square footage of proposed developments are required to be nonresidential with the remaining 20 percent of the acreage or square footage allocated to residential. Southlake's Town Center is an example of Nonresidential Mixed Use.

*Thoroughfare Plan:*

The subject property is accessible via Rae Blvd.

*Site Image:*



**PLANNING ANALYSIS**

**Purpose of Request:**

The purpose of this request is to construct a four story hotel on 1.8 acres.

(8+9)

**Proposed Use:**

The applicant is proposing to construct a 4-story, 102 room, 15,317 sq. ft. hotel (Home 2 Suites) on 1.8 acres located at the Southwest corner of Rae Boulevard and John Arden Drive. Home 2 Suites is considered an Extended Stay hotel, which allows for customers to choose how long they would like to stay at the hotel. Home 2 Suites offers amenities such as, (but not limited to), laundry center, fitness center, common area, and pool.

**Table 2: Development Standards (Multi Family)**

**\*\*Items highlighted in bold do not meet the City of Waxahachie requirements**

Standard	City of Waxahachie	Home 2 Suites	Meets Y/N
Min. Lot Width	60	348	Yes
Min. Lot Depth	120	224	Yes
Min. Front Yard (Ft.)	25	25	Yes
Min. Side Yard (Ft.)	25	58	Yes
Min. Rear Yard (Ft.)	25	60	Yes
Max. Height	3 stories	4 stories (allowed 6 stories per Ord. 3109)	Yes
Max. Lot Coverage (%)	40	20	Yes
Parking 1 space per guest room	102	102	Yes

*\*Additional Note: The building is proposed to be constructed of masonry exterior with a mixture of stone and stucco.*

**PUBLIC NOTIFICATIONS**

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 5 notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Sun and a sign was visibly posted at the property.

**PROPERTY OWNER NOTIFICATION RESPONSES**

Staff has received two (2) letters of support for the proposed development.

**SPECIAL EXCEPTION/VARIANCE REQUEST**

**Pool**

Per the City of Waxahachie Zoning Ordinance, hotels shall "provide a swimming pool, interior or exterior, of no less than 1,000 square feet of water surface area".

- The applicant is proposing a pool size of 600 sq. ft.

**Meeting Room**

Per the City of Waxahachie Zoning Ordinance, hotels shall "provide a boardroom, meeting room, or hospitality room of no less than 1,000 square feet".

- The applicant is providing a "gathering space" of 1,590 sq. ft., which will consist of a common area for hotel guest as well as visitors. The gathering space will not have any doors or separation walls for privacy use.



(8+9)

#### **STAFF CONCERNS**

1. Staff has no outstanding concerns for the applicant.

#### **APPLICANT RESPONSE TO CONCERNS**

1. The applicant has addressed all staff concerns.

#### **RECOMMENDATION**

Based on the details provided in this Staff Report and the present status of the documents subject to the request, the Planning and Zoning Department recommends:

- ☐ Denial
- ☐ Approval, as presented.
- ☒ Approval, per the following comments:
  1. Per staff recommendation, a Development Agreement will be required for the property.
  2. Extended Stay hotels are restricted to a maximum of thirty (30) days, per Section 5.11 of the City of Waxahachie Zoning Ordinance.
  3. The applicant must be compliant with Section 5.11 "Hotel Standards" of the City of Waxahachie Zoning Ordinance.

#### **ATTACHED EXHIBITS**

1. Development Agreement
2. Site Plan
3. Landscape Plan
4. Elevation/Façade Plan
5. Property Owner Notification Responses

#### **APPLICANT REQUIREMENTS**

1. If approved by City Council, applicant can apply for building permits from the Building and Community Services Department.

#### **STAFF CONTACT INFORMATION**

*Prepared by:*  
Colby Collins  
Senior Planner  
[ccollins@waxahachie.com](mailto:ccollins@waxahachie.com)

*Reviewed by:*  
Shon Brooks, AICP  
Director of Planning  
[sbrooks@waxahachie.com](mailto:sbrooks@waxahachie.com)

(8+9)

Owner's Address	Owner's City	Owner's State	Owner's ZIP
Case ZDC-000048-2020			
Responses Received Inside			
Required 200' Notification Area			
Support: 2    Oppose: 0			
1789 S. BAGDAD RD STE 104	LEANDER	TX	78641
1789 S. BAGDAD RD STE 104	LEANDER	TX	78641
4220 VERSAILLES AVE	DALLAS	TX	75205
4220 VERSAILLES AVE	DALLAS	TX	75205
8411 PRESTON RD STE 711	DALLAS	TX	75225
PO BOX 757	WAXAHACHIE	TX	75168



*If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.*



(8+9)

**City of Waxahachie, Texas**  
**Notice of Public Hearing**  
**Case Number: ZDC-000048-2020**

**LOOKOUT PARTNERS LP**  
**1789 S. BAGDAD RD STE 104**  
**LEANDER, TX 78641**

The Waxahachie Planning & Zoning Commission will hold a Public Hearing on Tuesday, April 28, 2020 at 7:00 p.m. and the Waxahachie City Council will hold a Public Hearing on Monday, May 4, 2020 at 7:00 p.m. in the Council Chamber at the Waxahachie City Hall, 401 South Rogers Street, Waxahachie, Texas to consider the following:

1. Request by Kevin Patel, Triangle Engineering, for a detailed Site Plan review for a proposed Hotel development within a Planned Development zoning district, located at the SW corner of Rae Boulevard and John Arden Drive (Property ID 208656) – AKSHAR 4 LLC (ZDC-000048-2020)

You received this notice because your property is within the area of notification as required by law. As an interested party you are welcome to make your views known by attending the hearings. If you cannot attend the hearings, you may express your views by filling in and returning the bottom portion of this notice. Please contact the Planning Department at (469) 309-4290 or via email: [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) for additional information on this request.

Case Number: ZDC-000048-2020

City Reference: 208656

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on **Wednesday, April 22, 2020** to ensure inclusion in the Agenda Packet. Forms can be e-mailed to [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) or you may drop off/mail your form to City of Waxahachie, Attention: Planning, 401 South Rogers Street, Waxahachie, TX 75165.

☒ SUPPORT

☐ OPPOSE

Comments:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Signature  
Michael S. Iofert, VP  
Printed Name and Title

\_\_\_\_\_  
Date 4/13/20  
\_\_\_\_\_  
Address

*It is a crime to knowingly submit a false zoning reply form. (Texas Penal Code 37.10)*

*If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.*

STATE OF TEXAS       §  
                                   §  
 COUNTY OF ELLIS     §

**DEVELOPMENT AGREEMENT  
 FOR HOME 2 SUITES**

This Development Agreement for Home 2 Suites ("**Agreement**") is entered into between Home 2 Suites ("**H2S**") and the City of Waxahachie, Texas ("**City**"). H2S and the City are sometimes referred herein together as the "**Parties**" and individually as a "**Party**."

**Recitals:**

1. H2S is the owner of approximately 1.83 acres of real property generally located at the Southwest corner of Rae Boulevard and John Arden Drive, approximately Property ID Number: 208656, in the City of Waxahachie, Texas (the "**Property**"), for which he has requested a Site Plan ("**SP**") to allow for development of a hotel. The Property is currently zoned Planned Development-Multi Family by the City, and is anticipated to have a Site Plan reviewed on May 4, 2020.

2. The planned use of the Property is to create a four story, one hundred and two (102) guest room hotel development within an existing Planned Development zoning district. The detailed SP review process is utilized to ensure that the Property would develop in a manner that meets the City's desired development standards, as well as providing H2S with agreed-upon and negotiated standards consistent with his business objectives.

3. As is reflected by the public records of the City, significant discussions and negotiations between H2S and the City of Waxahachie staff have occurred during various meetings, in an effort to obtain an agreed-upon and negotiated set of zoning and development standards to be reflected in the detailed **Home 2 Suites SP Packet**.

4. This Agreement seeks to incorporate the negotiated and agreed upon zoning and development standards as contractually-binding obligations between the City of Waxahachie and H2S, and to recognize H2S's reasonable investment-backed expectations in the Home 2 Suites SP Packet.

**NOW, THEREFORE**, for and in consideration of the above and foregoing premises, the benefits to each of the Parties from this Agreement, and other good and valuable consideration, the sufficiency of which is hereby acknowledged and agreed, the Parties do hereby agree as follows:

**Section 1.     Incorporation of Premises.** The above and foregoing Recitals are true and correct and are incorporated herein and made a part hereof for all purposes.

**Section 2.     Term.** This Agreement shall be effective as of the date of execution of this Agreement by the last of the Parties to do so ("**Effective Date**"). This Agreement shall remain in full force and effect from the Effective Date until terminated by the mutual agreement of all of the Parties in writing ("**Term**").

**Section 3. Agreements.** The Parties agree as follows:

**Incorporation of Zoning and Recognition of Investment-Backed Expectations:**

The negotiated and agreed upon zoning and development standards contained in the Home 2 Suites SP Packet, which incorporate by reference the general zoning regulations of the City of Waxahachie zoning ordinance, are hereby adopted and incorporated into this Agreement as contractually-binding obligations of H2S. H2S agrees to:

- Due to being an Extended Stay hotel, the proposed hotel development is restricted to a maximum of thirty (30) days, per Section 5.11 of the City of Waxahachie Zoning Ordinance.
- The development must be compliant with Section 5.11 "Hotel Standards" of the City of Waxahachie Zoning Ordinance.
- The development shall conform as approved by the City Council under case number ZDC-48-2020.
- The development shall maintain compliance with all Federal, State and Local regulations; including, but not necessarily limited to, all applicable standards and regulations of the City of Waxahachie Municipal Code and City of Waxahachie Zoning Ordinance.

In consideration of H2S's agreement in this regard, the City of Waxahachie agrees that H2S has reasonable investment-backed expectations in the Home 2 Suites SP Packet, and that the City of Waxahachie may not unilaterally change the zoning and development standards contained in the Home 2 Suites SP Packet without impacting H2S's reasonable investment-backed expectations.

**Section 4. Miscellaneous.**

A. This Agreement and any dispute arising out of or relating to this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without reference to its conflict of law rules. In the event of any dispute or action under this Agreement, venue for any and all disputes or actions shall be instituted and maintained in Ellis County, Texas.

B. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create a partnership, joint venture, joint enterprise, or other relationship between or among the Parties.

C. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the Parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

(10)

D. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either Party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the Parties may have by law statute, ordinance, or otherwise. The failure by any Party to exercise any right, power, or option given to it by this Agreement, or to insist upon strict compliance with the terms of this Agreement, shall not constitute a waiver of the terms and conditions of this Agreement with respect to any other or subsequent breach thereof, nor a waiver by such Party of its rights at any time thereafter to require exact and strict compliance with all the terms hereof. Any rights and remedies any Party may have with respect to the other arising out of this Agreement shall survive the cancellation, expiration or termination of this Agreement, except as otherwise expressly set forth herein.

E. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

F. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination or expiration of this Agreement shall survive termination or expiration.

G. This Agreement is made subject to the existing provisions of the City of Waxahachie, its present rules, regulations, procedures and ordinances, and all applicable laws, rules, and regulations of the State of Texas and the United States.

H. The undersigned officers and/or agents of the Parties hereto are the properly authorized persons and have the necessary authority to execute this Agreement on behalf of the Parties hereto.

I. This Agreement may be only amended or altered by written instrument signed by the Parties.

J. The headings and captions used in this Agreement are for the convenience of the Parties only and shall not in any way define, limit or describe the scope or intent of any provisions of this Agreement.

K. This Agreement is the entire agreement between the Parties with respect to the subject matters covered in this Agreement. There are no other collateral oral or written agreements between the Parties that in any manner relates to the subject matter of this Agreement, except as provided or referenced in this Agreement.

L. This Agreement shall be recorded in the real property records of Ellis County, Texas. This Agreement and all of its terms, conditions, and provisions is and shall constitute a restriction and condition upon the development of the Property and all portions thereof and a covenant running with the Property and all portions thereof, and is and shall be binding upon H2S and all of his heirs, successors, and assigns and the future owners of the Property and any portion thereof; provided, however, this Agreement shall not constitute an obligation of or be deemed a restriction or encumbrance with respect to any platted residential lot upon which a completed structure has been constructed.

(10)

**{Signature Pages Follow}**



(10)

**EXECUTED** by the Parties on the dates set forth below, to be effective as of the date first written above.

**CITY OF WAXAHACHIE, TEXAS**

By: \_\_\_\_\_  
Michael Scott, City Manager

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

**ATTEST:**

By: \_\_\_\_\_  
City Secretary

**HOME 2 SUITES:**

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

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

(10)

STATE OF TEXAS       §  
                                  §  
COUNTY OF ELLIS     §

Before me, the undersigned authority, on this \_\_\_\_\_ day of May, 2020, personally appeared MICHAEL SCOTT, City Manager of the City of Waxahachie, Texas, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

[Seal]

By: \_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_

STATE OF TEXAS       §  
                                  §  
COUNTY OF ELLIS     §

Before me, the undersigned authority, on this \_\_\_\_\_ day of May, 2020, personally appeared HOME 2 SUITES, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

[Seal]

By: \_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_

**RAE BOULEVARD**

**JOHN ARDEN DRIVE**

**TRAVIS BLVD**

**HOME SUITES 4 STORY**  
15,317 SQ FT  
F.F.E. 655.00

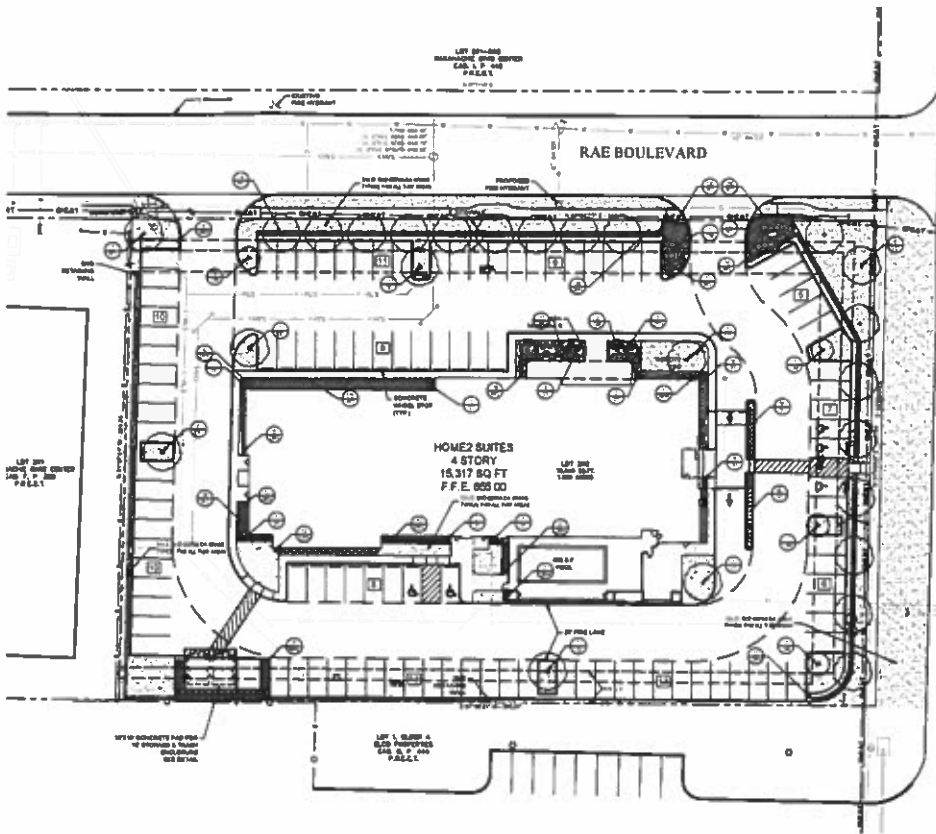
**WATER METER & SANITARY BEVER SCHEDULE**

ID	TYPE	SIZE	MAT.	MAN. HOLES
1	WATER	1"	1"	1"
2	WATER	1"	1"	1"
3	WATER	1"	1"	1"

**SITE DATA SUMMARY TABLE**

ITEM	DESCRIPTION	REMARKS
1	PLANNED BY	1. PLANNED BY
2	DESIGNED BY	2. DESIGNED BY
3	ENGINEER	3. ENGINEER
4	DATE	4. DATE
5	PROJECT NO.	5. PROJECT NO.
6	CLIENT	6. CLIENT
7	LOCATION	7. LOCATION
8	AREA	8. AREA
9	PERMIT NO.	9. PERMIT NO.
10	PERMIT DATE	10. PERMIT DATE
11	PERMIT EXPIRY	11. PERMIT EXPIRY
12	PERMIT FEE	12. PERMIT FEE
13	PERMIT TYPE	13. PERMIT TYPE
14	PERMIT STATUS	14. PERMIT STATUS
15	PERMIT COMMENTS	15. PERMIT COMMENTS
16	PERMIT ATTACHED	16. PERMIT ATTACHED
17	PERMIT EXPIRY	17. PERMIT EXPIRY
18	PERMIT FEE	18. PERMIT FEE
19	PERMIT TYPE	19. PERMIT TYPE
20	PERMIT STATUS	20. PERMIT STATUS
21	PERMIT COMMENTS	21. PERMIT COMMENTS
22	PERMIT ATTACHED	22. PERMIT ATTACHED
23	PERMIT EXPIRY	23. PERMIT EXPIRY
24	PERMIT FEE	24. PERMIT FEE
25	PERMIT TYPE	25. PERMIT TYPE
26	PERMIT STATUS	26. PERMIT STATUS
27	PERMIT COMMENTS	27. PERMIT COMMENTS
28	PERMIT ATTACHED	28. PERMIT ATTACHED
29	PERMIT EXPIRY	29. PERMIT EXPIRY
30	PERMIT FEE	30. PERMIT FEE
31	PERMIT TYPE	31. PERMIT TYPE
32	PERMIT STATUS	32. PERMIT STATUS
33	PERMIT COMMENTS	33. PERMIT COMMENTS
34	PERMIT ATTACHED	34. PERMIT ATTACHED
35	PERMIT EXPIRY	35. PERMIT EXPIRY
36	PERMIT FEE	36. PERMIT FEE
37	PERMIT TYPE	37. PERMIT TYPE
38	PERMIT STATUS	38. PERMIT STATUS
39	PERMIT COMMENTS	39. PERMIT COMMENTS
40	PERMIT ATTACHED	40. PERMIT ATTACHED
41	PERMIT EXPIRY	41. PERMIT EXPIRY
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43	PERMIT TYPE	43. PERMIT TYPE
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45	PERMIT COMMENTS	45. PERMIT COMMENTS
46	PERMIT ATTACHED	46. PERMIT ATTACHED
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49	PERMIT TYPE	49. PERMIT TYPE
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57	PERMIT COMMENTS	57. PERMIT COMMENTS
58	PERMIT ATTACHED	58. PERMIT ATTACHED
59	PERMIT EXPIRY	59. PERMIT EXPIRY
60	PERMIT FEE	60. PERMIT FEE
61	PERMIT TYPE	61. PERMIT TYPE
62	PERMIT STATUS	62. PERMIT STATUS
63	PERMIT COMMENTS	63. PERMIT COMMENTS
64	PERMIT ATTACHED	64. PERMIT ATTACHED
65	PERMIT EXPIRY	65. PERMIT EXPIRY
66	PERMIT FEE	66. PERMIT FEE
67	PERMIT TYPE	67. PERMIT TYPE
68	PERMIT STATUS	68. PERMIT STATUS
69	PERMIT COMMENTS	69. PERMIT COMMENTS
70	PERMIT ATTACHED	70. PERMIT ATTACHED
71	PERMIT EXPIRY	71. PERMIT EXPIRY
72	PERMIT FEE	72. PERMIT FEE
73	PERMIT TYPE	73. PERMIT TYPE
74	PERMIT STATUS	74. PERMIT STATUS
75	PERMIT COMMENTS	75. PERMIT COMMENTS
76	PERMIT ATTACHED	76. PERMIT ATTACHED
77	PERMIT EXPIRY	77. PERMIT EXPIRY
78	PERMIT FEE	78. PERMIT FEE
79	PERMIT TYPE	79. PERMIT TYPE
80	PERMIT STATUS	80. PERMIT STATUS
81	PERMIT COMMENTS	81. PERMIT COMMENTS
82	PERMIT ATTACHED	82. PERMIT ATTACHED
83	PERMIT EXPIRY	83. PERMIT EXPIRY
84	PERMIT FEE	84. PERMIT FEE
85	PERMIT TYPE	85. PERMIT TYPE
86	PERMIT STATUS	86. PERMIT STATUS
87	PERMIT COMMENTS	87. PERMIT COMMENTS
88	PERMIT ATTACHED	88. PERMIT ATTACHED
89	PERMIT EXPIRY	89. PERMIT EXPIRY
90	PERMIT FEE	90. PERMIT FEE
91	PERMIT TYPE	91. PERMIT TYPE
92	PERMIT STATUS	92. PERMIT STATUS
93	PERMIT COMMENTS	93. PERMIT COMMENTS
94	PERMIT ATTACHED	94. PERMIT ATTACHED
95	PERMIT EXPIRY	95. PERMIT EXPIRY
96	PERMIT FEE	96. PERMIT FEE
97		

(10)



JOHN ARDEN DRIVE

- EXISTING LAND NOTES**
1. All existing trees to be removed shall be removed prior to construction.
  2. All existing trees to be retained shall be retained and protected during construction.
  3. All existing trees to be removed shall be removed prior to construction.
  4. All existing trees to be retained shall be retained and protected during construction.
  5. All existing trees to be removed shall be removed prior to construction.
  6. All existing trees to be retained shall be retained and protected during construction.
- LANDSCAPE NOTES**
1. All landscape trees shall be planted within 10 days of construction completion.
  2. All landscape trees shall be planted within 10 days of construction completion.
  3. All landscape trees shall be planted within 10 days of construction completion.
  4. All landscape trees shall be planted within 10 days of construction completion.
  5. All landscape trees shall be planted within 10 days of construction completion.
  6. All landscape trees shall be planted within 10 days of construction completion.

PLANT SPECIFICATIONS		PLANT SPECIFICATIONS		PLANT SPECIFICATIONS	
NO.	PLANT NAME	PLANT NAME	PLANT NAME	PLANT NAME	PLANT NAME
1	1.00	1.00	1.00	1.00	1.00
2	2.00	2.00	2.00	2.00	2.00
3	3.00	3.00	3.00	3.00	3.00
4	4.00	4.00	4.00	4.00	4.00
5	5.00	5.00	5.00	5.00	5.00
6	6.00	6.00	6.00	6.00	6.00
7	7.00	7.00	7.00	7.00	7.00
8	8.00	8.00	8.00	8.00	8.00
9	9.00	9.00	9.00	9.00	9.00
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39	39.00	39.00	39.00	39.00	39.00
40	40.00	40.00	40.00	40.00	40.00
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42	42.00	42.00	42.00	42.00	42.00
43	43.00	43.00	43.00	43.00	43.00
44	44.00	44.00	44.00	44.00	44.00
45	45.00	45.00	45.00	45.00	45.00
46	46.00	46.00	46.00	46.00	46.00
47	47.00	47.00	47.00	47.00	47.00
48	48.00	48.00	48.00	48.00	48.00
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67	67.00	67.00	67.00	67.00	67.00
68	68.00	68.00	68.00	68.00	68.00
69	69.00	69.00	69.00	69.00	69.00
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89	89.00	89.00	89.00	89.00	89.00
90	90.00	90.00	90.00	90.00	90.00
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92	92.00	92.00	92.00	92.00	92.00
93	93.00	93.00	93.00	93.00	93.00
94	94.00	94.00	94.00	94.00	94.00
95	95.00	95.00	95.00	95.00	95.00
96	96.00	96.00	96.00	96.00	96.00
97	97.00	97.00	97.00	97.00	97.00
98	98.00	98.00	98.00	98.00	98.00
99	99.00	99.00	99.00	99.00	99.00
100	100.00	100.00	100.00	100.00	100.00

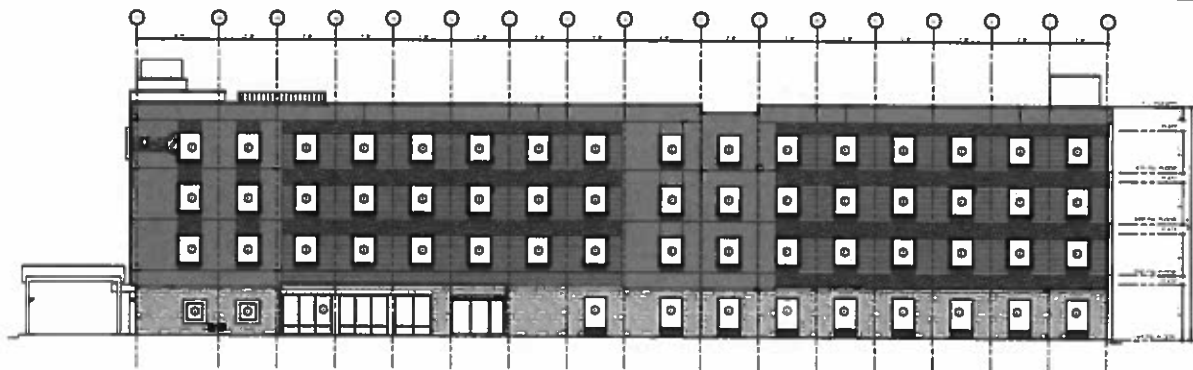
LANDSCAPE PLAN

HOME 2 SUITES  
RAE BLVD.  
CITY OF WAXAHACHE, TEXAS

DATE: 10/1/2010  
DRAWN: J. L. LEE  
CHECKED: J. L. LEE  
APPROVED: J. L. LEE

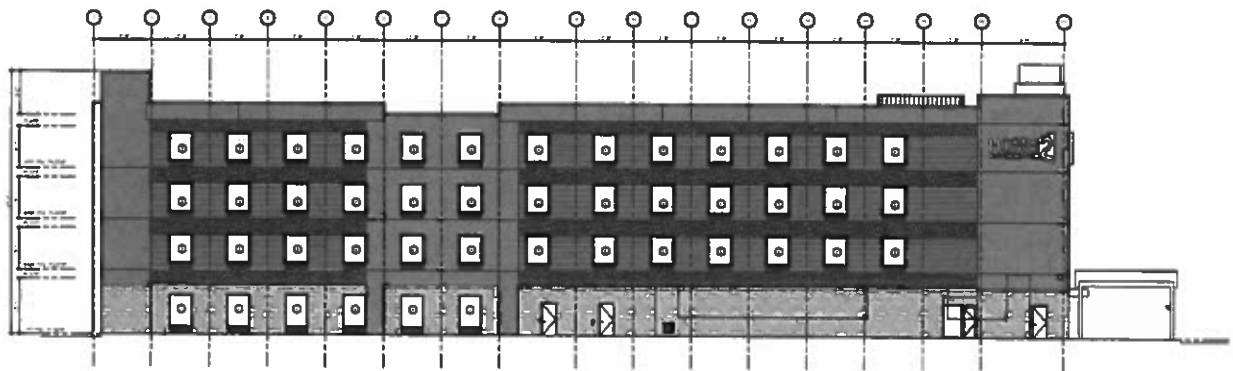
1.1

(10)



1 NORTH WEST ELEVATION  
15'-0" WIDE x 10'-0" HIGH

Notes: 1. All windows are to be double glazed.  
2. All doors are to be double glazed.  
3. All doors are to be 3'0" wide x 7'0" high.  
4. All doors are to be 1'0" thick.



2 SOUTH EAST ELEVATION  
15'-0" WIDE x 10'-0" HIGH

Notes: 1. All windows are to be double glazed.  
2. All doors are to be double glazed.  
3. All doors are to be 3'0" wide x 7'0" high.  
4. All doors are to be 1'0" thick.

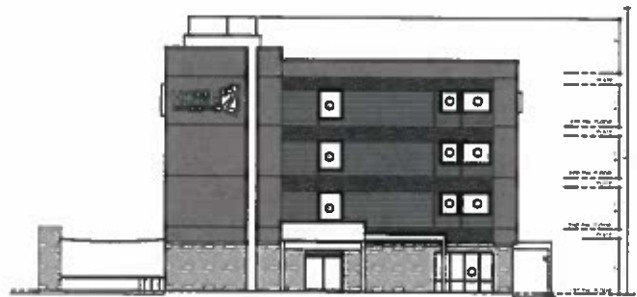
Notes: 1. All windows are to be double glazed.  
2. All doors are to be double glazed.  
3. All doors are to be 3'0" wide x 7'0" high.  
4. All doors are to be 1'0" thick.

RAE BLVD. AT JOHN ARDEN-  
ROAD, MAXACACHE,  
ELLIS COUNTY, TEXAS

JOHN ARDEN-  
ROAD, MAXACACHE,  
ELLIS COUNTY, TEXAS

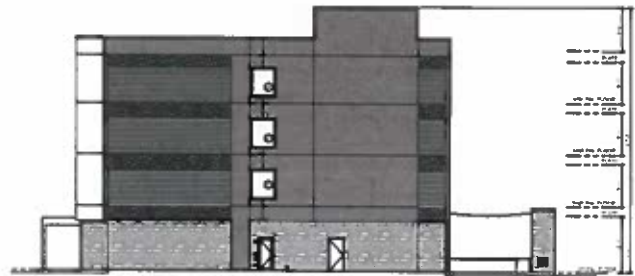
JOHN ARDEN-  
ROAD, MAXACACHE,  
ELLIS COUNTY, TEXAS

(10)



DATE: 10/10/2017	BY: J. S. S.
SCALE: 1/8" = 1'-0"	
PROJECT: 1000000000	
DESCRIPTION: 1000000000	

1 NORTH EAST ELEVATION  
SCALE: 1/8" = 1'-0"



DATE: 10/10/2017	BY: J. S. S.
SCALE: 1/8" = 1'-0"	
PROJECT: 1000000000	
DESCRIPTION: 1000000000	

2 SOUTH WEST ELEVATION  
SCALE: 1/8" = 1'-0"

HOME2  
SINCE 1978

RAE BLVD. AT JOHN ARDEN  
ROAD, WAXAHACHIE,  
ELLIS COUNTY, TEXAS



J. S. S. ARCHITECTS  
1000000000



J. S. S. ARCHITECTS  
1000000000

A-207

(11)

## Planning & Zoning Department

### Zoning Staff Report

Case: ZDC-52-2020



#### MEETING DATE(S)

*Planning & Zoning Commission:* April 28, 2020

*City Council:* May 4, 2020

#### ACTION SINCE INITIAL STAFF REPORT

At the Planning & Zoning Commission meeting, held April 28, 2020, the Commission voted 6-1 to recommend approval of case number ZDC-52-2020, subject to staff comments.

#### CAPTION

**Public Hearing** on a request by Dalton Bradbury, Acker Construction, for a Specific Use Permit (SUP) for a **Drive Through Establishment** use within a General Retail zoning district, located at the corner of Corporate Parkway and U.S. N Highway 77 (Property ID 273975) – Owner: ROUX PROPERTIES LLC (ZDC-000052-2020)

#### APPLICANT REQUEST

The applicant is requesting approval to allow a proposed drive through establishment (Bahama Bucks) within a retail strip center (North Grove Business Park).

#### CASE INFORMATION

*Applicant:* Dalton Bradbury, Acker Construction

*Property Owner(s):* Marc Roux, Roux Properties, LLC.

*Site Acreage:* 1.246 acres

*Current Zoning:* General Retail

*Requested Zoning:* General Retail w/ SUP

#### SUBJECT PROPERTY

*General Location:* Intersection of Corporate Pkwy. and U.S. Highway 77

*Parcel ID Number(s):* 273975

*Existing Use:* Partially constructed Retail/Commercial Strip Center (North Grove Business Park)

*Development History:* The Final Plat for North Grove Business Park, Phases 2 & 4 was approved by City Council on April 2, 2018.

(11)

**Table 1: Adjoining Zoning & Uses**

Direction	Zoning	Current Use
North	PD-GR	North Grove Business Park
East	PD-GR	Currently Undeveloped
South	GR	Currently Undeveloped
West	C	Cancun's Amerimex Restaurant

*Future Land Use Plan:*

Retail

*Comprehensive Plan:*

Retail includes areas that have restaurants, shops, grocery stores, and personal service establishments. Retail businesses generally require greater visibility than do other types of nonresidential land use (e.g., office, commercial).

*Thoroughfare Plan:*

The subject property is accessible via Corporate Pkwy. and Venture Way.

*Site Image:*



## **PLANNING ANALYSIS**

### **Purpose of Request:**

The purpose of this request is to allow a proposed drive through establishment (Bahama Bucks), within a retail strip center (North Grove Business Park). Per the City of Waxahachie Zoning Ordinance, a drive through establishment requires a Specific Use Permit.

### **Proposed Use:**

The applicant is requesting approval to allow a proposed drive through establishment within a retail strip center (North Grove Business Park), located along U.S. Highway 77 and Corporate Pkwy.

On November 12, 2019, the applicant received a permit to construct a 5,000 sq. ft. retail strip center within the North Grove development. No tenants were specified for the building once permits were initially issued. It was determined that a Specific Use Permit was required for the development due to a



(11)

drive though being proposed with a tenant interior finish out application. At the time of this report (4/29/2020), the development is partially constructed.

#### **PUBLIC NOTIFICATIONS**

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 6 notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Sun and a sign was visibly posted at the property.

#### **PROPERTY OWNER NOTIFICATION RESPONSES**

Staff has received two (2) letters of support for the proposed development.

#### **SPECIAL EXCEPTION/VARIANCE REQUEST**

##### **Sidewalks**

Staff suggests that sidewalks be provided around all three sides (side(s) and rear) of the development.

- Due to the lack of sidewalks surrounding U.S. Highway 77, adjacent to the development, the applicant does not believe that sidewalks should be provided around the proposed development.

#### **STAFF CONCERNS**

1. Staff suggest that sidewalks be provided around three sides (side(s) and rear) of the development. Due to the lack of sidewalks surrounding U.S. Highway 77, adjacent to the development, the applicant does not believe that sidewalks should be provided around the proposed development.

#### **APPLICANT RESPONSE TO CONCERNS**

1. The applicant understands staff's concerns and intends to state their reasoning at the May 4, 2020 City Council meeting.

#### **RECOMMENDATION**

Based on the details provided in this Staff Report and the present status of the documents subject to the request, the Planning and Zoning Department recommends:

- ☐ Denial
- ☐ Approval, as presented.
- ☒ Approval, per the following comments:
  1. Sidewalks shall be provided along three sides (side(s) and rear) of the development.

#### **ATTACHED EXHIBITS**

1. Ordinance
2. Site Plan
3. Landscape Plan
4. Elevation/Façade Plan
5. Property Owner Notification Responses

#### **APPLICANT REQUIREMENTS**

1. If approved by City Council, applicant can apply for building permits from the Building and Community Services Department.

(11)

**STAFF CONTACT INFORMATION**

*Prepared by:*  
Colby Collins  
Senior Planner  
[ccollins@waxahachie.com](mailto:ccollins@waxahachie.com)

*Reviewed by:*  
Shon Brooks, AICP  
Director of Planning  
[sbrooks@waxahachie.com](mailto:sbrooks@waxahachie.com)

(11)

1

PropertyID	Owner's Address	Owner's Address	Owner's City
Case ZDC-000052-2020			
Responses Received Inside			
Required 200' Notification Area			
Support: 2    Oppose: 0			
273976	LEDBETTER REAL ESTATE LTD	105 RIDGECREST DR.	WAXAHACHIE
273977	LEDBETTER REAL ESTATE LTD	105 RIDGECREST DR.	WAXAHACHIE
273981	CANCUN'S NG77 PROPERTIES LLC	117 TERRACE ST	DESOTO
189379	SHRIDHARANI CRYSTAL S	1204 TRAVIS CIR S	IRVING
273975	ROUX PROPERTIES LLC	1328 W HWY 287 BYP STE 100	WAXAHACHIE
189387	LRCA INVESTMENTS LLC	3751 HWY 287 S	WAXAHACHIE
272779	SAP PROPERTIES LLC	7851 CLARK CT	OVILLA
272782	SAP PROPERTIES LLC	7851 CLARK CT	OVILLA



(11)

**City of Waxahachie, Texas**  
**Notice of Public Hearing**  
**Case Number: ZDC-000052-2020**

**ROUX PROPERTIES LLC**  
**1328 W HWY 287 BYP STE 100**  
**WAXAHACHIE, TX 75165**

The Waxahachie Planning & Zoning Commission will hold a Public Hearing on Tuesday, April 28, 2020 at 7:00 p.m. and the Waxahachie City Council will hold a Public Hearing on Monday, May 4, 2020 at 7:00 p.m. in the Council Chamber at the Waxahachie City Hall, 401 South Rogers Street, Waxahachie, Texas to consider the following:

1. Request by Dalton Bradbury, Acker Construction, for a Specific Use Permit (SUP) for a **Drive Through Establishment** use within a General Retail zoning district, located at the corner of Corporate Parkway and U.S. N Highway 77 (Property ID 273975) – Owner: ROUX PROPERTIES LLC (ZDC-000052-2020)

You received this notice because your property is within the area of notification as required by law. As an interested party you are welcome to make your views known by attending the hearings. If you cannot attend the hearings, you may express your views by filling in and returning the bottom portion of this notice. Please contact the Planning Department at (469) 309-4290 or via email: [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) for additional information on this request.

Case Number: ZDC-000052-2020

City Reference: 273975

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on *Wednesday, April 22, 2020* to ensure inclusion in the Agenda Packet. Forms can be e-mailed to [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) or you may drop off/mail your form to City of Waxahachie, Attention: Planning, 401 South Rogers Street, Waxahachie, TX 75165.

☒ **SUPPORT**

☐ **OPPOSE**

Comments:

Signature

Date

Printed Name and Title

Address

*It is a crime to knowingly submit a false zoning reply form. (Texas Penal Code 37.10)*

*If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.*



(11)

**City of Waxahachie, Texas**  
**Notice of Public Hearing**  
**Case Number: ZDC-000052-2020**

**LRCA INVESTMENTS LLC**  
**3751 HWY 287 S**  
**WAXAHACHIE, TX 75165**

The Waxahachie Planning & Zoning Commission will hold a Public Hearing on Tuesday, April 28, 2020 at 7:00 p.m. and the Waxahachie City Council will hold a Public Hearing on Monday, May 4, 2020 at 7:00 p.m. in the Council Chamber at the Waxahachie City Hall, 401 South Rogers Street, Waxahachie, Texas to consider the following:

1. Request by Dalton Bradbury, Acker Construction, for a Specific Use Permit (SUP) for a **Drive Through Establishment** use within a General Retail zoning district, located at the corner of Corporate Parkway and U.S. N Highway 77 (Property ID 273975) – Owner: ROUX PROPERTIES LLC (ZDC-000052-2020)

You received this notice because your property is within the area of notification as required by law. As an interested party you are welcome to make your views known by attending the hearings. If you cannot attend the hearings, you may express your views by filling in and returning the bottom portion of this notice. Please contact the Planning Department at (469) 309-4290 or via email: [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) for additional information on this request.

Case Number: **ZDC-000052-2020**

City Reference: 189387

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on **Wednesday, April 22, 2020** to ensure inclusion in the Agenda Packet. Forms can be e-mailed to [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) or you may drop off/mail your form to City of Waxahachie, Attention: Planning, 401 South Rogers Street, Waxahachie, TX 75165.

☒ **SUPPORT**

☐ **OPPOSE**

Comments:

Lance Rust

Signature

Lance Rust

Printed Name and Title

4/14/20

Date

707 Amherst Dr.

Address

*It is a crime to knowingly submit a false zoning reply form. (Texas Penal Code 37.10)*

*If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.*

(18)

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

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A DRIVE THROUGH ESTABLISHMENT USE WITHIN A GENERAL RETAIL (GR) ZONING DISTRICT, LOCATED AT THE INTERSECTION OF CORPORATE PARKWAY AND U.S. HIGHWAY 77, BEING PROPERTY ID 273975, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 2, BLOCK B OF NORTH GROVE BUSINESS PARK PH. 2 & 4, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

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

**WHEREAS**, the City Council of the City of Waxahachie having heretofore adopted a zoning ordinance and map showing the classification of the various property located within the city limits of said City; and

**WHEREAS**, the described property is classified in said ordinance and any amendments thereto as GR; and

**WHEREAS**, a proper application for an SUP has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number ZDC-52-2020. Said application having been referred to the Planning and Zoning (P&Z) Commission was recommended by the P&Z Commission for approval and the issuance thereof; and

**WHEREAS**, proper notification has been published for the time and in the manner as prescribed by the city ordinance of the City of Waxahachie for a public hearing thereon; and,

**WHEREAS**, a proper hearing was held as required by law and the Council having heard all arguments for and against said SUP;

**NOW, THEREFORE**, this property is rezoned from GR to GR, with an SUP in order to permit a Drive Through Establishment use on the following property: Lot 2, Block B OF North Grove Business Park Ph. 2 & 4, which is shown on Exhibit A, Site Plan attached as Exhibit B, Landscape Plan attached as Exhibit C, and Elevation/Façade Plan attached as Exhibit D.

#### **SPECIFIC USE PERMIT**

##### **Purpose and Intent**

The purpose of this Ordinance is to provide the appropriate restrictions and development controls that ensure this Specific Use Permit is compatible with the surrounding development and zoning and to also ensure that the development complies with the City's Comprehensive Plan and Zoning Ordinance.

(18)

### Specific Use Permit

**FOR OPERATION OF A SPECIFIC USE PERMIT FOR A DRIVE THROUGH ESTABLISHMENT USE IN THE GENERAL RETAIL (GR) DISTRICT;** the following standards and conditions are hereby established as part of this ordinance:

1. The site plan shall conform as approved by the City Council under case number ZDC-52-2020.
2. Sidewalks shall be provided along three sides (side(s) and rear) of the development.
3. The development shall adhere to what the City Council approved in Exhibit A- Location Exhibit, Exhibit B – Site Plan, Exhibit C – Landscape Plan, and Exhibit D – Elevation/Façade Plan.
4. The development shall maintain compliance with all Federal, State and Local regulations; including, but not necessarily limited to, all applicable standards and regulations of the City of Waxahachie Municipal Code and City of Waxahachie Zoning Ordinance.
5. If approved, the City Council shall have the right to review the Specific Use Permit after 12-months if needed.

### Compliance

1. It shall be unlawful for the owner, manager, or any person in charge of a business or other establishment to violate the conditions imposed by the City Council when a Specific Use Permit is granted, and the violation of those conditions could result in a citation being issued by the appropriate enforcement officers of the City of Waxahachie.
2. Furthermore, by this Ordinance, if the premises covered by this Specific Use Permit is vacated and/or ceases to operate for a period exceeding six months (6 months), a new Specific Use Permit shall be required to reestablish the use.
3. This Specific Use Permit shall run with the land and therefore may be transferred from owner to owner; however, each new owner shall obtain a new Certificate of Occupancy.
4. The Certificate of Occupancy shall note the existence of this Specific Use Permit by its number and title.

An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage.

The zoning map of the City of Waxahachie is hereby authorized and directed to be demarked in accordance therewith.

**PASSED, APPROVED AND ADOPTED** on this 4<sup>th</sup> day of May, 2020.

(12)

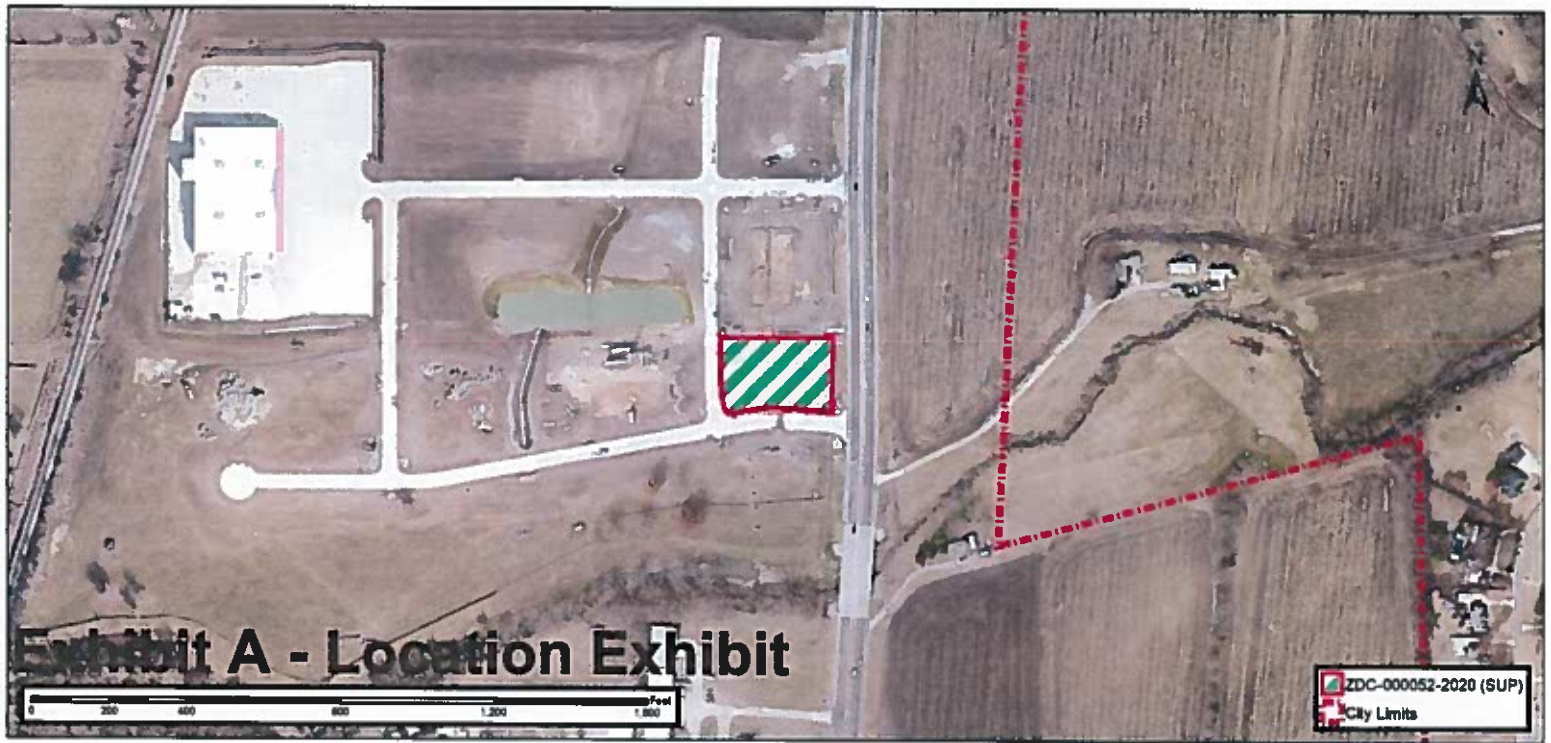
\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Secretary



(12)



Lot 1, Block B

COFFEE SHOP  
DRIVE THRU

## Exhibit B - Site Plan

Lot 2  
BLOCK B

NORTH GROVE  
BUSINESS PARK  
PHASES TWO  
and FOUR  
Cabinets 2, 3600  
350 PROJECT  
Attended in  
Cabinet 2, 3200  
410 PROJECT  
PHASE II  
FUTURE  
4,999 SQ FT  
BUILDING

FORM BOARD  
p of Form: 606.65  
n. F.F. 606.0 per Plat)  
6 Highway 77 North

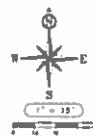
**PHASE I**  
**4,999 SQ FT**  
**BUILDING**

PHASE	R
FUTURE	S
PARKING	SPACE

CORPORATE PARKWAY

60' R.O.W

U.S. HIGHWAY 77 NORTH



**Developers:**  
Acker Construction  
3751 Highway 287 So.  
Wagonwheel, TX 75163  
Contact: Chris Acker  
Phone: 409-383-0639

PAVEMENT NOTE  
6" THICK 3000 PSI ACTORS CLASS  
REINFORCED CONCRETE PAVEMENT  
ON 4" BASE ON 24" CORNER  
6" THICK LIME STABILIZED SUBGRADE

PAVEMENT NOTE:  
 6" THICK 3000 PSI MCTODS CLASS  
 REINFORCED CONCRETE PAVEMENT  
 (3 BARS ON 18" CENTERS  
 6" RUCK L&E STABILIZED SUBGRADE

**SITE DATA SUMMARY TABLE**

ZONING: PD-COMMERCIAL & PD-GENERAL RETAIL  
PROPOSED USE: RETAIL/COMMERCIAL  
BUILDING AREA: 2 BLDGS @ 4,590 SF EACH  
BUILDING HEIGHT: SEE ARCHITECT PLANS  
AREA OF IMPROVEMENT: SURFACE APPROX. 1.061 ACRES  
REGULAR PAVING SPACES: 80  
HANDICAP PAVING SPACES: 4  
TOTAL PAVING SPACES: 84  
LOT SIZE: 1.546 ACRES (64,366 SQ. FT.)  
LOT WIDTH: 163.23 FT.  
LOT DEPTH: 262.31 FT.  
SIDEWALKS: 20' FRONT, 30' REAR ALONG VENTURE

**PAVING SPACES:**

10 PROPOSED REGULAR SPACES (P/R)

4 PROPOSED WALKOFF SPACES (P/W)

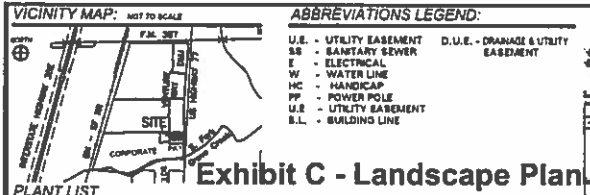
24 TOTAL PAVING SPACE PROVIDED

**CIVIL SITE PLAN  
( PHASE I )  
LOT 2, BLOCK B  
NORTH GROVE BUSINESS PARK  
PHASES TWO and FOUR  
( 1.348 Acres )  
in the City of Wazlevachia, Ellis County, Texas  
( also known as 2761 Highway 77 North )**

Case: ZDC-000052-2020

Date: 04-18-2023  
Scale: 1" = 12'  
Drawn: JAY/230  
210-2270-0400  
Job: CHS SP  
SHEET 2-B

**SHEET 2-B**



## Exhibit C - Landscape Plan

PLANT LIST		SYMBOL	BOTANIC NAME	COMMON NAME	QTY	SIZE	REMARKS
		TNO	QUERCUS TEXANA	TEXAS RED DQ	18	4" CALIPER	17 FT. HEIGHT, 8" BREAST PL. MATCHING
		DTW	CHLOROPIS LINARIAS	DEWEET WILLOW	23	30 GALLON	8' HEIGHT, 3" BREAST CONTAINER GROWN, SELL TO PLANT. MATCHING
		DTH	ILEX VOMITORIA NANA	DOGFART TAMPON HOLLY	134	5 GALLON	17" HEIGHT, 18" BREAST BRACING PER PL. AN
		CAR	ILEX CORNATA CARPENA	CARPENA HOLLY	198	8 GALLON	18" HEIGHT, 18" BREAST BRACING PER PL. AN
		RTV	HEDERA PAVLOVIA	RED YUCCA	12	5 GALLON	18" HEIGHT, 18" BREAST BRACING PER PL. AN
		BYV	YUCCA PENDELA	SOFT LEAF YUCCA	12	5 GALLON	18" HEIGHT, 18" BREAST BRACING PER PL. AN
		MPB	HAEMELIA TENNESSENSIS	RED LEAF PLASTER BRACE	973	1 GALLON	17" HEIGHT, 18" BREAST BRACING PER PL. AN
		SEA	N.A.	RED BELLER GLOSA	132	8" POT	PERENNIAL, 2" DIA. MAXIMUM 10" LONG PER PL. AN
		GBA	CYDODON DACTYLON	COMMON BERBERIS GRASS BOD	2,843	9"	SOLD 100 PER BUSHET, 97

MATERIAL LIST				
ITEM NO.	QTY	DESCRIPTION	SIZE	INDUSTRY STANDARD
1	1	DECOMPOSED BRANST	3/8" x 1/2"	INDUSTRY STANDARD
2	1	METAL TOOLS	3/8" x 1/2"	INDUSTRY STANDARD

**LANDSCAPE TABULATIONS:**

**THE CITY OF WAXAHACHIE, TEXAS**

•• NO EXISTING TRAIL ON THE PROPERTY ••

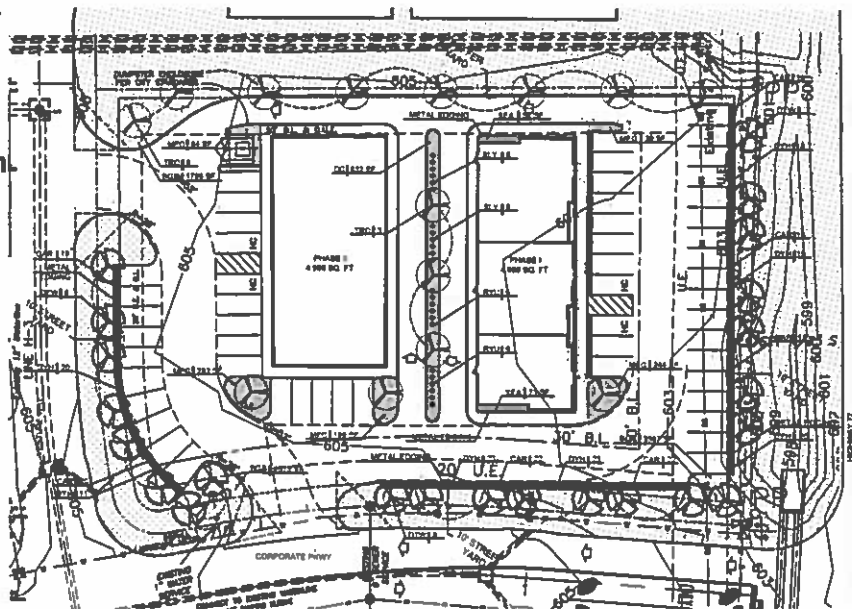
INTERIOR LANDSCAPE AREA		REQUIRED	PROPOSED
1	80% OF IMPAVED BUILDINGS SHALL BE REQUIRED INTERIOR LANDSCAPE TOTAL BUILDING S.F. = 6,004 S.F.	6,000 S.F. (89.78%)	6,017 S.F.
2	75% OF THE REQUIRED INTERIOR LANDSCAPE SHALL BE ON THE FRONT AND SIDE	7,760 S.F. (117.8%)	8,017 S.F.
3	ONE (1) CANOPY TREE PER 500 S.F. OF REQUIRED LANDSCAPE AREA	(16) CANOPY TREES	(16) CANOPY TREES
4	ONE (1) UPRIGHT/STYLACANTH TREE PER 250 S.F. OF REQUIRED	(30) ACACIA TREES	(32) ACACIA TREES
5	ONE (1) SHRUB PER 50 S.F. OF REQUIRED LANDSCAPE AREA	(123) SHRUBS	(124) SHRUBS
6	15% OF REQUIRED LANDSCAPE AREA SHALL BE GROUNDCOVER	750 S.F. GROUNDCOVER (11.5%)	817 S.F. GROUNDCOVER (12.5%)
7	3% OF REQUIRED LANDSCAPE AREA SHALL BE SEASONAL COLOR	(6) OF SEASONAL COLOR (0.9%)	(12) OF SEASONAL COLOR (1.9%)

**BUFFERYARD & STREET TREES** - TOTAL FRONTAGE 904.48'

1. 10% OF THE STREET YARD TO BE PERMANENT LANDSCAPE. STREET YARD = 17,664 SF	3,400 S.F. LANDSCAPE (19%)	6,318 S.F. LANDSCAPE (35%)
2. 10' LANDSCAPE BUFFER	YES	YES
3. ONE (1) 4" CALIPER BURNPIT/ARD TREE PER 40 L.F. OF STREET FRONTAGE	(0) TREE'S	(0) TREE'S
4. ONE (1) 4" CALIPER STREET TREE PER 20 L.F. OF STREET FRONTAGE	(2) TREE'S	(2) TREE'S

**PARKING LOT LANDSCAPE** • TOTAL PARKING SPACES 13

1. 15 S.F. OF LANDSCAPE PER PARKING SPACE PLUS 30 ADDITIONAL	680 S.F. LANDSCAPE	2,031 S.F. LANDSCAPE
2. TWO (2) TREES, 4" CAL., PER 600 S.F. OF REQUIRED PARKING LOT LANDSCAPE AREA	141 TREES, 4" CALIPER	161 TREES, 4" CALIPERS
3. TEN (10) SHRUBS PER 600 S.F. OF REQUIRED PARKING LOT LANDSCAPE AREA	308 SHRUBS	324 SHRUBS



**LANDSCAPE PLAN**

**GENERAL LANDSCAPE NOTES:**

1. FURNISH LOCATION AND PROPOSED SITE PLAN FOR DISCREPANCIES. SURVEY DATA OF EXISTING CONDITIONS SHALL BE TURNED IN WITHIN 10 DAYS.
2. LOCATE EXISTING UNDERGROUND UTILITIES FOR CONDUITS, EXISTING CATCH BASIN AND MANHOLE LOCATIONS OF THE PROJECT AREA.
3. CONTRACTOR SHALL PROVIDE A MINIMUM 12" SLOPE AWAY FROM STRUCTURES.
4. LEAVE AREAS TO REMAIN TO BE 2" BELOW FINISHED GRADE IN PLANTING AREAS AND 4" BELOW FINISHED GRADE IN DRIVEWAYS.
5. CROWN LANDSCAPE GRASS TO BE 2" HIGHER, TYPICAL AND UNIFORM DRAINAGE DOWNSITE.
6. PLANTING TREES AND LAWN AREAS SHALL BE SEPARATED BY STEEL REINFORCED STEEL SLOPE DRAINAGE ALONG WITH 12" ASPHALT DRAINAGE ALONG CURBS. CURE STEEL TYPICAL AT 40 DEGREES ALONG WITH 12" ASPHALT DRAINAGE ALONG.
7. TOP OF MULCH TO BE 12" ABOVE BELOW THE TOP OF WALKS AND CURBS.
8. LAWN AREAS SHALL BE SOLO SOLO BERMUDA GRASS, UNLESS OTHERWISE NOTED ON THE DRAWINGS.
9. LANDSCAPE AREAS TO BE 100% IRRIGATED WITH AN UNDERGROUND AUTOMATIC IRRIGATION SYSTEM. IRRIGATION SYSTEM SHALL BE 1/2" POLYETHYLENE PIPE WITH 1/2" DRAINAGE ALONG CURBS.

**GENERAL NOTES:**

1. SURFACE MATERIALS TO MEET MINIMUM STANDARDS AND SPECIFICATIONS PER THE CITY OF WASHINGTON, D.C.
2. BONE LIGHTING, LIGHTPOLLER, AND FENCES TO COMPLY WITH THE REQUIREMENTS OF THE CITY OF WASHINGTON, D.C.
3. LANDSCAPE TO BE PROVIDED ON SITE PLAN. TREE LOCATIONS ARE REPRESENTATIVE AND MAY BE ADJUSTED AT TIME OF PERMIT.
4. PARKING SPACES REQUIRED: 15 PARKING SPACES PROVIDED BY BUILDING, 17.5 ACCESSORY SPACES TO MEET THE MINIMUM 1:1.5 RATIO AND MINIMUM PARKING SIZE (PARKING SPACE 8' X 18')

**GENERAL LAWN NOTES:**

1. **CONTRACTOR SHALL LEAVE LAYERS AREA 1' BELOW FINAL FINISHED GRADE PRIOR TO TOPSOIL INSTALLATION.**
2. **CONTRACTOR SHALL FILL GRADE AREAS TO ACHIEVE FINAL FINISHED GRADE AS INDICATED ON CIVIL DRAWINGS. CONTRACTOR SHALL PROTECT EXISTING UTILITIES AND SURROUNDING AREAS FROM EROSION, MUD SPILLS AND OTHER DAMAGE TO ADJACENT WATER MAINS AND OTHER UTILITY LINES. CORRECT ANY DAMAGE TO ADJACENT AREAS.**
3. **LAYERS AREAS SHALL BE PROPER GRADED, IRRIGATION TRENCHES COMPLETELY SETTLED AND PROPERLY GRADED TO PREVENT FLOODING OF AREAS.**
4. **PROTECT EXISTING UTILITIES (E.G. DRAINAGE, ETC.) AND CONCRETE SPILLS, ETC.**
5. **GUARANTEE EROSION CONTROL OF ACCEPTABLE TYPING AREA AND PROVIDE REPLACEMENT FROM LOSS TO FILL TO TOPSOIL TO MAINTAIN LAYERS AREA.**

**SOLID BOD NOTES:**

1. PLANT BED BY HAND TO COVER INDICATED AREAS COMPLETELY. INSURE EDGES OF BED ARE TOUCHING. DO NOT MISS JOINTS OR HAND WITH TOPKILL TO ALL VEG.
2. GULCH BEDS ARE TO ACHIEVE A SMOOTH, EVEN SURFACE, FREE FROM UNDESIRABLE UNDESIRABLES.
3. WATER BED THOROUGHLY AS BED OPERATION PROCEEDS.
4. IF INSTALLATION OCCURS BETWEEN SEPTEMBER 1 AND MARCH 1, OVER-SEED BETWEEN GRASS BEDS WITH FERTILIZER, AT A RATE OF FOLiar IN POUNDS PER ONE THOUSAND (1000) SQUARE FEET.

### MAINTENANCE NOTES

- 1 PER CITY ORDINANCE SECTION 30-3: THE OWNER SHALL BE RESPONSIBLE FOR THE CONTINUED  
2 MAINTENANCE IN PERPETUITY OF LANDSCAPING AND IRRIGATION. REQUIRED LANDSCAPING SHALL  
3 BE DONE IN A NEAT AND ORDERLY MANNER. THE DESIGN SHALL INCLUDE SHOWING, EITHER  
4 BY REFERENCE TO A LANDSCAPE ARCHITECT'S PLAN OR BY A PHOTOGRAPH, THE PLANTING  
5 PLANNING, FERTILIZATION, WEEDING, AND WATERING SCHEDULES, AND THE PLANTING WITH  
6 STANDARD HORTICULTURAL PRACTICES OR AS RECOMMENDED BY THE LANDSCAPE  
7 ARCHITECT AND OTHER SUCH AUTHORITIES IN CONNECTION TO THE MAINTENANCE OF LANDSCAPING.  
8 THE LANDSCAPING SHALL BE MAINTAINED IN SUCH A MANNER AS TO PREVENT SUCH MATERIAL  
9 OR PLANTS NOT A PART OF THE LANDSCAPING, PLANT MATERIALS SHALL BE MAINTAINED IN  
10 HEALTHY AND GROWING CONDITION AS APPROPRIATE FOR THE SEASON OF THE YEAR.  
11 WEEDS, BRUSH, AND OTHER UNDESIRABLE PLANTS SHALL BE REMOVED IMMEDIATELY  
12 REPLACED WEEDS OR  
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**OCTOBER 4<sup>th</sup>, 2019**  
**LOT 2-BLOCK B**  
**NORTH GROVE**  
**BUSINESS PARK**  
City of Woodbury, Taxes - Elm County



LANDSCAPE  
PLAN

(18-1)

## Exhibit D - Elevation/Facade Plan

### APPLICABLE CODES:

2018 INTERNATIONAL BUILDING CODE  
2018 INTERNATIONAL MECHANICAL CODE  
2018 INTERNATIONAL PLUMBING CODE  
2018 INTERNATIONAL ELECTRIC CODE  
2018 INTERNATIONAL FIRE CODE  
2018 INTERNATIONAL ENERGY CODE

### PROJECT SCOPE:

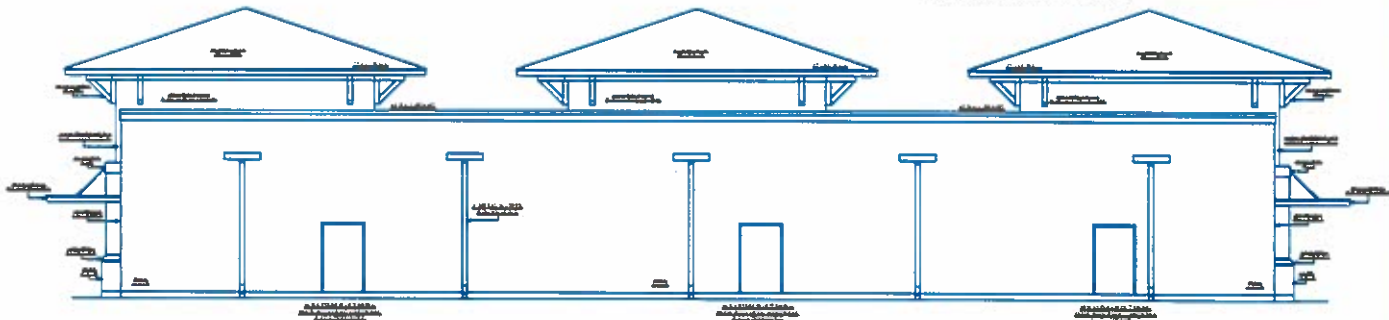
NEW CONSTRUCTION OF A SINGLE-STORY MULTITENANT  
RETAIL SHELL BUILDING OF 4,099 SQUARE FEET  
WITH INDICATED SITE WORK AND INFRASTRUCTURE.

### CODE DATA:

COMMERCIAL ZONING  
CONSTRUCTION TYPE V-B NON-SPRINKLED  
OCCUPANCY B



CONCEPT ELEVATION



REAR ELEVATION  
SCALE: 1/4" = 1'-0"



FRONT ELEVATION  
SCALE: 1/4" = 1'-0"



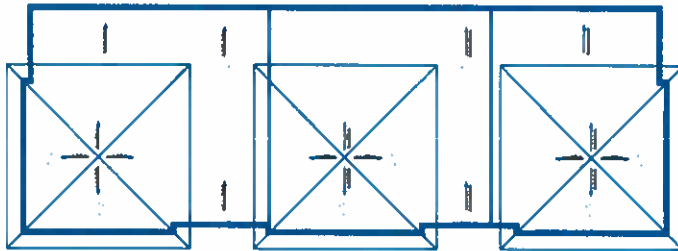
SEPTEMBER 24th, 2019  
A NEW RETAIL CENTER TO BE  
LOCATED AT  
2261 HWY 77 NORTH  
WAXAHACHIE, TEXAS 75165



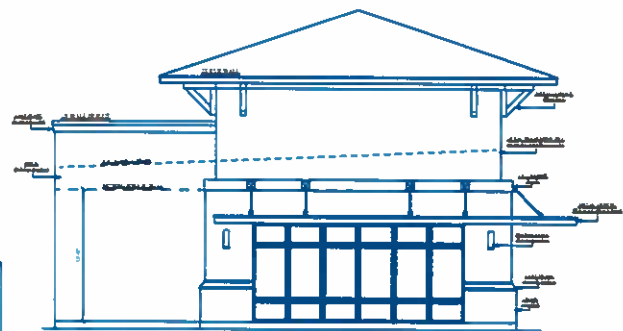
LOT 2 BLK B  
NORTHCROFT BUSINESS PARK  
WAXAHACHIE, TEXAS 75165  
ADDP 7/24/19 BY CITY OF WACO

(18)

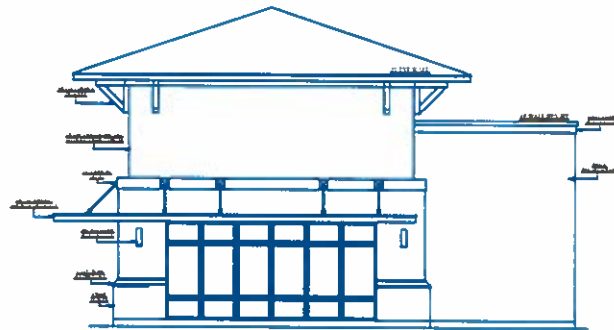
# Exhibit D - Elevation/Facade Plan



ARCHITECTURAL PLAN



LEFT ELEVATION  
SCALE: 1/4" = 1'-0"



RIGHT ELEVATION  
SCALE: 1/4" = 1'-0"



WACO, TEXAS



SEPTEMBER 24th, 2019  
A NEW RETAIL CENTER TO BE  
LOCATED AT  
226 LHW 77 NORTH  
WAXAHACHIE, TEXAS 75165



LOT 2 BLK B  
NORTH GARDEN BUSINESS PARK  
WAXAHACHIE, TEXAS 75165

ASB 17-000000-000000-000000-000000



(13)



## Memorandum

To: Honorable Mayor and City Council

From: Tommy Ludwig, Assistant City Manager

Thru: Michael Scott, City Manager

Date: April 29, 2020

Re: Oversize Participation Agreement – Section of Cardinal Road Water Line

---

On Monday May 4, 2020 an Oversize Participation Agreement, in the amount of \$106,520, with Connell Realty Services, Inc. will appear before City Council for consideration. Specifically this agreement will provide for the oversizing of 345 feet of water line and appurtenances from 12" to 24" along a portion of Cardinal Road west of Hwy 77. The water line is being constructed as part of the development of two lots taking place on the corner of Cardinal Road at Hwy 77. Engineering associated with the Cardinal Road 24" diameter water line is included in the FY19-20 capital budget and funding for construction is proposed in the 5 Year Capital Improvement Program.

Staff recommends that funding for the oversizing participation be funded through the FY19-20 Certificate of Obligation bond sale. The Utilities Department intends to fund any costs associated with this agreement, prior to the sale of bonds, from the Water Operating Fund. As a result, there is a companion resolution to this agenda item authorizing a reimbursement to the Water Fund from the future bond sale. This will allow any expense associated with this project that occurs prior to the bond issuance to be paid from the Water Fund, with a reimbursement of these expenditures after the bonds have been issued.

I am available at your convenience should you need any additional information.

Tommy Ludwig

**WATER LINE OVERSIZE PARTICIPATION AGREEMENT**

THIS WATER LINE OVERSIZE PARTICIPATION AGREEMENT ("the Agreement") is executed by and between the CITY OF WAXAHACHIE, TEXAS, a municipal corporation existing under the law of the State of Texas (the "City"), and CONNELL REALTY SERVICES, INC., (the "Developer").

**RECITALS:**

- A. The Developer owns certain real property ("the Development") in Waxahachie, Texas known as, Waxahachie Commercial Infrastructure, which is shown on the plat attached hereto and made a part hereof as Exhibit "A".
- B. The City's Water Master Plan indicates a 24-inch diameter water line along the north property line of the Waxahachie Commercial Infrastructure development. The City has agreed to reimburse the Developer for the cost of oversizing from 12-inch to 24-inch diameter water line, including the oversizing of valves and other appurtenance.
- C. The Developer shall construct approximately 345-linear feet of 24-inch diameter water line, three (3) 24-inch Gate Valves and all appurtenances along Cardinal Road, along the north property line of the Waxahachie Commercial Infrastructure development, from station Number 0+01.80 to station number 3+46.40 as shown on the 24-inch waterline Plan/Profile engineering sheets attached hereto and made a part hereof as Exhibit "B".
- D. The bid price received by the Developer for overall construction cost of a 24" water line is \$182,924.00 and overall construction cost of a 12" water line is \$76,404.00. The City's oversize participation portion for said oversize construction of a 24-inch waterline is \$106,520.00. Developer provided a quote from Tri Dal Utilities, Ltd. dated 12/04/2019, which is attached hereto and made a part hereof as Exhibit "C". This price for construction of the 24-inch water line is a reasonable quote as compared to various construction projects of this same similar magnitude that the city has constructed. The City shall be responsible for \$106,520.00 for oversize participation cost of the 24-inch water line size construction.
- E. After the developer receives the City's Public Works final acceptance letter for the public infrastructure (streets, water, sewer, drainage, etc), the developer will make a request for the agreed oversize amount to the City's Director of Utilities. The city will have 30 days after the developer's request to process and send the check to the Developer.

(13)

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

CITY OF WAXAHACHIE, TEXAS

CONNELL REALTY SERVICES, INC.

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

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

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

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

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

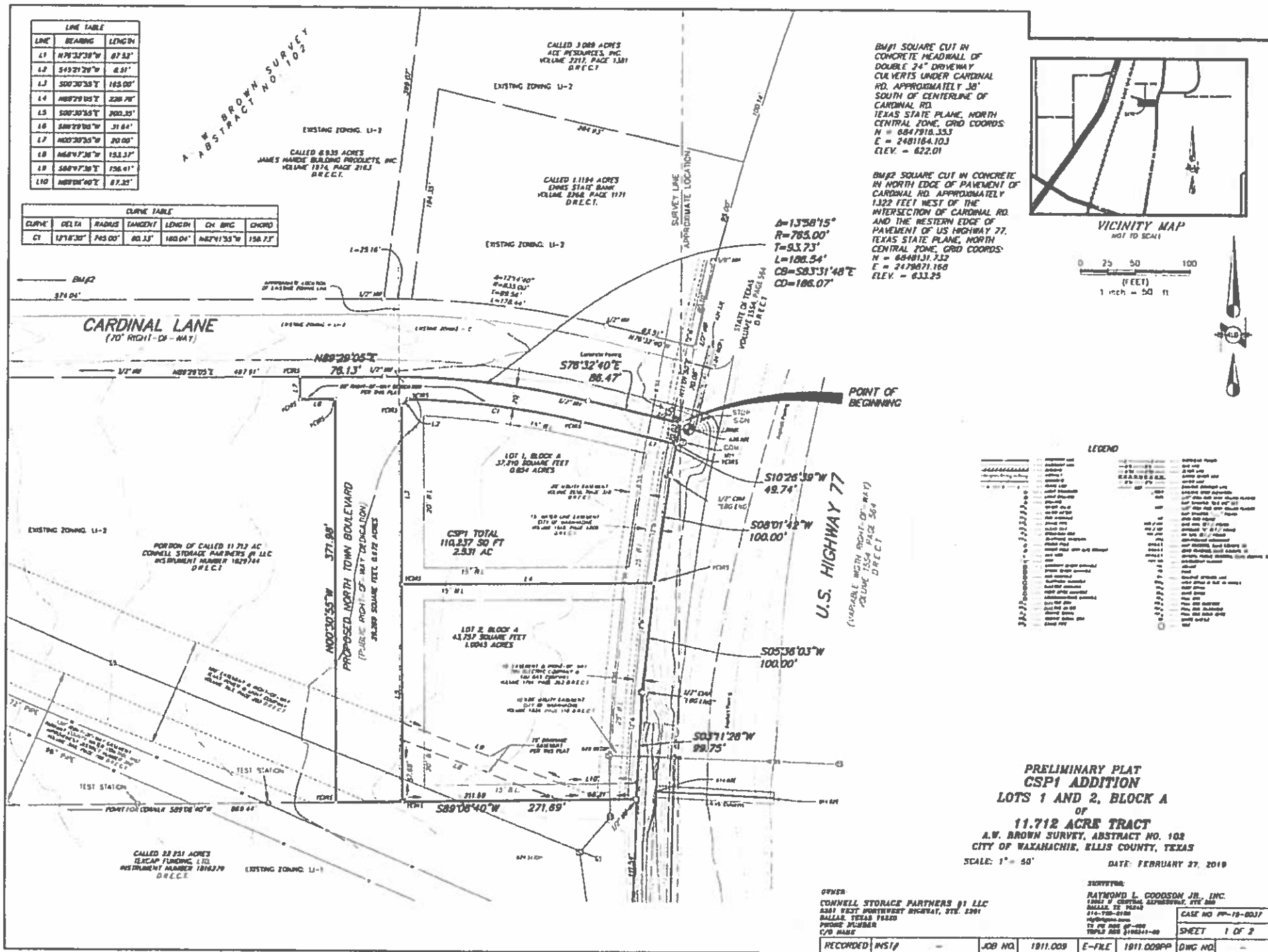
Title: \_\_\_\_\_



(13)

## EXHIBIT "A"

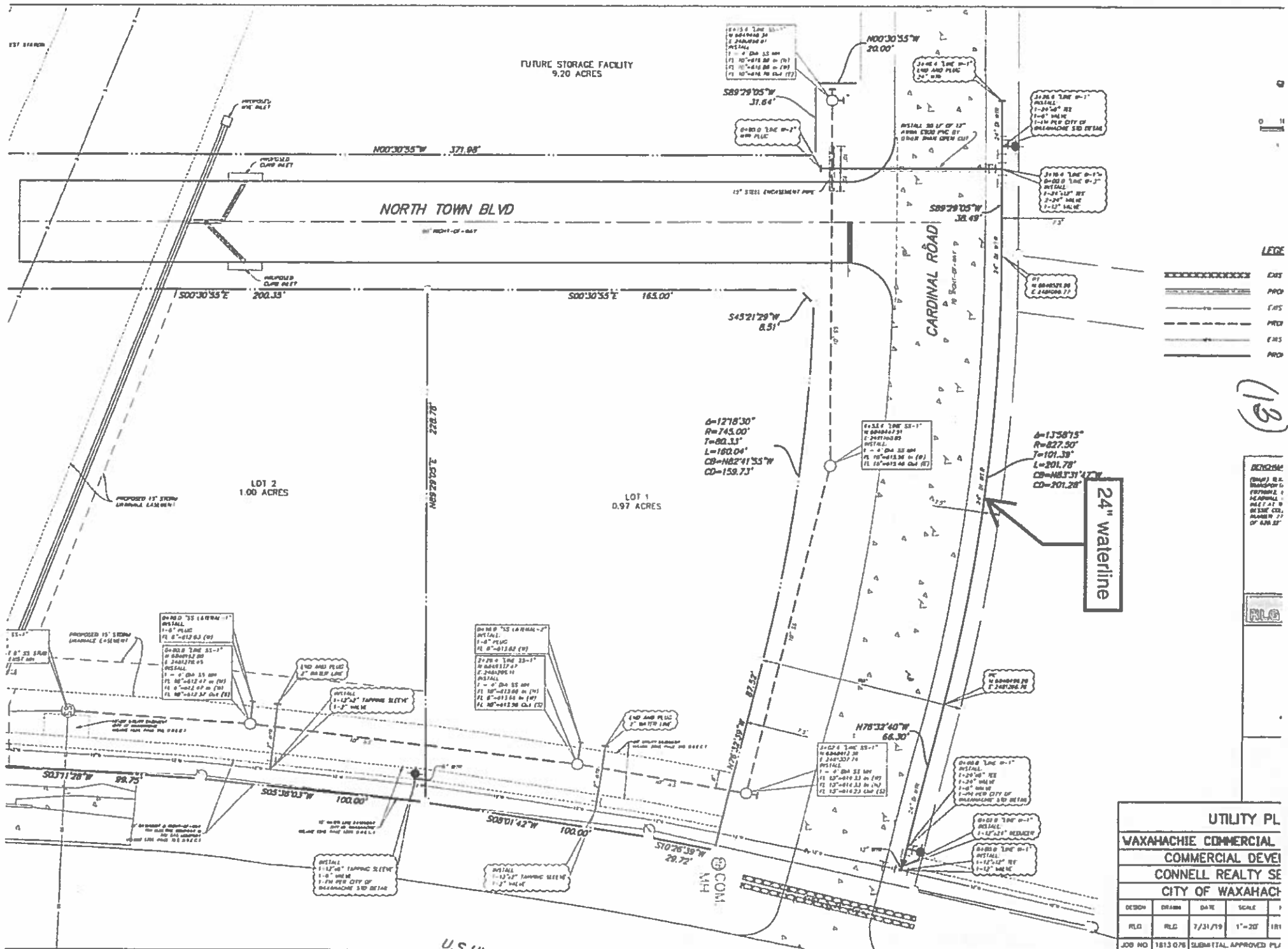
CURVE TABLE						
CURVE	DELTA	RADIUS	TANGENT	LENGTH	CH. BRG.	CHORD
C1	127° 8' 30"	745.00'	80.15'	180.04'	ANZ74° 53' W	158.73'



15

(13)

EXHIBIT "B"



(13)

## EXHIBIT "C"

## EXHIBIT "C"

### PVC Oversize Construction Cost -24" Water Line

Description	Unit Type	12" Unit Quantity	12" Unit Price	12" Total	24" Unit Quantity	24" Unit Price	24" Total
12" Closure	Each	1	\$ 5,180.00	\$ 5,180.00	1	\$ 5,155.00	\$ 5,155.00
12"x 6" Tapping Sleeve & Valve	Each	1	\$ 6,810.00	\$ 6,810.00	1	\$ 6,775.00	\$ 6,775.00
2" Domestic Water	LF	60	\$ 26.00	\$ 1,560.00	60	\$ 26.00	\$ 1,560.00
Unload Pipe	LF	345	\$ 7.00	\$ 2,415.00	345	\$ 7.00	\$ 2,415.00
6" PVC DR 18	LF	17	\$ 47.00	\$ 799.00	17	\$ 47.00	\$ 799.00
12" DR 18	LF	425	\$ 55.00	\$ 23,375.00	80	\$ 53.00	\$ 4,240.00
24" PVC	LF			\$ -	345	\$ 185.00	\$ 63,825.00
2" Gate Valve	Each	2	\$ 697.00	\$ 1,394.00	2	\$ 697.00	\$ 1,394.00
6" Gate Valve	Each	2	\$ 1,055.00	\$ 2,110.00	2	\$ 1,055.00	\$ 2,110.00
12" Gate Valve	Each	5	\$ 2,600.00	\$ 13,000.00	2	\$ 2,585.00	\$ 5,170.00
24" Gate Valve	Each	0	\$ 22,455.00	\$ -	3	\$ 22,330.00	\$ 66,990.00
Fire Hydrant	Each	3	\$ 3,370.00	\$ 10,110.00	3	\$ 3,370.00	\$ 10,110.00
Fittings	LS	1	\$ 5,635.00	\$ 5,635.00	1	\$ 8,365.00	\$ 8,365.00
Layout/LF	LF	502	\$ 2.00	\$ 1,004.00	502	\$ 2.00	\$ 1,004.00
Trench Safety/LF	LF	502	\$ 1.00	\$ 502.00	502	\$ 1.00	\$ 502.00
Testing/LF	LF	502	\$ 5.00	\$ 2,510.00	502	\$ 5.00	\$ 2,510.00
		Total 12" Water Line Cost = \$ 76,404.00			Total 24" Water Line Cost = \$ 182,924.00		

City's Oversize Participattion Cost = \$ 106,520.00
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(5)

(14)

**RESOLUTION NO.**

**A RESOLUTION DECLARING INTENT TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE DEBT FOR THE PURPOSE OF PERFORMING CONSTRUCTION ASSOCIATED WITH AN OVERSIZED PARTICIPATION AGREEMENT FOR THE CONSTRUCTION OF A PORTION OF THE CARDINAL ROAD 24" WATER LINE**

**WHEREAS**, the City of Waxahachie (the "City") intends to issue debt to finance cost to be incurred for construction associated with an oversized participation agreement for the construction of a portion of the Cardinal Road 24" water line, and related expenses prior to the issuance of such debt with the expectation that such expenditures are to be reimbursed with proceeds of such debt; and

**WHEREAS**, Treas. Reg. § 1.150-2 (the "Regulation") provides that to fund such reimbursement with proceeds of tax-exempt obligations the City must declare its expectation to make such reimbursement; and

**WHEREAS**, the City desires to preserve its ability to reimburse the expenditures with proceeds of tax-exempt obligations.

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

**SECTION 1**

That the City reasonably expects to reimburse Water Fund with proceeds of debt hereafter to be issued by the City, and this resolution shall constitute a declaration of official intent under the Regulation.

**SECTION 2**

That the City Manager is authorized to take those steps reasonable and necessary to comply with the intent of this resolution including a loan from the Water Fund in an amount not to exceed \$107,000

**SECTION 3**

That this resolution shall take effect immediately from and after the date of passage.

ADOPTED THIS 4<sup>th</sup> day of May, 2020.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Secretary

(15)



## Memorandum

To: Honorable Mayor and City Council  
From: Tommy Ludwig, Assistant City Manager  
Thru: Michael Scott, City Manager  
Date: May 1, 2020  
Re: Hill and Wyatt Street Sewer Line Rehabilitation – CIP Project

---

On Monday May 4, 2020 an item authorizing professional services with Craido Civil Engineering for design services associated with the replacement of a portion of the sewer lines within in Hill and Wyatt Street will appear before City Council for consideration in the amount of \$145,200. Specifically this contract will provide for engineering, survey, bid specification preparation and construction support services for the replacement of approximately 2,300 linear feet of 10" sewer line in Wyatt Street and approximately 2,000 linear feet of 12" and 15" sewer line in Hill Street. Both of these lines segments are scheduled for replacement as they have reached their end of useful life and are experiencing inflow and infiltration, which is a contributing factor to sanitary sewer overflows in the City. The project is a planned capital improvement that was budgeted for in the Utilities Waste Water Collection FY19-20 Operations and Maintenance budget. Staff anticipates that the design associated with this project will be completed by the end of the fiscal year, and construction is planned in the FY20-21 capital improvement budget.

I am available at your convenience should you need additional information.

Tommy Ludwig



(16)

**CITY OF WAXAHACHIE, TEXAS**

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

**THE SECOND ORDINANCE OF THE CITY OF WAXAHACHIE, TEXAS, DECLARING A LOCAL STATE OF DISASTER DUE TO A PUBLIC HEALTH EMERGENCY AND ENACTING REGULATIONS RELATED THERETO; MAKING FINDINGS; PROVIDING FOR SEVERABILITY, SAVINGS AND REPEALING CLAUSES; PROVIDING FOR PENALTIES; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

**WHEREAS**, beginning in or about December 2019, a novel coronavirus, now designated COVID-19, has spread through the world and has now been declared a global pandemic by the World Health Organization; and

**WHEREAS**, symptoms of COVID-19 include fever, coughing, and shortness of breath and, in some cases, the virus has caused death; and

**WHEREAS**, the City of Waxahachie, Texas ("City" or "Waxahachie"), is taking extraordinary measures to prevent the spread of this potentially devastating disease in our community; and

**WHEREAS**, Waxahachie has established emergency protective measures, mitigation procedures, and emergency response plans for this type of health emergency in its Emergency Management provisions of Chapter 11<sup>1/2</sup> of the City's Code of Ordinances; and

**WHEREAS**, on March 13, 2020, Texas Governor Greg Abbott declared a state of disaster in all Texas counties; and

**WHEREAS**, on March 16, 2020, Waxahachie Mayor David Hill issued a Declaration of Local State of Disaster Due to Public Health Emergency for the City; and

**WHEREAS**, on March 17, 2020, Ellis County Judge Todd Little declared a local state of disaster due to a public health emergency for all of Ellis County; and

**WHEREAS**, on Thursday, March 19, 2020, Governor Abbott issued Executive Order GA-08 providing further guidance in addressing COVID-19 preparedness and mitigation; and

**WHEREAS**, on March 24, 2020, the Ellis County Commissioners Court issued an amended proclamation declaring a local state of disaster; and

**WHEREAS**, on March 25, 2020, Mayor Hill issued an amended emergency declaration of local state of disaster; and

**WHEREAS**, on March 31, 2020, Governor Abbott issued Executive Order GA-14, repealing Executive Order GA-08, and addressing and providing further for the continuity of essential services and activities during the COVID-19 disaster; and

**WHEREAS**, on April 6, 2020, the Waxahachie City Council enacted Ordinance No. 3182, which extended the local disaster declaration until the end of April, 2020, and which expressly repealed all prior Mayoral local disaster declarations and incorporated by reference the provisions of any Executive Order or similar directive issued by the President of the United States, the Governor of the State of Texas, or the County Judge and/or Commissioners Court of Ellis County, Texas; and

**WHEREAS**, on April 12, 2020, Governor Abbott issued a proclamation renewing the disaster declaration for all counties in Texas; and

**WHEREAS**, on April 17, 2020, Governor Abbott issued Executive Order No. GA-16 superseding GA-14 and relating to statewide reopening of certain aspects of the Texas economy during the COVID-19 disaster; and

**WHEREAS**, on April 27, 2020, Governor Abbott issued Executive Order No. GA-18 superseding GA-16 and relating to the expanded reopening of services as part of the safe, strategic plan to open Texas in response to the COVID-19 disaster; and

**WHEREAS**, this Ordinance is adopted pursuant to the authority contained in the Texas Disaster Act of 1975, Section 122.006 of the Texas Health and Safety Code, and the home-rule authority contained in Article XI, Section 5 of the Texas Constitution; and

**WHEREAS**, nothing in this Ordinance shall prohibit the Mayor from issuing subsequent declarations in the event matters not addressed by this Ordinance arise and require immediate action.

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

**SECTION 1.** All of the above premises are hereby found to be true and correct and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION 2.** A local state of disaster due to public health emergency is hereby declared for the City pursuant to Section 418.108(a) of the Texas Government Code.

**SECTION 3.** Pursuant to Section 418.108(b) of the Texas Government Code, this state of disaster due to public health emergency shall continue as of the date as of the passage of this Ordinance and shall expire on the date in which Texas Governor Greg Abbott repeals or otherwise concludes the state of disaster for the State of Texas, as same may relate to Ellis County, unless the Waxahachie City Council repeals or otherwise amends this Ordinance prior thereto.

**SECTION 4.** Pursuant to Section 418.108(c) of the Texas Government Code, this Ordinance declaring a local state of disaster due to public health emergency shall be given prompt and general publicity and shall be filed promptly with the City Secretary's Office.

**SECTION 5.** This Ordinance hereby authorizes the City to take any actions necessary to promote health and suppress the virus, including the quarantine of persons and occupied structures, examining and regulating hospitals, regulating ingress and egress from the City, regulating ingress and egress to occupied structures, and insuring compliance for those who do not comply with the City's rules, pursuant to Section 122.006 of the Texas Health and Safety Code.

**SECTION 6.** This Ordinance expressly repeals all prior Mayoral local disaster declarations and Ordinance 3182, and hereby incorporates by reference the provisions of any Executive Order or similar directive issued by the President of the United States, the Governor of the State of Texas, or the County Judge and/or Commissioners Court of Ellis County, Texas. This Ordinance hereby incorporates the Governor's Executive Order No. GA-18 relating to the expanded reopening of services as part of the safe, strategic plan to open Texas in response to the COVID-19 disaster. Notwithstanding the foregoing and in accordance with GA-18 (on page 5 thereof), this Ordinance authorizes the Mayor to issue additional declarations that provide additional local restrictions that are consistent with GA-18.

**SECTION 7.** This Ordinance hereby authorizes the use of all lawfully available enforcement tools.

**SECTION 8.** Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

**SECTION 9.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 10.** Any person, firm or corporation violating any of the provisions of this Ordinance commits an offense, punishable by a fine up to \$1,000.00, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

**SECTION 11.** This Ordinance shall become effective, and be in full force and effect, from and after the date of its passage and shall expire on the date in which Texas Governor Greg Abbott repeals or otherwise concludes the state of disaster for the State of Texas, as same may relate to Ellis County, unless the Waxahachie City Council repeals or otherwise amends this Ordinance prior thereto.

(16)

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF  
WAXAHACHIE, TEXAS, ON THIS THE 4th DAY OF MAY, 2020.**

\_\_\_\_\_  
David Hill, Mayor

ATTEST:

\_\_\_\_\_  
Lori Cartwright, City Secretary

[SEAL]

APPROVED AS TO FORM:

\_\_\_\_\_  
Robert F. Brown, City Attorney