

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 ***Tuesday, September 8, 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. ***Public Comments:*** Persons may address the City Council on any issues. This is the appropriate time for citizens to address the Council on any concern whether on this agenda or not. In accordance with the State of Texas Open Meetings Act, the Council may not comment or deliberate such statements during this period, except as authorized by Section 551.042, Texas Government Code.

5. ***Consent Agenda***

All matters listed under Item 5, 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 August 17, 2020
 - b. Minutes of the City Council briefing of August 17, 2020
 - c. Minutes of the City Council special meeting of September 1, 2020
 - d. Amend Resolution No. 1292 to extend the FM 813 closure from September 9, 2020 to September 15, 2020
6. ***Continue Public Hearing*** on a request by Brenden Determann, BFD Managing & Consulting LLC, for a Zoning Change from a Planned Development-General Retail zoning district to Single Family Residential-3, located N of 809 MLK (being a portion of Property ID 205458) - Owner: GIBSON & GIBSON LLC (ZDC-92-2020)
 7. ***Consider*** proposed Ordinance approving ZDC-92-2020
 8. ***Continue Public Hearing*** on a request by Terry Nay, The Wash on Brown, for a Specific Use Permit (SUP) for Auto Laundry or Car Wash use within a General Retail zoning district located at 2201 Brown Street (Property ID 278472) - Owner: THE NAY COMPANY INC (ZDC-87-2020)
 9. ***Consider*** proposed Ordinance approving ZDC-87-2020

10. **Consider** request by Tim Jackson, Texas Reality Capture & Surveying, LLC., for a Plat of Pecan Tree Meadows for seven (7) residential lots being 14.574 acres situated in the E.C. School Land Survey, Abstract 328 (Property ID 259093) in the Extra Territorial Jurisdiction – Owner: Timothy Crane (SUB-000080-2020)
11. **Consider** request by Dalton Bradbury, Acker Construction, for a detailed Site Plan Review for proposed Office, Professional, and Administrative uses located within a Planned Development-1-Commercial zoning district at 1340 and 1348 W. US Highway 287 Bypass (Property ID 238267) – Owner: BARBELL REAL ESTATE LLC AND JAMES BELLER (SP-101-2020)
12. **Consider** Development Agreement for SP-101-2020
13. **Consider** award of a bid and associated project contingency to Reynolds Asphalt & Construction Co. for the 2020 Street Rehabilitation Program
14. **Consider** award of a bid and associated project contingency to Wilson Contractor Services, LLC for the construction of the Lower Mustang Creek Parallel Force Main
15. **Consider** award of a service contract to Waste Connections for the disposal for bio-solids from the Wastewater Treatment Plant
16. **Consider** proposed Ordinance amending the Code of Ordinances to modify and adopt new regulations on solicitation activities by repealing existing Chapter 23, “Peddlers” and replacing it with a new Chapter 23, “Solicitation Activities”
17. **Consider** proposed Ordinance approving revised budget figures for fiscal year 2019-2020 and approving the budget for fiscal year 2020-2021
18. **Consider** proposed Ordinance approving the Water and Wastewater Budget for fiscal year 2020-2021
19. **Consider** proposed Ordinance amending Water and Wastewater fees and setting an effective date of October 1, 2020
20. **Consider** proposed Ordinance approving the Robert W. Sokoll Water Treatment Plant Budget for fiscal year 2020-2021
21. **Consider** proposed Ordinance approving the Refuse Service Fund; Hotel Tax Fund; Waxahachie Community Development Corporation Budget; and, Interest and Sinking Fund for fiscal year 2020-2021
22. **Consider** a motion to ratify the property tax revenue increase reflected in the Fiscal Year 2020-2021 budget in accordance with the Texas Local Government Code
23. **Consider** proposed Ordinance adopting the Tax Rate for fiscal year 2020-2021
24. **Consider** proposed Ordinance re-establishing classified positions under Civil Service
25. Comments by Mayor, City Council, City Attorney and City Manager

26. 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

(ba)

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, August 17, 2020 at 7:00 p.m.

Councilmembers Present: David Hill, Mayor
Mary Lou Shipley, Mayor Pro Tem
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
Robert Brown, City Attorney
Lori Cartwright, City Secretary

1. Call to Order

Mayor David Hill called the meeting to order.

2. Invocation

3. Pledge of Allegiance and Texas Pledge of Allegiance

Mayor Hill gave the invocation and Councilmember Kevin Strength led the Pledge of Allegiance and the Texas Pledge of Allegiance.

4. Public Comments

Mr. Paul Christenson, 110 Williams Street, Waxahachie, spoke against the bond issuance noting a number of projects in the bond should be funded through the General Fund. He commented on the old Baylor Hospital noting the Baylor Hospital should not be the City's liability and suggested giving the hospital back to Baylor and making them tear it down. Mr. Christenson stated City Council will consider a 3.5 percent tax increase and recommended it be decreased.

5. Consent Agenda

- a. Minutes of the City Council meeting of August 3, 2020
- b. Minutes of the City Council briefing of August 3, 2020
- c. Set City Council meeting for September 8, 2020
- d. Waxahachie Community Development Corporation contribution to Optimist for pool renovation

Action:

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

6. Consider and take action on an ordinance providing for the issuance of the City of Waxahachie, Texas Combination Tax and Revenue Certificates of Obligation, Series

(5A)

2020, in an aggregate principal amount not to exceed \$23,255,000; and ordaining other matters relating to the subject

City Manager Michael Scott reported the approval of the subject Certificates of Obligation, Series 2020 will issue debt for the 2020 bond issue just under \$22,000,000. He noted the bond would pay for the following:

- The construction, installation and equipment of park and recreational improvements in the City;
- The construction and equipment of fire stations and the purchase of fire apparatuses;
- Improvements to streets and public mobility infrastructure, including related signage and drainage and the acquisition of right-of-way throughout the City;
- The construction of improvements and extensions to the City's water and wastewater system; and
- The payment of engineering and legal fees incurred in connection therewith.

Mr. Boyd London, Hilltop Securities, reported the sale of bonds was very successful noting the market is down and doing very well. He noted 1.86% was the final interest rate and explained the process of the bond sales noting the City's rates are AA2 and AA minus right where they should be. Mr. Boyd stated the City is well recognized for a lot of planning and consistency over the decades with the way it operates.

ORDINANCE NO. 3201

ORDINANCE PROVIDING FOR THE ISSUANCE OF CITY OF WAXAHACHIE, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2020, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$23,255,000; AND ORDAINING OTHER MATTERS RELATING TO THE SUBJECT

Action:

Councilmember Kevin Strength moved to approve Ordinance No. 3201 as presented. Mayor Pro Tem Mary Lou Shipley seconded. The record vote was as follows:

*Ayes: David Hill
Mary Lou Shipley
Chuck Beatty
Kevin Strength
Melissa Olson*

Noes: None

The motion carried.

- 7. Continue Public Hearing on a request by Ryan Combs, Gardner Capital, for a Zoning Change from a Single Family-3 zoning district to Planned Development-Multiple Family-2, with Concept Plan, located at the Southeast corner of Parks School House**

(5^a)

Road and East Main Street (Property ID 138271) - Owner: STARPEACH TEXAS LP (ZDC-77-2020)

Mayor Hill continued the Public Hearing.

Planning Director Shon Brooks reported the applicant is requesting to rezone the property to construct an Independent Senior Living Development on nine acres. The multi-family development will house residents 55 years of age and up. The building is one story with 185 units. He recommended approval.

There being no others to speak for or against ZDC-77-2020, Mayor Hill closed the Public Hearing.

8. Consider proposed Ordinance approving ZDC-77-2020

ORDINANCE NO. 3202

AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM SINGLE FAMILY-3 (SF3) TO PLANNED DEVELOPMENT-MULTI FAMILY-2 (PD-MF2), WITH CONCEPT PLAN LOCATED AT THE SOUTHEAST CORNER OF PARKS SCHOOL HOUSE RD. AND EAST MAIN ST. IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 9 ACRES KNOWN AS A PORTION OF PROPERTY ID 138271 OF ABSTRACT 272 OF THE SM DURRETT SURVEY, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

Action:

Councilmember Kevin Strength moved to approve Ordinance No. 3202. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.

9. Consider Development Agreement for ZDC-77-2020

Action:

Councilmember Melissa Olson moved to approve a Development Agreement for ZDC-77-2020. Councilmember Chuck Beatty seconded, All Ayes.

10. Consider proposed Resolution for senior housing for ZDC-77-2020

RESOLUTION NO. 1293

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, PROVIDING FOR A DECLARATION OF NON OBJECTION TO THE PROPOSED SENIOR HOUSING IN WAXAHACHIE; AND PROVIDING FOR AN EFFECTIVE DATE.

Action:

Mayor Pro Tem Mary Lou Shipley moved to approve Resolution No. 1293. Councilmember Melissa Olson seconded, All Ayes.

(5a)

11. **Public Hearing on a request by Brenden Determann, BFD Managing & Consulting LLC, for a Zoning Change from a Planned Development-General Retail zoning district to Single Family Residential-3, located north of 809 MLK (being a portion of Property ID 205458) - Owner: GIBSON & GIBSON LLC (ZDC-92-2020)**

Mayor Hill opened the Public Hearing and announced the applicant requested to continue the Public Hearing to the City Council meeting of September 8, 2020.

12. **Consider proposed Ordinance approving ZDC-92-2020**

Action:

Councilmember Chuck Beatty moved to continue the Public Hearing on a request by Brenden Determann, BFD Managing & Consulting LLC, for a Zoning Change from a Planned Development-General Retail zoning district to Single Family Residential-3, located north of 809 MLK (being a portion of Property ID 205458) - Owner: GIBSON & GIBSON LLC (ZDC-92-2020) to the City Council meeting of September 8, 2020. Councilmember Kevin Strength seconded, All Ayes.

13. **Public Hearing on a request by Mikel Craig, Waxahachie ISD, for a Zoning Change from a Single Family-1 and Commercial zoning district to Planned Development-Commercial, located at 2541 US Highway 287 Bypass (Property ID 276711) - Owner: Waxahachie ISD (ZDC-104-2020)**

Mayor Hill opened the Public Hearing.

There being no others to speak for or against ZDC-104-2020, Mayor Hill closed the Public Hearing.

14. **Consider proposed Ordinance approving ZDC-104-2020**

ORDINANCE NO. 3203

AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM SINGLE FAMILY-1 (SF1) AND COMMERCIAL (C) TO PLANNED DEVELOPMENT-COMMERCIAL (PD-C), WITH CONCEPT PLAN LOCATED AT 2541 U.S. HIGHWAY 287 BYPASS, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 9.125 ACRES, KNOWN AS A PORTION OF PROPERTY ID 276711, OF LOT 1, BLOCK A OF THE WISD AG CENTER ADDITION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

Action:

Councilmember Kevin Strength moved to approve Ordinance No. 3203. Councilmember Chuck Beatty seconded, All Ayes.

15. **Public Hearing on a request by Matthew Smith, Vaquero Ventures, for a Specific Use Permit (SUP) for Convenience Store and Gasoline Sales use within a General Retail**

(5A)

zoning district located at 1851 N Highway 77 (Property ID 262430) - Owner: TRIUMPH SQUARE LLC (ZDC-89-2020)

Mayor Hill opened the Public Hearing.

Mr. Brooks reported the 7-Eleven plans to operate a convenience store and gas station. The location will operate 24 hours a day, 7 days a week. There will be six gas pumps allowing for a maximum of 12 cars to fuel at any given time. The pumps will service both gasoline and diesel vehicles. There will be an average of three employees per shift throughout the day and night.

There being no others to speak for or against ZDC-89-2020, Mayor Hill closed the Public Hearing.

16. Consider proposed Ordinance approving ZDC-89-2020

ORDINANCE NO. 3204

AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A CONVENIENCE STORE WITH GASOLINE SALES USE WITHIN A GENERAL RETAIL (GR) ZONING DISTRICT, LOCATED AT 1851 N. HIGHWAY 77, BEING PROPERTY ID 262430, BEING LOT 2R, BLOCK A OF VICTORY PARK REV. ADDITION, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

Action:

Councilmember Chuck Beatty moved to approve Ordinance No. 3204. Councilmember Kevin Strength seconded, All Ayes.

17. Consider Development Agreement for ZDC-89-2020

Action:

Mayor Pro Tem Mary Lou Shipley moved to approve Development Agreement for ZDC-89-2020. Councilmember Melissa Olson seconded, All Ayes.

18. Public Hearing on a request by Keaton L. Mai, The Dimension Group, for a Specific Use Permit (SUP) for Convenience Store and Gasoline Sales use within a General Retail zoning district located at the SW corner of Brown Street and US Highway 287 (being a portion of Property ID 179000) - Owner: BUFFALO CREEK PLAZA LLC (ZDC-96-2020)

Mayor Hill opened the Public Hearing.

Mr. Brooks reported the proposed 7-Eleven store is similar to ZDC-89-2020 and recommended approval.

There being no others to speak for or against ZDC-96-2020, Mayor Hill closed the Public Hearing.

(5A)

19. Consider proposed Ordinance approving ZDC-96-2020

ORDINANCE NO. 3205

AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A CONVENIENCE STORE WITH GASOLINE SALES USE WITHIN A GENERAL RETAIL (GR) ZONING DISTRICT, LOCATED AT THE SOUTHWEST CORNER OF BROWN STREET AND U.S. HIGHWAY 287, PROPERTY ID 179000, BEING ABSTRACT 5 OF THE JB & A ADAMS SURVEY AND ABSTRACT 393 OF THE J GOOCH SURVEY, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

Action:

Councilmember Kevin Strength moved to approve Ordinance No. 3205. Councilmember Chuck Beatty seconded, All Ayes.

20. Consider Development Agreement for ZDC-96-2020

Action:

Mayor Pro Tem Mary Lou Shipley moved to approve a Development Agreement for ZDC-96-2020. Councilmember Melissa Olson seconded, All Ayes.

21. Public Hearing on a request by Terry Nay, The Wash on Brown, for a Specific Use Permit (SUP) for Auto Laundry or Car Wash use within a General Retail zoning district located at 2201 Brown Street (Property ID 278472) - Owner: THE NAY COMPANY INC (ZDC-87-2020)

Mayor Hill opened the Public Hearing and announced the applicant requested to continue ZDC-87-2020 to the City Council meeting of September 8, 2020.

22. Consider proposed Ordinance approving ZDC-87-2020

Action:

Councilmember Chuck Beatty moved to continue the Public Hearing on a request by Terry Nay, The Wash on Brown, for a Specific Use Permit (SUP) for Auto Laundry or Car Wash use within a General Retail zoning district located at 2201 Brown Street (Property ID 278472) - Owner: THE NAY COMPANY INC (ZDC-87-2020) to the City Council meeting of September 8, 2020. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.

23. Public Hearing on a request by Ryan Morrow for a Specific Use Permit (SUP) for Trailer or Truck Sales or Rental use within a General Retail zoning district located at 3480 S Interstate 35 (Property ID 179036) - Owner: MORRIS COX (ZDC-88-2020)

Mayor Hill opened the Public Hearing.

(5a)

Mr. Brooks stated the applicant is requesting to use an existing vacant building as a Truck Sales and Fleet Center. He reviewed the proposed use and staff recommended approval.

There being no others to speak for or against ZDC-88-2020, Mayor Hill closed the Public Hearing.

24. Consider proposed Ordinance approving ZDC-88-2020

ORDINANCE NO. 3206

AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A TRAILER OR TRUCK SALES OR RENTAL (TRUCK DEALERSHIP) USE WITHIN A GENERAL RETAIL (GR) ZONING DISTRICT, LOCATED AT 3480 S. INTERSTATE HIGHWAY 35, BEING PROPERTY ID 179036, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING ABSTRACT 6 OF THE JC ARMSTRONG SURVEY, 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. 3206 per staff comments. Councilmember Kevin Strength seconded, All Ayes.

25. Public Hearing on a request by Clay Cristy, Claymoore Engineering, for a Specific Use Permit (SUP) for Pole Sign use within a Light Industrial-1 zoning district located at the SW corner of FM 66 and Interstate 35E (Property ID 174460) - Owner: DML LAND LLC (ZDC-91-2020)

Mayor Hill opened the Public Hearing.

Mr. Brooks reported the applicant proposed a new sign plan that displays a new pole sign (75 ft.) location as well as a monument sign located along the northwest boundary of the property.

Those who spoke for ZDC-91-2020:

Mr. Clay Cristy, applicant, Claymoore Engineering
Mr. Michael Lyle, owner of the project, DML Land LLC
Mr. Lee Morris, applicant, for McDonald's

There being no others to speak for or against ZDC-91-2020, Mayor Hill closed the Public Hearing.

26. Consider proposed Ordinance approving ZDC-91-2020

ORDINANCE NO. 3207

AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A SIGNAGE PLAN (POLE SIGN) USE WITHIN A LIGHT INDUSTRIAL-1 (LI-1) ZONING DISTRICT, LOCATED AT THE SOUTHWEST CORNER OF FM 66 AND INTERSTATE 35E, BEING PROPERTY ID 174460, IN THE CITY OF WAXAHACHIE, ELLIS

(5a)

COUNTY, TEXAS, BEING TRACT 2R 2 OF THE INTERSTATE INDUSTRIAL PARK-REV ADDITION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

Action:

Councilmember Kevin Strength moved to approve Ordinance No. 3207 as presented. Councilmember Chuck Beatty seconded, All Ayes.

27. Consider setting Proposed Tax Rate and Dates for Public Hearing

Finance Director Chad Tustison reported, as part of the annual budget process, Chapter 26 of the Property Tax code requires taxing units to comply with the truth-in-taxation laws in adopting their tax rates. He explained Item 27 on the City Council agenda "*Consider setting proposed Tax Rate and Dates for Public Hearing*" meets the requirement for the City Council to set the proposed time, and place an item on a future Council agenda to vote on the tax rate necessary to fund the Fiscal Year 2021 Proposed Budget.

Mr. Scott stated the FY 2021 Proposed Budget includes a proposed tax rate of \$0.66000, which is a two-cent decrease from the current rate of \$0.68000. Staff recommended taking a record vote to propose an ad valorem tax rate of \$0.66000 for FY 2021 and schedule a public hearing for Tuesday, September 1, 2020 at 6:00 p.m. The City Council will consider adoption of the tax rate for FY 2021 on September 8, 2020.

Action:

Mayor David Hill moved to set the Proposed Tax Rate and Dates for Public Hearing to the City Council meeting of September 1, 2020. Councilmember Chuck Beatty seconded. The vote was as follows:

*Ayes: David Hill
Mary Lou Shipley
Chuck Beatty
Kevin Strength*

Noes: Melissa Olson

The motion carried.

28. Consider Interlocal Agreement with Waxahachie Independent School District for shared fiber networks

Mr. Scott reported the proposed Interlocal Agreement with WISD for shared fiber networks will allow better connectivity throughout the City to serve not only our City facilities more economically, but provide network access to current and future school sites. He stated the one-time \$100,000 cost to the City is available from within our current year's fiber extension budget allocation and explained the funds will be matched by the state as the district plans to purchase technology necessary to meet the current remote learning needs of the district.

(50)

Action:

Mayor Pro Tem Mary Lou Shipley moved to approve an Interlocal Agreement with Waxahachie Independent School District for shared fiber networks. Councilmember Melissa Olson seconded, All Ayes.

29. Consider bid award for Clift Street, Flat Street, and East Madison Street Reconstruction to J & K Excavation

Director of Public Works and Engineering James Gaertner reported bids were received for Clift Street, Flat Street, and E. Madison Street Reconstruction. J & K Excavation, LLC was the lowest bidder in the amount of \$1,648,620.77. Staff also recommended City Council approve funding for a project contingency in the amount of \$82,000. Mr. Gaertner stated the project is part of the corridor rehabilitation capital improvement program.

Action:

Mayor Pro Tem Mary Lou Shipley moved to award bid for Clift Street, Flat Street, and East Madison Street Reconstruction to J & K Excavation as presented, including \$82,000 contingency fund. Councilmember Melissa Olson seconded, All Ayes.

30. Consider bid award for Royal Street Paving, Drainage and Utility Reconstruction to XIT Paving and Construction, Inc.

Mr. Gaertner reported bids were received for Royal Street Paving, Drainage and Utility Reconstruction. XIT Paving and Construction, Inc. was the lowest bidder in the amount of \$932,524.50. Staff also recommended City Council approve funding for a project contingency in the amount of \$45,000. Mr. Gaertner stated the project is part of the corridor rehabilitation capital improvement program.

Action:

Councilmember Kevin Strength moved to award bid for Royal Street Paving, Drainage and Utility Reconstruction to XIT Paving and Construction, Inc. as presented, including \$45,000 contingency fund. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.

31. Consider design and engineering contract for Lee Penn Park Pool

Assistant Director of Parks and Recreation Gumaro Martinez requested authorizing professional engineering design services by Aqueous Engineering for Lee Penn Park Pool renovations as part of Phase IV Improvements previously approved by City Council. He reported the fees associated with the project will be funded by the 2019 CO Park Bond. Staff recommended accepting the proposal from Aqueous Engineering in the amount of \$62,000.

Action:

Councilmember Chuck Beatty moved to approve a design and engineering contract for Lee Penn Park Pool as presented. Councilmember Kevin Strength seconded, All Ayes.

32. Consider professional services contract with Plummer and Associates for raw water pump Station No. 2 electrical improvements at Lake Waxahachie

(5a)

Director of Utilities David Bailey reported the contract will authorize professional services for the design of electrical improvements and a new motor control center for raw water pump station No. 2 in the amount of \$86,480. He stated the project is associated with the City's Capital Improvement Plan.

Action:

Councilmember Melissa Olson moved to approve a professional services contract with Plummer and Associates for raw water pump Station No. 2 electrical improvements at Lake Waxahachie as presented. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.

33. Comments by Mayor, City Council, City Attorney and City Manager

Councilmember Kevin Strength thanked Fire Chief Ricky Boyd and all fire personnel and city staff who assisted with the funeral of Captain Jon Wilson. He stated the family was moved at the support shown and it was very much appreciated.

Councilmember Chuck Beatty referenced the bond rating noting it is very favorable and thanked city staff.

City Manager Michael Scott referenced a water main break that took place in the middle of the night and complimented Utilities Director David Bailey and his team for responding so quickly to repair it. He stated it is a testament to the dedication and professionalism of city staff when called upon and the investment we are making to our infrastructure that major breaks can be repaired quickly while keeping the residents in mind. Mr. Scott referenced a complimentary email City Council received on the level of customer service provided throughout the wastewater team making repairs to the system. He noted the email is a testament that the city is in the customer service business.

Mayor Pro Tem Mary Lou Shipley stated she is so pleased with the outcome of the bond sales noting it is a complex and tedious project for all involved. She pointed out the ratings are the consequence of careful and competent management planning and looking ahead and the results show we are getting a lot for our money and that is a real tribute to our entire staff.

Police Chief Wade Goolsby gave an overview of police testing and the process a candidate must go through before being hired. He stated the Police Department has a new canine in training.

Mayor David Hill stated Fire Department and Police Department candidates go through intense training before being hired. He thanked the Fire Department, Police Department and City staff for their participation in Captain Jon Wilson's funeral. He stated the family was much appreciated.

34. Adjourn

There being no further business, the meeting adjourned at 7:51 p.m.

Respectfully submitted,

Lori Cartwright, City Secretary

(56)

A briefing session of the Mayor and City Council of the City of Waxahachie, Texas was held in the City Council Conference Room at City Hall, 401 S. Rogers, Waxahachie, Texas, on Monday, August 17, 2020 at 5:45 p.m.

Councilmembers Present: David Hill, Mayor
Mary Lou Shipley, Mayor Pro Tem
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
Robert Brown, City Attorney
Lori Cartwright, City Secretary

1. Call to Order

Mayor David Hill called the meeting to order.

2. Conduct a briefing to discuss items for the 7:00 p.m. regular meeting

City Manager Michael Scott referenced the Consent Agenda noting the Waxahachie Community Development Corporation (WCDC) contribution to Optimist for pool renovation was recently approved by WCDC and will require ratification by City Council. He reviewed various projects upon consideration of the issuance of the City of Waxahachie, Texas Combination Tax and Revenue Certificates of Obligation, Series 2020.

Director of Planning Shon Brooks reviewed the following Planning and Zoning cases:

- ZDC-77-2020 – The applicant is requesting to rezone the property from Single Family-3 (SF3) to Planned Development–Multi Family-2 (PD-MF2), to construct an Independent Senior Living Development on nine acres. Staff will recommend approval.
- ZDC-92-2020 – The applicant requested to continue the case to the City Council meeting of September 8, 2020.
- ZDC-104-2020 – The applicant is requesting approval to allow construction of a fence to surround the Waxahachie AgriScience Facility to protect the students, as well as the livestock on the property.
- ZDC-89-2020 – The applicant is requesting approval to allow a Convenience Store with Gasoline Sales (7-Eleven) on 1.5 acres.
- ZDC-96-2020 – The applicant is requesting approval to allow a Convenience Store with Gasoline Sales (7-Eleven) on 2.5 acres.

(5b)

- ZDC-87-2020 – The applicant is requesting a deviation from Ordinance 3019 that requires the applicant to construct a masonry (drive-thru) screening wall on the property.
- ZDC-88-2020 – The applicant is requesting to use an existing vacant building, located at 3480 S. Interstate 35, as a Truck Sales and Fleet Center.
- ZDC-91-2020 – The applicant is requesting approval for a Specific Use Permit of a Sign Plan for a McDonald's Drive-Thru Establishment per City Council request.

Finance Director Chad Tustison reported, as part of the annual budget process, setting the proposed tax rate and dates for public hearing meets the requirements for the truth-in-taxation laws.

Mr. Scott reported the proposed Interlocal Agreement with WISD for shared fiber networks will allow better connectivity throughout the City to serve not only our City facilities more economically, but provide network access to current and future school sites.

Director of Public Works and Engineering James Gaertner reported bids were received for Clift Street, Flat Street, and E. Madison Street Reconstruction and will recommend bid to the lowest bidder, J & K Excavation, LLC.

Mr. Gaertner reported bids were received for Royal Street Paving, Drainage and Utility Reconstruction and will recommend bid to the lowest bidder, XIT Paving and Construction, Inc.

Assistant Director of Parks and Recreation Gumaro Martinez presented request authorizing professional engineering design services by Aqueous Engineering for Lee Penn Park Pool renovations as part of Phase IV Improvements previously approved by City Council.

Director of Utilities David Bailey reviewed contract authorizing professional services with Plummer and Associates, Inc. for Lake Waxahachie Raw Water Pump Station No. 2 Electrical Improvements.

3. Adjourn

There being no further business, the meeting adjourned at 6:51 p.m.

Respectfully submitted,

Lori Cartwright
City Secretary

A special 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 Tuesday, September 1, 2020 at 6:00 p.m.

Councilmembers Present: David Hill, Mayor
Mary Lou Shipley, Mayor Pro Tem
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
Robert Brown, City Attorney
Lori Cartwright, City Secretary

1. Call to Order

Mayor David Hill called the meeting to order.

2. Invocation

3. Pledge of Allegiance and Texas Pledge of Allegiance

Mayor David Hill gave the invocation and led the Pledge of Allegiance and the Texas Pledge of Allegiance.

4. Public Comments

Ms. Kassie Pierce, 407 Muemee Road, Waxahachie, spoke of the Old Baylor Hospital and made suggestions on how to repurpose it. She asked City Council to entertain her proposal to utilize it to help the homeless youth after they age out of the foster care system.

Mr. Paul Christenson, 410 Williams Street, Waxahachie, stated Ms. Pierce's proposal on the Old Baylor Hospital needs to be looked at. He strongly opposed the tax increase during the COVID epidemic.

Mr. Scott Brooks, 134 Holly Street, Waxahachie, stated the city is being well managed and growing which requires conviction, patience and smarts. He stated he does not want anyone who attends City Council meetings and complains about this city to be thought of as representing the majority of people in the city. Mr. Brooks stated people who are sitting on city council or running for city council, should be honest. He stated as somebody who runs a local newspaper we are going to hold some speakers accountable for the negative comments made at every City Council meeting.

5. Consent Agenda

- a. Amend Resolution No. 1292 to extend the FM 813 closure from September 2, 2020 to September 9, 2020

(54)

Action:

Mayor Pro Tem Mary Lou Shipley moved to approve item a. on the Consent Agenda. Councilmember Melissa Olson seconded, All Ayes.

6. Public Hearing on the proposed Tax Rate for fiscal year 2020-2021

Finance Director Chad Tustison reviewed the proposed tax rate at \$0.66000 being a 2-cent decrease. In summary, he reported the annual impact on an average home value of \$216,573 will increase \$37.00. Mr. Tustison stated for every \$1 spent 8.25 cents is collected for sales tax.

Mayor Hill opened the Public Hearing on the proposed Tax Rate for fiscal year 2020-2021.

Those who spoke against the proposed Tax Rate for fiscal year 2020-2021:

Ms. Laura Johnson, 203 Southhill Drive, Waxahachie
Ms. Shannon Almond, 115 West Main Street, Waxahachie
Mr. Paul Christenson, 410 Williams Street, Waxahachie
Mr. Patrick Souter, 700 West Marvin Street, Waxahachie

There being no others to speak for or against the Public Hearing on the proposed Tax Rate for fiscal year 2020-2021, Mayor Hill closed the Public Hearing.

7. Public Hearing on the City of Waxahachie proposed Budget for fiscal year 2020-2021 and vote to set the date for adoption

Mr. Tustison reviewed the FY 2021 proposed budget noting the budget totals \$90.2 million that includes the following:

- General Fund - Day to day city operations funded by Property Tax, Sales Tax, and User Fees
- Water & Wastewater - Water & Wastewater funded by monthly water bills
- Restricted Funds – Revenues for specific purposes – WCDC, Debt Service, Hotel/Motel, Refuse, Cemetery

Mr. Tustison reviewed the FY 2021 General Fund Summary as follows:

• Revenues	\$45,479,165
• Core Expenses	\$39,618,757
• Service Enhancements (5-year plan)	\$ 5,748,801
• Proposed Budget	\$45,367,558
• Revenues less Expense	111,607
• Projected Ending Balance	\$22,031,060
• Days of Operation (Reserves)	196 days

Mayor Hill opened the Public Hearing on the City of Waxahachie proposed Budget for fiscal year 2020-2021.

(50)

There being no others to speak for or against the Public Hearing on the City of Waxahachie proposed Budget for fiscal year 2020-2021, Mayor Hill closed the Public Hearing.

Action:

Councilmember Kevin Strength voted to set the date for adoption of the City of Waxahachie Budget for fiscal year 2020-2021 to the City Council meeting of September 8, 2020. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.

8. Comments by Mayor, City Council, City Attorney and City Manager

Councilmember Melissa Olson stated she did not have the opportunity to ask questions during the tax rate hearing. She presented scenarios if the tax rate were to decrease more.

Mayor David Hill stated the budget workshops are open public meetings and that is an opportunity for the public to see what a budget looks like and see how the proceedings work noting it is not done behind closed doors. He noted during the audit process the city is monitored closely by the regulators. Mayor Hill stated the Finance Department does a phenomenal job. He explained the debt rate is lower due to over the years of issuing bonds.

9. Adjourn

There being no further business, the meeting adjourned at 6:50 p.m.

Respectfully submitted,

Lori Cartwright
City Secretary



Memorandum

To: Honorable Mayor and City Council
From: Tommy Ludwig, Assistant City Manager
Thru: Michael Scott, City Manager
Date: September 4, 2020
Re: Amend FM 813 Closure Resolution

On Monday, July 20, 2020 the City Council approved a Resolution for FM 813 road closure for the installation of the drainage box culverts under FM 813. The road was to be closed until September 2, 2020. On September 1, the City Council amended the resolution to extend the order until September 9, 2020.

Unfortunately, recent storms have delayed the completion of the project. The developer has requested the resolution be amended to extend the road closure by an additional 7 days. With approval of the resolution amendment, the road will be allowed to be closed until September 15, 2020 but may be opened sooner if construction is completed sooner.

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

Tommy Ludwig

(649)



Memorandum

To: Honorable Mayor and City Council
From: Shon Brooks, Director of Planning
Thru: Michael Scott, City Manager *[Signature]*
Date: August 17, 2020
Re: ZDC-92-2020 809 MLK (PD-GR to SF3)

On August 17, 2020, the applicant requested to continue case no. ZDC-92-2020 to the September 15, 2020 Planning and Zoning meeting agenda, and the September 21, 2020 City Council meeting agenda.

18)

Planning & Zoning Department

Zoning Staff Report



Case: ZDC-87-2020

MEETING DATE(S)

Planning & Zoning Commission: August 25, 2020

City Council: September 8, 2020 (continued from August 17, 2020)

ACTION SINCE INITIAL STAFF REPORT

At the Planning and Zoning meeting, held August 25, 2020, the Commission voted 7-0 to recommend approval of case number ZDC-87-2020, as presented by staff.

CAPTION

Public Hearing on a request by Terry Nay, The Wash on Brown, for a Specific Use Permit (SUP) for Auto Laundry or Car Wash use within a General Retail zoning district located at 2201 Brown Street (Property ID 278472) - Owner: THE NAY COMPANY INC (ZDC-87-2020)

APPLICANT REQUEST

The applicant is requesting a deviation from Ordinance 3019 that requires the applicant to construct a masonry (drive-thru) screening wall on the property.

CASE INFORMATION

Applicant: Terry Nay, The Wash on Brown St.

Property Owner(s): The Nay Co., Inc.

Site Acreage: 0.6584 acres

Current Zoning: General Retail

Requested Zoning: General Retail with Amended Ordinance

SUBJECT PROPERTY

General Location: 2201 Brown St.

Parcel ID Number(s): 278472

Existing Use: The Wash on Brown St. (Car Wash)

Development History: On May 21, 2018, City Council approved a Specific Use Permit, SU-18-0034, for the subject property.

18)

Table 1: Adjoining Zoning & Uses

Direction	Zoning	Current Use
North	PD	The Village at Waxahachie (Currently Undeveloped)
East	GR	Social Security Administration Office
South	PD-C & PD-GR	Office Uses/Brookdale Waxahachie Assisted Living
West	PD	The Village at Waxahachie (Currently Undeveloped)

Future Land Use Plan:

Office

Comprehensive Plan:

This land use type is intended for businesses such as banks, insurance agencies, and accounting offices. Office land uses are generally compatible with residential area, with the exception of high-rise office buildings. Land designated for office is appropriate along U.S. Highway 287, at a close proximity to IH-35E within Mixed Use Nonresidential areas, as well as within the Medical District.

Thoroughfare Plan:

The subject property is accessible via Brown St.



Site Image:

PLANNING ANALYSIS

Purpose of Request:

The applicant is requesting a deviation from Ordinance 3019 that requires the applicant to construct a masonry (drive-thru) screening wall on the property.

Proposed Use:

On May 21, 2018, City Council approved a Specific Use Permit to construct a car wash at 2201 Brown St. (The Wash on Brown St.). Within the exhibits approved by City Council, the Site Plan displayed a masonry (drive-thru) wall that was ultimately not constructed by the applicant for the site.

(8)

Per the applicant, the masonry (drive-thru) wall was not constructed due to:

- Contractors need to run all major utilities under the approved and proposed location of said wall, (Natural Gas, Water, and electrical).
- Needed to change the length of three raised curbed entrance isles to avoid causing traffic backups on the shared approach/driveway during construction. This in turn moved said screen wall 40 ft. closer to the building, but alleviated the traffic congestion concern.
- It was determined that a screen wall would cause a significant risk to the safety and security of the customers and the sites of three Point of Sale kiosks.
- The wall, had it been constructed, would give a "screen" for criminals, providing cover for them to be hidden from public view.

CHANGES FROM THE 5/21/2018 APPROVED SPECIFIC USE PERMIT

- The applicant added landscaping for additional screening of the property, and to offset the exclusion of the previously approved masonry (drive-thru) wall.

PUBLIC NOTIFICATIONS

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 7 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.

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:

ATTACHED EXHIBITS

1. Ordinance
2. Letter of Request
3. Location Exhibit
4. Site Plan
5. Landscape Plan
6. Elevation/Façade Plan

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

Reviewed by:
Shon Brooks, AICP
Director of Planning
sbrooks@waxahachie.com

(8)

July 13, 2020

City of Waxahachie,

Planning and Zoning

And

City Council

We are requesting a change/variance on a previously submitted site plan for The Wash on Brown, located at 2201 Brown Street, Waxahachie, TX 75165.

The site plans were originally approved by P&Z along with City Council over a year ago, and included a façade/screen wall at the entrance of the car wash facility that perfectly matched the front elevation of the current building.

Construction of this wall WAS NOT done due to several complicating issues including sub-contractors need to run all major utilities under the approved and proposed location of said wall, (Natural Gas and Water, and electrical).

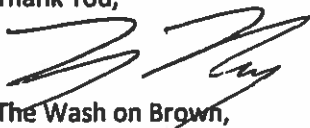
We needed to change the length of 3 raised curbed entrance isles to avoid causing traffic back ups on the shared approach/driveway during construction, this unturned moved said screen wall 40 ft. closer to the building, but alleviated the traffic congestion concern. However, this put the screen wall structural piers right on top of already installed utilities, preventing the drilling of sub-grade piers to avoid damaging underground utilities.

Upon further construction review, it was determined that a screen wall, (though it looked as if it work on the site plans), would cause a significant risk to the safety and security of the customers and the sites 3 Point of Sale kiosks.

The wall, had it been constructed, would give a "screen" for criminals providing cover for them to be hidden from public view. This is NOT a liability the end owner is interested in having and opted to avoid building such a liability.

We are asking that this portion of the approved plan be waived or provided a variance by the city for the safety of the customers and liability of the owner.

Thank You,



The Wash on Brown,

Terry Nay, Owner

(9)

ORDINANCE NO. _____

AN AMENDMENT TO ORDINANCE 3019 AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT AN AUTO LAUNDRY OR CAR WASH USE WITHIN A GENERAL RETAIL (GR) ZONING DISTRICT, LOCATED AT 2201 BROWN STREET, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 1, BLOCK A OF THE WAXAHACHIE CAR WASH ADDITION, 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-87-2020. 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 an Auto Laundry or Car Wash use on the following property: Lot 1, Block A of the Waxahachie Car Wash Addition, which is shown on Exhibit A, Site Plan shown as Exhibit B, Landscape Plan shown 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.

(9)

Specific Use Permit

FOR OPERATION OF A SPECIFIC USE PERMIT FOR AN AUTO LAUNDRY OR CAR WASH 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-87-2020.
2. The development shall adhere to the City Council approved in Exhibit A- Location Exhibit, Exhibit B – Site Plan, Exhibit C – Landscape Plan, and Exhibit D – Elevation/Façade Plan.
3. 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.
4. 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 8th day of September, 2020.

MAYOR

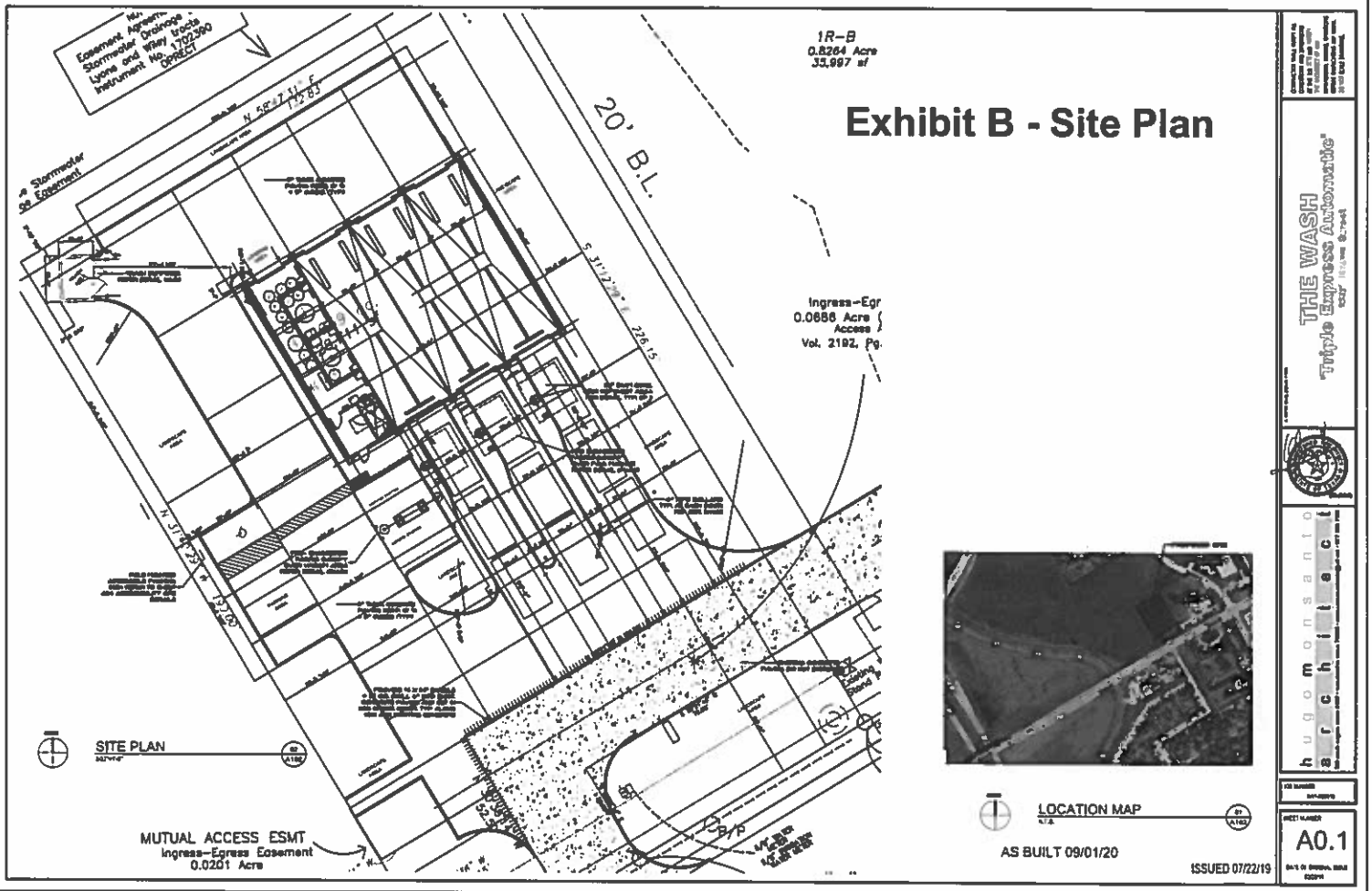
ATTEST:

City Secretary

(9)

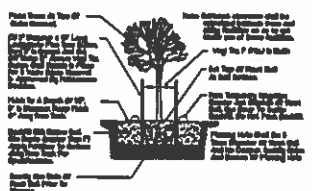
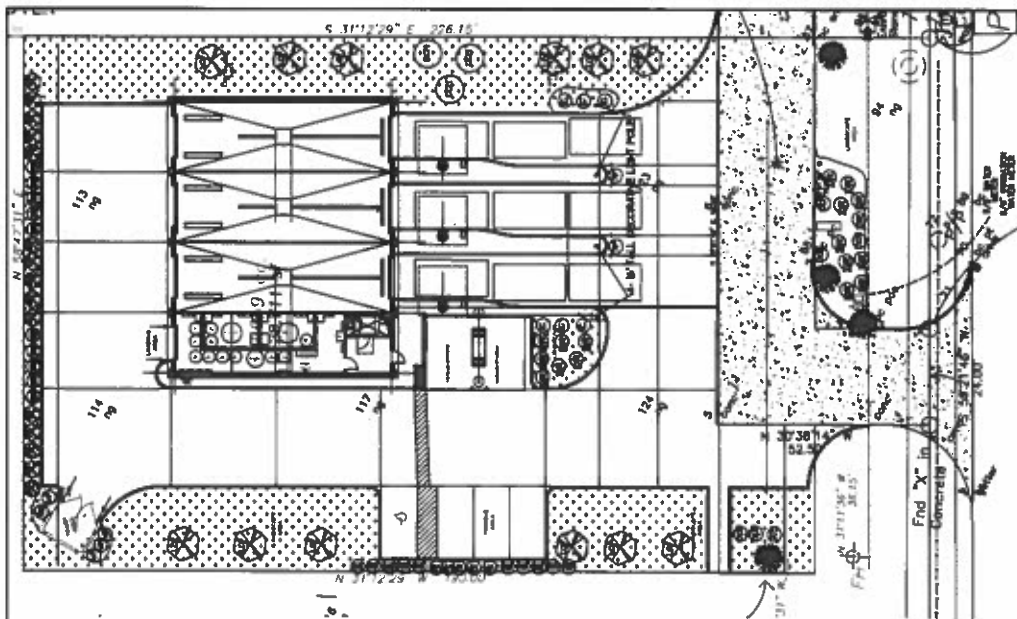


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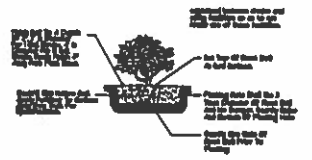


THE WASH Triple Express Automatic
C U R C O N S A N T I O
A0.1
ISSUED 07/22/19

(9)



TREE PLANTING DETAIL (S1)



SHRUB PLANTING DETAIL (S2)

LANDSCAPE TO BE PROVIDED			
Symbol	Quantity	Plant Name	Notes
⊗	1	Large Tree	Plant in courtyard
⊙	2	Medium Tree	Plant in parking area
⊗	1	Large Shrub	Plant in courtyard
⊙	2	Medium Shrub	Plant in parking area
⊗	1	Large Tree	Plant in courtyard
⊙	2	Medium Tree	Plant in parking area
⊗	1	Large Shrub	Plant in courtyard
⊙	2	Medium Shrub	Plant in parking area
⊗	1	Large Tree	Plant in courtyard
⊙	2	Medium Tree	Plant in parking area
⊗	1	Large Shrub	Plant in courtyard
⊙	2	Medium Shrub	Plant in parking area
⊗	1	Large Tree	Plant in courtyard
⊙	2	Medium Tree	Plant in parking area
⊗	1	Large Shrub	Plant in courtyard
⊙	2	Medium Shrub	Plant in parking area

LANDSCAPE PLAN (S1)

- LANDSCAPE NOTES:**
- 1) LANDSCAPE SHALL BE LOCATED PER SPECIFICATIONS OF APPLICABLE CODES TO BE PROVIDED.
 - 2) LANDSCAPE SHALL BE LOCATED PER APPLICABLE CODES TO BE PROVIDED.
 - 3) LANDSCAPE SHALL BE LOCATED PER APPLICABLE CODES TO BE PROVIDED.
 - 4) ALL TREES AND SHRUBS SHALL BE PLANTED AT A MINIMUM OF 10' FROM CURBS AND BUILDINGS.
 - 5) LANDSCAPE SHALL BE PLANTED AT A MINIMUM OF 10' FROM CURBS AND BUILDINGS.
 - 6) ALL TREES SHALL BE PLANTED AT A MINIMUM OF 10' FROM CURBS AND BUILDINGS.
 - 7) ALL SHRUBS SHALL BE PLANTED AT A MINIMUM OF 10' FROM CURBS AND BUILDINGS.
 - 8) ALL TREES SHALL BE PLANTED AT A MINIMUM OF 10' FROM CURBS AND BUILDINGS.
 - 9) ALL SHRUBS SHALL BE PLANTED AT A MINIMUM OF 10' FROM CURBS AND BUILDINGS.
 - 10) LANDSCAPE SHALL BE PLANTED AT A MINIMUM OF 10' FROM CURBS AND BUILDINGS.
 - 11) A 10' WIDE BUFFER SHALL BE PROVIDED AT ALL APPLICABLE OF ALL APPLICABLE.
 - 12) ALL TREES SHALL BE PLANTED AT A MINIMUM OF 10' FROM CURBS AND BUILDINGS.
 - 13) ALL SHRUBS SHALL BE PLANTED AT A MINIMUM OF 10' FROM CURBS AND BUILDINGS.
 - 14) LANDSCAPE SHALL BE PLANTED AT A MINIMUM OF 10' FROM CURBS AND BUILDINGS.
 - 15) A 10' WIDE BUFFER SHALL BE PROVIDED AT ALL APPLICABLE OF ALL APPLICABLE.

Exhibit C - Landscape Plan

THE WASH

 Construction, Inc.

 1000 1st Street, NW

 Washington, DC 20004

 (202) 462-1111

 www.thewash.com

ARCHITECT:

S U R C H M I T S C H

 ARCHITECTS

 1000 1st Street, NW

 Washington, DC 20004

 (202) 462-1111

 www.surchmitsch.com

SHEET NUMBER:

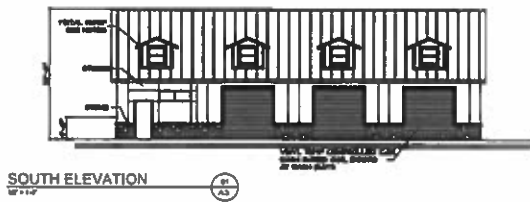
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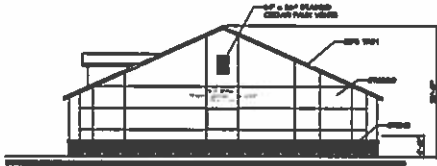
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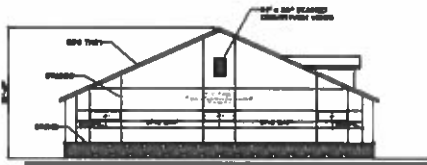
Exhibit D - Elevation/Facade Plan



SOUTH ELEVATION
12'-11 1/2" W x 14' H



EAST ELEVATION
12'-11 1/2" W x 14' H



WEST ELEVATION
12'-11 1/2" W x 14' H



NORTH ELEVATION
12'-11 1/2" W x 14' H

- NOTES:**
1. ALL THREE PART STUCCO AND/OR EPS FORMS SHALL BE APPLIED OVER TWO LAYERS OF ONE FIRST LAYER SHALL BE ONE 5/8\"/>

AS BUILT 09/01/20

ISSUED 07/22/19

CONSTRUCTION SHALL BE AS SHOWN UNLESS OTHERWISE NOTED. SEE SPECIFICATIONS FOR MATERIALS AND METHODS. SEE CITY ORDINANCES.

THE WASH
Triple Express Automatic
SIZING 11 1/4" x 14" 8-7-14-16



C U R C H A S E
C O M P A N I O
A S

23 NUMBER

SHEET NUMBER
A3

DATE OF ORIGINAL ISSUE
08/19

(10)

Planning & Zoning Department

Plat Staff Report

Case: SUB-80-2020



MEETING DATE(S)

Planning & Zoning Commission: August 25, 2020

City Council: September 8, 2020

ACTION SINCE INITIAL STAFF REPORT

At the Planning & Zoning Commission meeting, held August 25, 2020, the Commission voted 7-0 to recommend approval of plat no. SUB-80-2020 as presented. City Council will need to make a motion on the petition of hardship waiver request for inadequate fire flow.

CAPTION

Consider request by Tim Jackson, Texas Reality Capture & Surveying, LLC., for a Plat of Pecan Tree Meadows for seven (7) residential lots being 14.574 acres situated in the E.C. School Land Survey, Abstract 328 (Property ID 259093) in the Extra Territorial Jurisdiction – Owner: Timothy Crane (SUB-000080-2020)

APPLICANT REQUEST

This applicant is requesting to divide a portion of the subject property into seven (7) lots for residential use. The applicant is requesting for a petition of hardship waiver from City Council for inadequate fire flow to this site. The City of Waxahachie Fire Marshall has reviewed the plans and provided his recommendation of approval for the petition of hardship waiver.

CASE INFORMATION

Applicant: Tim Jackson, Texas Reality Capture and Surveying, LLC.

Property Owner(s): Timothy Crane

Site Acreage: 14.574 acres

Number of Lots: 7 lots

Number of Dwelling Units: 7 units

Park Land Dedication: N/A (ETJ)

Adequate Public Facilities: An Endorsement Letter from Nash-Forreston WSC was received by staff. Adequate domestic flow is available to this site. However, adequate fire flow cannot be established. Since the proposed subdivision is greater than four (4) lots, a petition for hardship waiver must be approved by City Council in order for the property to be platted.

(10)

SUBJECT PROPERTY

General Location: Across from 615 E Pecan Tree Rd.

Parcel ID Number(s): 259093

Current Zoning: N/A (ETJ)

Existing Use: This site is undeveloped.

Platting History: Situated in the E.C. School Land Survey, Abstract 328

Site Aerial:



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:

- Disapproval
- Approval, as presented.
- Approval, per the following conditions:

ATTACHED EXHIBITS

1. Plat Drawing
2. On Site Sewer Layout
3. Water Letter
4. Petition for Hardship Waiver Request

APPLICANT REQUIREMENTS

1. If approved by City Council, within 30 days the applicant shall provide the Planning Department one revised electronic plan set that incorporates all comments.

(10)

CITY REQUIREMENTS FOR PLAT RECORDING AND FILING

A plat shall not be filed with the Ellis County Clerk until:

1. All utilities, infrastructure, and other required improvements have been installed and a letter of acceptance associated with the utilities and infrastructure installation has been received from the Public Works Department;
2. A drainage study has been conducted and/or a traffic impact analysis has been conducted as required by the City's subdivision ordinance.

STAFF CONTACT INFORMATION

Prepared by:

Chris Webb

Planner

cwebb@waxahachie.com

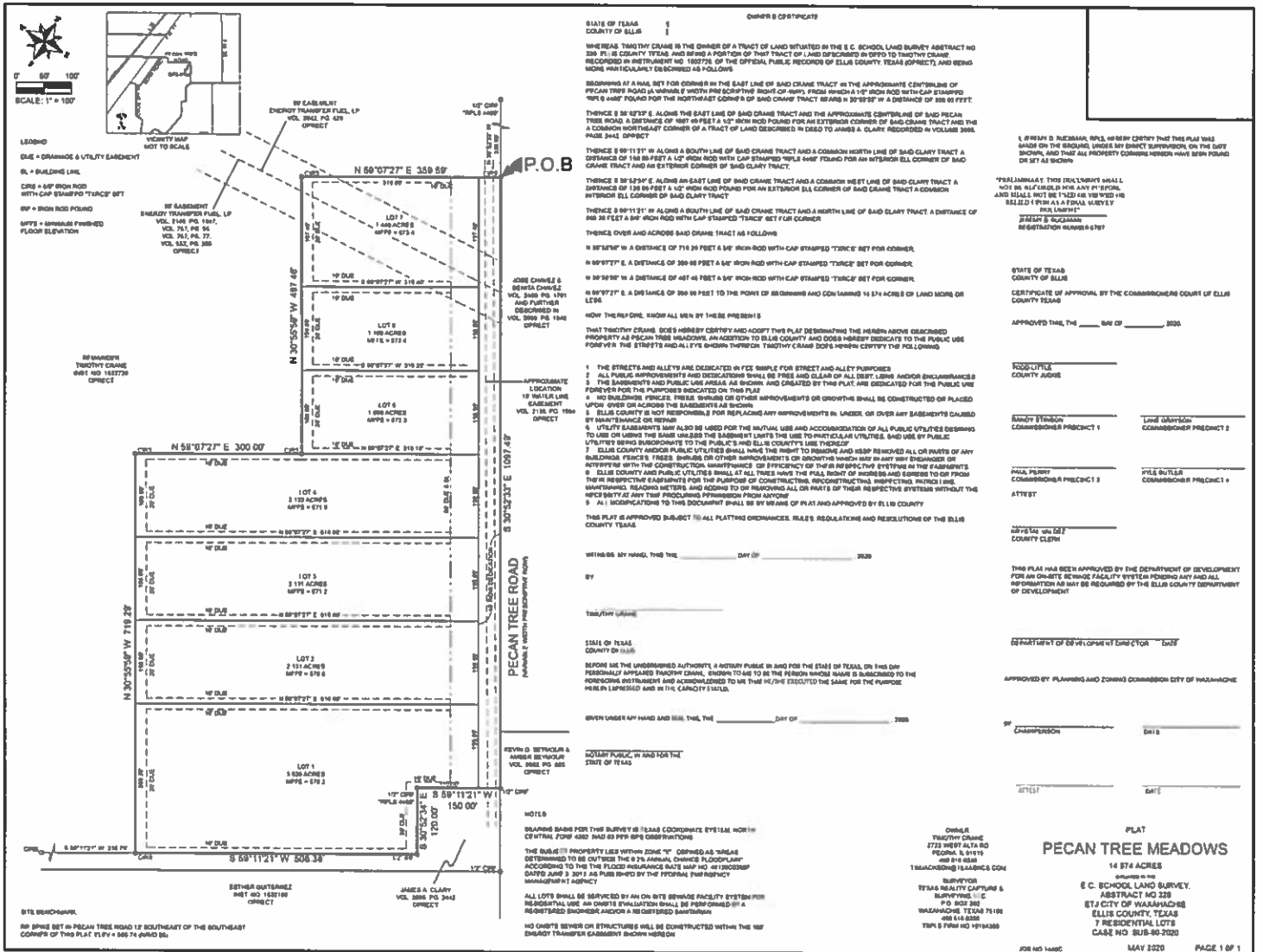
Reviewed by:

Shon Brooks, AICP

Director of Planning

sbrooks@waxahachie.com

(10)



STATE OF TEXAS
COUNTY OF ELLIS

OWNER'S CERTIFICATE

WHEREAS TIMOTHY CRANE IS THE OWNER OF A TRACT OF LAND SITUATED IN THE E.C. SCHOOL LAND SURVEY ABSTRACT NO. 328, P.L.S. COUNTY TEXAS, AND HEREIN A PORTION OF THAT TRACT OF LAND DESCRIBED IN DEED TO TIMOTHY CRANE RECORDED IN INSTRUMENT NO. 1882778 OF THE OFFICIAL PUBLIC RECORDS OF ELLIS COUNTY TEXAS (HEREIN "DEED") AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A NAIL SET FOR CORNER IN THE EAST LINE OF SAID CRANE TRACT IN THE APPROXIMATE CENTERLINE OF PECAN TREE ROAD A VARIABLE WIDTH PRE-SCRIPTIVE RIGHT-OF-WAY, FROM WHICH A 1/2" IRON ROD WITH CAP STAMPED "1016 448" FOUND FOR THE NORTHEAST CORNER OF SAID CRANE TRACT BEARS S 20°25'22" W A DISTANCE OF 388.61 FEET;

THENCE S 20°25'22" E ALONG THE EAST LINE OF SAID CRANE TRACT AND THE APPROXIMATE CENTERLINE OF SAID PECAN TREE ROAD A DISTANCE OF 188.19 FEET A 1/2" IRON ROD FOUND FOR AN INTERIOR CORNER OF SAID CRANE TRACT AND THE COMMON NORTHEAST CORNER OF A TRACT OF LAND DESCRIBED IN DEED TO JAMES A. CLARY RECORDED IN VOLUME 3088, PAGE 3848, DEED;

THENCE S 89°11'31" W ALONG A SOUTH LINE OF SAID CRANE TRACT AND A COMMON NORTH LINE OF SAID CLARY TRACT A DISTANCE OF 139.88 FEET A 1/2" IRON ROD WITH CAP STAMPED "1016 448" FOUND FOR AN INTERIOR CORNER OF SAID CRANE TRACT AND AN INTERIOR CORNER OF SAID CLARY TRACT;

THENCE S 20°25'22" E ALONG AN EAST LINE OF SAID CRANE TRACT AND A COMMON WEST LINE OF SAID CLARY TRACT A DISTANCE OF 139.88 FEET A 1/2" IRON ROD FOUND FOR AN INTERIOR CORNER OF SAID CRANE TRACT AND AN INTERIOR CORNER OF SAID CLARY TRACT;

THENCE S 89°11'31" W ALONG A SOUTH LINE OF SAID CRANE TRACT AND A NORTH LINE OF SAID CLARY TRACT A DISTANCE OF 139.88 FEET A 1/2" IRON ROD WITH CAP STAMPED "1016 448" FOUND FOR AN INTERIOR CORNER OF SAID CRANE TRACT AND AN INTERIOR CORNER OF SAID CLARY TRACT AS FOLLOWS:

N 89°11'31" W A DISTANCE OF 716.36 FEET A 1/2" IRON ROD WITH CAP STAMPED "1016 448" SET FOR CORNER;

N 89°11'31" W A DISTANCE OF 388.61 FEET A 1/2" IRON ROD WITH CAP STAMPED "1016 448" SET FOR CORNER;

N 89°11'31" W A DISTANCE OF 487.46 FEET A 1/2" IRON ROD WITH CAP STAMPED "1016 448" SET FOR CORNER;

N 89°11'31" W A DISTANCE OF 388.61 FEET TO THE POINT OF BEGINNING AND CONTAINING 14.874 ACRES OF LAND MORE OR LESS.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

THAT TIMOTHY CRANE DOES HEREBY CERTIFY AND ACCEPT THIS PLAT DEMONSTRATING THE HEREIN ABOVE DESCRIBED PROPERTY AS PECAN TREE MEADOWS, AN ADDITION TO ELLIS COUNTY AND DOES HEREBY DEDICATE TO THE PUBLIC USE FOR THE STREETS AND ALLEYS SHOWN THEREON TIMOTHY CRANE DOES HEREBY CERTIFY THE FOLLOWING:

1. THE STREETS AND ALLEYS ARE DEDICATED IN FEE SIMPLE FOR STREET AND ALLEY PURPOSES.
 2. ALL PUBLIC IMPROVEMENTS AND DEDICATIONS SHALL BE FREE AND CLEAR OF ALL DEBT, LIEN, ENCUMBRANCE, EASEMENT, AND PUBLIC USE AS SHOWN AND CREATED BY THIS PLAT AND DEDICATED FOR THE PUBLIC USE FOREVER FOR THE PURPOSES INDICATED ON THIS PLAT.
 3. NO BUILDING, FENCE, TREE, OR OTHER IMPROVEMENTS OR GROUNDS SHALL BE CONSTRUCTED OR PLACED UPON OVER OR ACROSS THE EASEMENTS AS SHOWN.
 4. ELLIS COUNTY IS NOT RESPONSIBLE FOR REPLACING ANY IMPROVEMENTS IN LANCE, OR OVER ANY EASEMENTS CAUSED BY MAINTENANCE OR REPAIR.
 5. UTILITIES EASEMENTS MAY ALSO BE USED FOR THE INSTALLATION AND ACCOMMODATION OF ALL PUBLIC UTILITIES DESIRING TO USE OR USING THE SAME UNDER THE SUBJECT MATTER USES TO PARTICULAR UTILITIES, SAID USES BY PUBLIC UTILITIES BEING SUBORDINATE TO THE PUBLIC'S AND ELLIS COUNTY'S USE THEREOF.
 6. ELLIS COUNTY AND PUBLIC UTILITIES SHALL HAVE THE RIGHT TO REMOVE AND REPAIR REMOVED ALL OR PARTS OF ANY BUILDING, FENCE, TREE, SHrub, OR OTHER IMPROVEMENTS OR GROUNDS WHICH MAY IN ANY WAY OBSTRUCT OR INTERFERE WITH THE CONSTRUCTION, MAINTENANCE, OR EFFICIENCY OF THE RESPECTIVE SYSTEMS IN THE EASEMENTS.
 7. ELLIS COUNTY AND PUBLIC UTILITIES SHALL, AT ALL TIMES HAVE THE FULL RIGHT OF ACCESS AND EGRESS TO OR FROM THE RESPECTIVE EASEMENTS FOR THE PURPOSES OF CONSTRUCTION, RECONSTRUCTION, INSPECTION, REPAIR, AND MAINTENANCE, INCLUDING MASTERS AND ACCESS TO OR FROM ALL OR PARTS OF THEIR RESPECTIVE SYSTEMS WITHOUT THE NECESSITY OF ANY TYPE OF PERMISSION FROM ANYONE.
 8. ALL MODIFICATIONS TO THIS DOCUMENT SHALL BE BY WRITING OF THAT AND APPROVED BY ELLIS COUNTY.
- THIS PLAT IS APPROVED SUBJECT TO ALL PLATTING ORDINANCES, RULES, REGULATIONS AND RESOLUTIONS OF THE ELLIS COUNTY TEXAS.

I, JAMES B. NEWMAN, S.W., HEREBY CERTIFY THAT THIS PLAT WAS MADE ON THE ORIGINAL UNDER MY DIRECT SUPERVISION, ON THE DATE SHOWN, AND THAT ALL PROPERTY CORNERS HEREON HAVE BEEN FOUND OR SET AS SHOWN.

"I HEREBY CERTIFY THAT THIS PLAT WAS MADE ON THE ORIGINAL UNDER MY DIRECT SUPERVISION, ON THE DATE SHOWN, AND THAT ALL PROPERTY CORNERS HEREON HAVE BEEN FOUND OR SET AS SHOWN."

STATE OF TEXAS
COUNTY OF ELLIS

CERTIFICATE OF APPROVAL BY THE COMMISSIONERS COURT OF ELLIS COUNTY TEXAS

APPROVED THIS, _____ DAY OF _____, 2020.

FOOD UTILITY
COUNTY ADDRESS

RANDY STUBBS
COMMISSIONER PRELECT 1

LAND CARTER
COMMISSIONER PRELECT 2

ALL PLATTING
COMMISSIONER PRELECT 3

FILE BUTLER
COMMISSIONER PRELECT 4

ATTEST

SHERIFF VAN DEZ
COUNTY CLERK

THIS PLAT HAS BEEN APPROVED BY THE DEPARTMENT OF DEVELOPMENT FOR AN ON-SITE SEWER FACILITY SYSTEM PERMITS AND ALL INFORMATION AS MAY BE REQUIRED BY THE ELLIS COUNTY DEPARTMENT OF DEVELOPMENT.

DEPARTMENT OF DEVELOPMENT DIRECTOR: DAVID

APPROVED BY PLANNING AND ZONING COMMISSION CITY OF WAXAHACHE

BY: _____ DATE: _____

STATE OF TEXAS
COUNTY OF ELLIS

REYNOLD S. BETHANER & ASSOCIATES SURVEYORS
VOL. 3882, PAGE 388
DEED

STATE OF TEXAS

NOTICE

BEARING BASIS FOR THIS SURVEY IS TEXAS COORDINATE SYSTEM NORTH IN CENTRAL ZONE 4302 HAD 43 PPS 8PS OBSERVATIONS

THE SUBJECT PROPERTY LIES WITHIN ZONE "C" DESIGNATED AS ZONED DETERMINED TO BE OUTSIDE THE 97% ANNUAL CHANCE FLOODPLAIN ACCORDING TO THE FLOOD INSURANCE RATE MAP NO. 411200000P DATED JUNE 3, 2011 AS PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY

ALL LOTS SHALL BE SERVICED BY AN ON-SITE SEWER FACILITY SYSTEM FOR RESIDENTIAL USE. AN ON-SITE EVALUATION SHALL BE PERFORMED BY A REGISTERED DOMESTIC ARCHITECT OR REGISTERED ENGINEER.

NO CHIMNEY OR STRUCTURES SHALL BE CONSTRUCTED WITHIN THE 10' EASEMENT TRANSFER EASEMENT SHOWN HEREON.

OWNER:
TIMOTHY CRANE
7722 WEST ALTA RD
P.O. BOX 395
WAXAHACHE, TEXAS 75165
409.844.8388
TXPL 0708140 V0134240

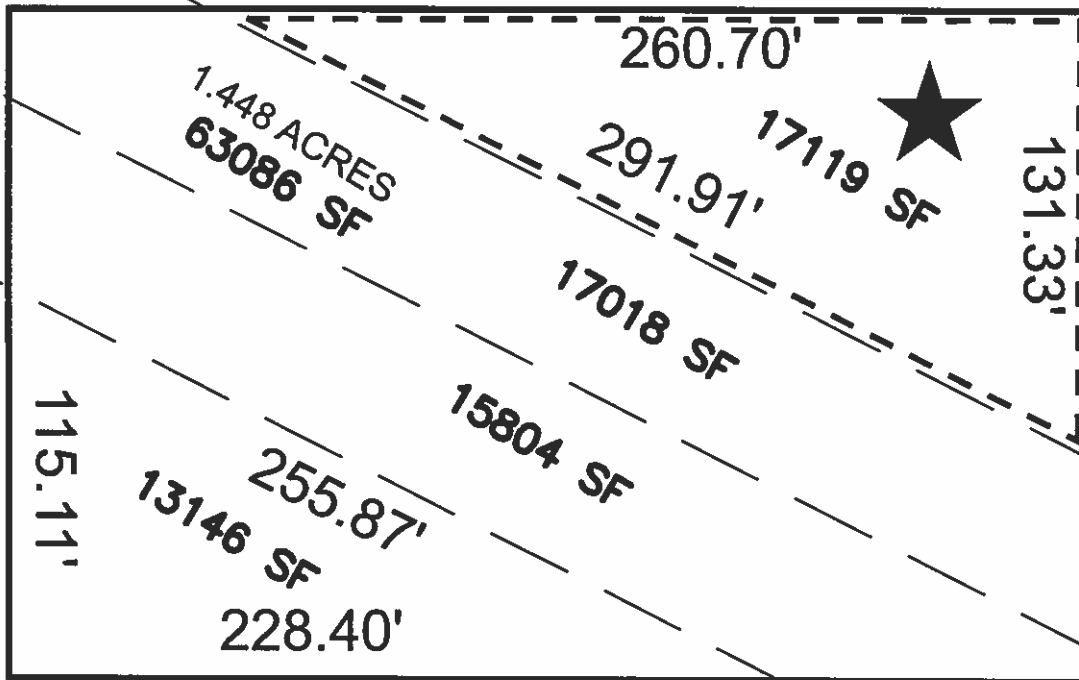
SURVEYOR:
REYNOLD S. BETHANER & ASSOCIATES
P.O. BOX 395
WAXAHACHE, TEXAS 75165
409.844.8388
TXPL 0708140 V0134240

PLAT
PECAN TREE MEADOWS
14.874 ACRES
SUBDIVISION BY
E.C. SCHOOL LAND SURVEY,
ABSTRACT NO. 328
ELLIS COUNTY, TEXAS
7 RESIDENTIAL LOTS
CASE NO. SLS-80-2020

FOR NO. 1488C MAY 2020 PAGE 1 OF 1

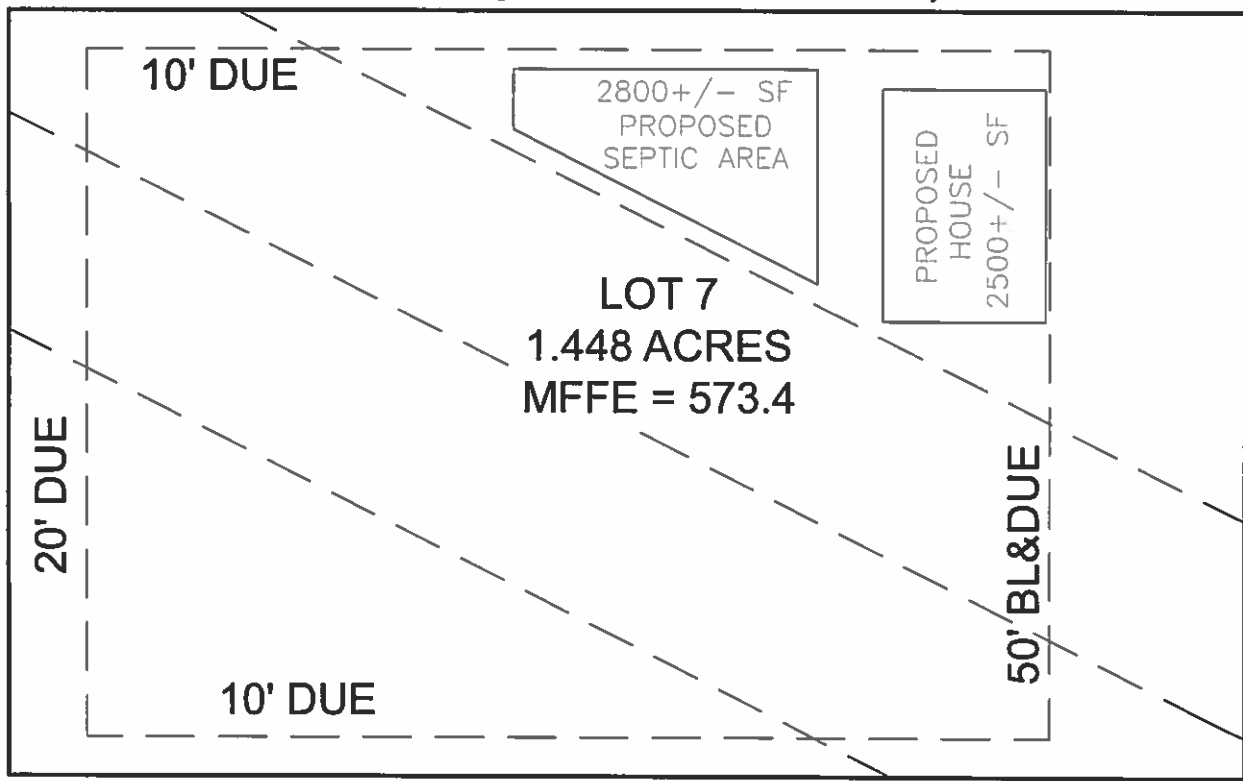
(10)

PECAN TREE MEADOWS
(Lot #7 From The
Preliminary Plat)



(10)

**PECAN TREE MEADOWS
(Lot #7 From The
Preliminary Plat w/Added Details)**



(10)



PLANNING & ZONING DEPARTMENT
401 South Rogers Street | Waxahachie, Texas 75168
(469) 309-4290 | www.waxahachie.com/Departments/PlanningandZoning



WATER UTILITY PROVIDER'S ENDORSEMENT

Applicant Name: Timothy Crane Parcel ID #: 259093
Subdivision Name: Pecan Tree Meadows

The City of Waxahachie requires new lots in subdivisions have adequate water flow and pressure to comply with TCEQ and latest Insurance Service Office (ISO) guidelines. Subdivisions served by water providers outside of the City of Waxahachie will need to ensure they can provide water flow/pressure per TCEQ and fire flow per the latest ISO guidelines.

Applicants, please submit this form to your water provider for completion. This completed form must be turned in at the time you submit your application packet to the Planning Department.

Contact Information:

Buena Vista-Bethel SUD (972) 937-1212
Carroll Water Company (972) 617-0817
Mountain Peak SUD (972) 775-3765
Rockett SUD (972) 617-3524
Sardis-Lone Elm WSC (972) 775-8566
Nash Foreston WSC (972) 483-3039

To be completed by the water utility provider:

	Yes	No
1. I have reviewed a copy of the proposed plat.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. The platted lots fall within our CCN area.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Our water system can provide water flow and pressure for domestic service per TCEQ regulations.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Our water system can provide the water flow and pressure for firefighting per ISO guidelines.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. The water line size servicing the lots is <u>6"</u> inches.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

STANLEY H. LEWIS

Print Name of General Manager of water provider or Designee

NASH-FORRESTON WSC

Name of water provider company

Signature of General Manager of water provider or Designee

5-28-2020

Date

(10)

Pecan Tree Meadows

RE: 7 Lot Plat on Pecan Tree Road in Ellis County

To whom it may concern, please allow this letter to suffice as my formal request for a variance from any fire flow requirements which may be utilized or required on more dense housing projects in the city limits of Waxahachie. We have completed months of engineering to satisfy the County's requirements and appreciate your swift approval of this project.

~~Tim Crane~~
W/ M. Crane 8/18/2020

(11)

Planning & Zoning Department

Zoning Staff Report

Case: SP-101-2020



MEETING DATE(S)

Planning & Zoning Commission: August 25, 2020

City Council: September 8, 2020

ACTION SINCE INITIAL STAFF REPORT

At the Planning & Zoning Commission meeting, held August 25, 2020, the Commission voted 7-0 to recommend approval of case number SP-101-18-2020, subject to staff comments.

CAPTION

Consider request by Dalton Bradbury, Acker Construction, for a detailed Site Plan Review for proposed **Office, Professional, and Administrative** uses located within a Planned Development-1-Commercial zoning district at 1340 and 1348 W. US Highway 287 Bypass (Property ID 238267) – Owner: BARBELL REAL ESTATE LLC AND JAMES BELLER (SP-101-2020)

APPLICANT REQUEST

The applicant is requesting Site Plan approval to construct two multi-tenant office buildings on 1.381 acres.

CASE INFORMATION

Applicant: Dalton Bradbury, Acker Construction

Property Owner(s): Barbell Real Estate LLC

Site Acreage: 1.381 acres

Current Zoning: Planned Development-1-Commercial

SUBJECT PROPERTY

General Location: 1340 and 1348 W. US Highway 287 Bypass

Parcel ID Number(s): 238267

Existing Use: Currently Undeveloped

Development History: N/A

(11)

Table 1: Adjoining Zoning & Uses

Direction	Zoning	Current Use
North	PD-1-C	Hunter's Cove Apartments
East	PD-1-C	Office Use
South	N/A	U.S. Highway 287
West	PD-1-C	RVG Plaza (Medical Facility)

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 Chenault Dr. and a cross access connection via the eastern subject property.

Site Image:



PLANNING ANALYSIS

Purpose of Request:

The applicant is requesting Site Plan approval to construct two multi-tenant office buildings on 1.381 acres.

(11)

Proposed Use:

The applicant is proposing to construct two multi-tenant office buildings at the corner of RVG Pkwy and U.S. Highway 287 bypass. The two proposed buildings will consist of 7,400 sq. ft. (1348 W. US Hwy. 287; along west boundary of the property) and 6,800 sq. ft. (1340 W. US Hwy. 287; along east boundary of the property). The building located at 1340 W. US Hwy. 287 is intended to only have two tenants within the building. However, the number of tenants that will occupy the building located at 1348 W. US Hwy. 287 is currently unknown. At the time of this report (9/2/2020), the applicant is currently unaware of the tenants that will occupy the buildings.

Note: Due to the tenants to occupy the buildings currently being unknown to staff, staff has informed the applicant that if a Specific Use Permit (SUP) is required, it will be the applicant/tenant responsibility to apply for the required permit.

Table 2: Development Standards (Commercial)

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

Standard	City of Waxahachie	RVG Plaza (Commercial)	Meets Y/N
Min. Lot Area (SF)	5,000	60,180	Yes
Min. Lot Width (Ft)	50	240	Yes
Min. Lot Depth (Ft)	100	250	Yes
Min. Front Yard (Ft.)	25	25	Yes
Min. Side Yard (Ft.)	15; 20 (adjacent to ROW)	25ft. adjacent to RVG Pkwy.; 15ft. adjacent to Eastern boundary	Yes
Min. Rear Yard (Ft.)	20; 25 (adjacent to residential)	30	Yes
Max. Height	3 stories	1 story	Yes
Max. Lot Coverage (%)	40	23.6	Yes
Parking 1 per 300 sq. ft.	50	74	Yes

**Additional Note: The building is proposed to be constructed of brick veneer.*

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 the applicant's request, a mutually agreed upon Development Agreement will be required for the development.
 2. Due to the tenants to occupy the building currently being unknown to staff, staff has informed the applicant that if a Specific Use Permit (SUP) is required, it will be the applicant/tenant responsibility to apply for the required permit.

(11)

3. Revise the Site Plan to show the sidewalk (along 287 bypass) is consistent/continuous with the adjacent property. Also, due to adjusting the location of the sidewalk, revise the Landscape Plan to show that the landscaping on the property is consistent with the relocation of the sidewalk.
4. Revise the Landscape Plan to show the landscaping inside of the property (near 287 bypass). Currently, the plan shows landscaping in the ROW.
5. Revise the Site Plan to show Chenault Dr. instead of RVG Alley Road.
6. All staff comments must be addressed and approved by staff prior to any building permits being issued.

ATTACHED EXHIBITS

1. Development Agreement
2. Site Plan
3. Landscape Plan
4. Elevation/Façade Plan

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

Reviewed by:
Shon Brooks, AICP
Director of Planning
sbrooks@waxahachie.com

(12)

STATE OF TEXAS §
 §
COUNTY OF ELLIS §

**DEVELOPMENT AGREEMENT
FOR RVG PLAZA (OFFICE USE)**

This Development Agreement for RVG Plaza (Office Use) ("Agreement") is entered into between Acker Construction ("ACKCON") and the City of Waxahachie, Texas ("City"). ACKCON and the City are sometimes referred herein together as the "Parties" and individually as a "Party."

Recitals:

1. ACKCON is the owner of approximately 1.381 acres of real property generally located at 1340 and 1348 W. U.S. Highway 287 Bypass, Property ID Number: 238267, in the City of Waxahachie, Texas (the "Property"), for which he has requested a Site Plan ("SP") to allow for development of two multi-tenant office buildings. The Property is currently zoned Planned Development-1-Commercial by the City, and is anticipated to have a Site Plan reviewed on September 8, 2020.

2. The planned use of the Property is to create two multi-tenant office buildings 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 ACKCON 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 ACKCON 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 RVG Plaza (Office Use) 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 ACKCON, and to recognize ACKCON's reasonable investment-backed expectations in the RVG Plaza (Office Use) 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").

(12)

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 RVG Plaza 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 the Developer.

The Developer agrees to:

- (A) The Site Plan, Landscape Plan, and Elevation/Façade Plan shall conform as approved by the City Council under case number SP-101-2020.
- (B) The masonry exterior for the building shall consist of brick veneer.
- (C) If a Specific Use Permit (SUP) is required, it will be the applicant/tenant responsibility to apply for the required permit.
- (D) 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 ACKCON's agreement in this regard, the City of Waxahachie agrees that ACKCON has reasonable investment-backed expectations in the RVG Plaza (Office Use) SP Packet, and that the City of Waxahachie may not unilaterally change the zoning and development standards contained in the RVG Plaza (Office Use) SP Packet without impacting ACKCON'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.

(12)

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.

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.

(12)

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 ACKCON 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.

{Signature Pages Follow}

(12)

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

ACKER CONSTRUCTION:

By: _____

Date: _____

(12)

STATE OF TEXAS §
 §
COUNTY OF ELLIS §

Before me, the undersigned authority, on this _____ day of _____, 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 §

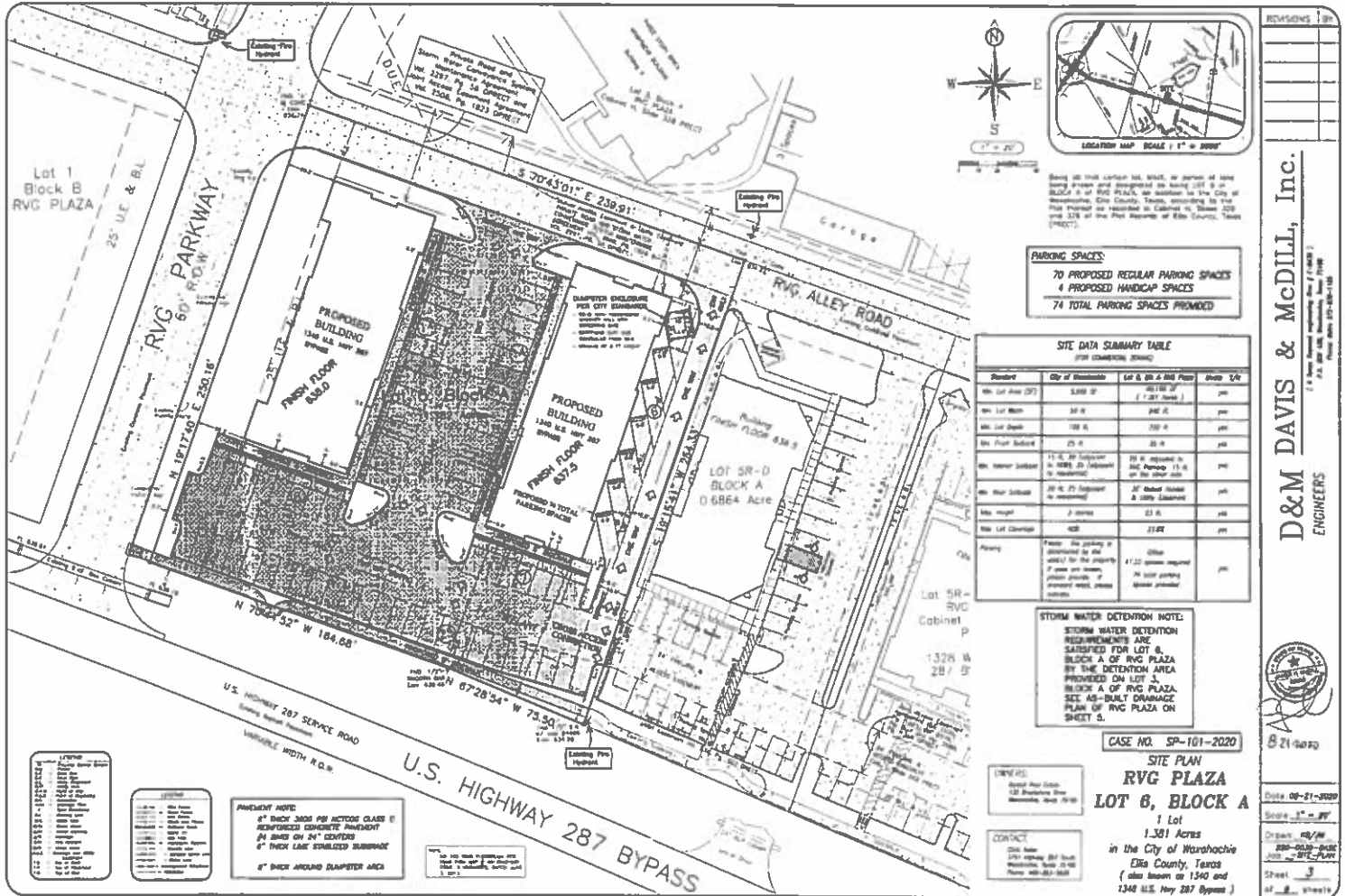
Before me, the undersigned authority, on this _____ day of _____, 2020, personally appeared ACKER CONSTRUCTION, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

[Seal]

By: _____
Notary Public, State of Texas

My Commission Expires: _____

(12)



REVISIONS

NO.	DATE	DESCRIPTION

Being all this certain lot, block, or parcel of land being shown and designated as being LOT 6, BLOCK A of RVG PLAZA, as shown on the City of Waco, Texas, according to the Plat thereof as recorded in Volume 41, Sheet 228 and 229 of the Plat Records of Ellis County, Texas (PROJECT).

PARKING SPACES:
 70 PROPOSED REGULAR PARKING SPACES
 4 PROPOSED HANDICAP SPACES
 74 TOTAL PARKING SPACES PROVIDED

SITE DATA SUMMARY TABLE
 (PER CONSTRUCTION PERMITS)

Item	City of Waco	Lot & On A 600 Feet	Area	Use
Site Lot Area (20)	5,000 sq ft	(7,281 sqm)	sqm	
Site Lot Area	30 ft	240 ft	sqm	
Site Lot Depth	100 ft	300 ft	sqm	
Site Front Setback	25 ft	25 ft	sqm	
Site Rear Setback	15 ft, 20 feet, 25 feet, 30 feet, 35 feet, 40 feet, 45 feet, 50 feet, 55 feet, 60 feet, 65 feet, 70 feet, 75 feet, 80 feet, 85 feet, 90 feet, 95 feet, 100 feet	25 ft, 30 ft, 35 ft, 40 ft, 45 ft, 50 ft, 55 ft, 60 ft, 65 ft, 70 ft, 75 ft, 80 ft, 85 ft, 90 ft, 95 ft, 100 ft	sqm	
Site Rear Setback	20 ft, 25 feet, 30 feet, 35 feet, 40 feet, 45 feet, 50 feet, 55 feet, 60 feet, 65 feet, 70 feet, 75 feet, 80 feet, 85 feet, 90 feet, 95 feet, 100 feet	20 ft, 25 ft, 30 ft, 35 ft, 40 ft, 45 ft, 50 ft, 55 ft, 60 ft, 65 ft, 70 ft, 75 ft, 80 ft, 85 ft, 90 ft, 95 ft, 100 ft	sqm	
Site Height	2 stories	23 ft	sqm	
Site Lot Coverage	40%	21.4%	sqm	
Planning				

STORM WATER DETENTION NOTE:
 STORM WATER DETENTION REQUIREMENTS ARE SATISFIED FOR LOT 6, BLOCK A OF RVG PLAZA BY THE DETENTION AREA PROPOSED ON LOT 3, BLOCK A OF RVG PLAZA. SEE AS-BUILT DRAINAGE PLAN OF RVG PLAZA ON SHEET 5.

CASE NO. SP-101-2020
SITE PLAN
RVG PLAZA
LOT 6, BLOCK A
 1 Lot
 1.381 Acres
 in the City of Waco
 Ellis County, Texas
 (also known as 1348 and 1349 U.S. Hwy 287 Bypass)

DATE: 09-21-2020
 SCALE: 1" = 20'
 DRAWN: JRM
 CHECKED: JRM
 SHEET: 3 OF 8 SHEETS

LEGEND

- PROPOSED
- EXISTING
- ADJACENT
- UTILITY
- SETBACK
- EASEMENT
- ENCUMBRANCE
- ADJACENT
- UTILITY
- SETBACK
- EASEMENT
- ENCUMBRANCE

FINISHMENT NOTE:
 6" THICK 3000 PSI MICHGOS CLASS II REINFORCED CONCRETE FINEMENT
 4" SAND ON 2" GEOTEXTILE
 6" THICK LIME STABILIZED SUBGRADE
 18" BACK AROUND DUMPSTER AREA

D&M DAVIS & McDILL, Inc.
 ENGINEERS

821 40th St
 Waco, TX 76792
 Phone: 767-233-1111
 Fax: 767-233-1112

(12)

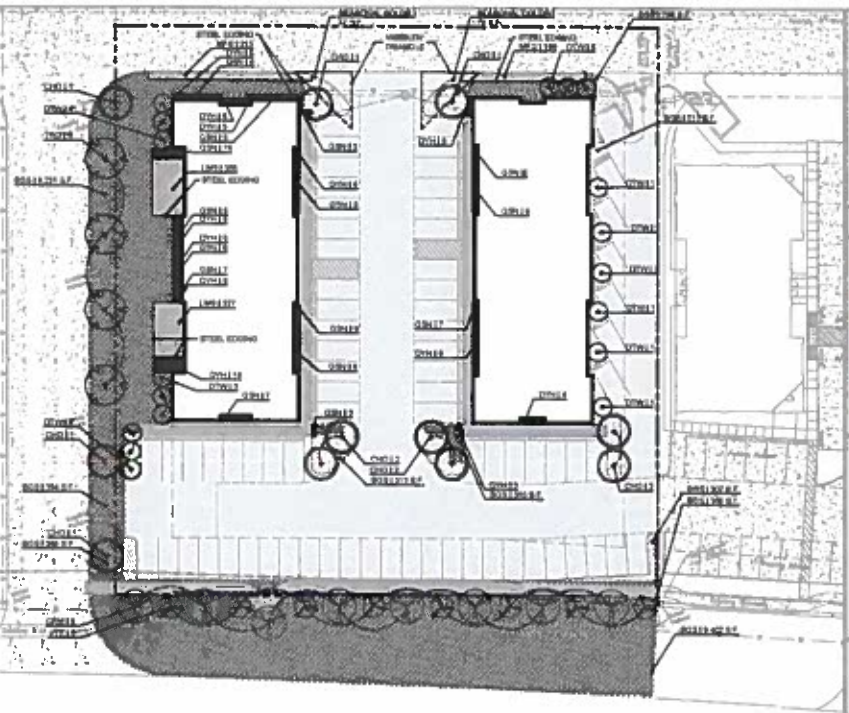


ABBREVIATIONS LEGEND:

Q - PROPERTY CORNER	X - SPOT ELEVATIONS
FND - FOUND	WL - WATER LINE
S.P. - STEEL PIPE	WM - WATER METER
U.P. - UTILITY EASEMENT	SMV - SEWER MANHOLE
P.P. - UTILITY POLE	FH - FIRE HYDRANT
R.O.W. - RIGHT OF WAY	WV - WATER VALVE
P.O.B. - POINT OF BEGINNING	D.U.E. - DAMAGE & UTILITY EASEMENT
C/L - CENTERLINE	

PLANT LIST

SYMBOL	BOTANIC NAME	COMMON NAME	QT.	SIZE	REMARKS
CHD	CHIMPHAS MEXICANA	CHIMPHAS OAK	11	4" CALIPER	12-18" HEIGHT, 8" SPREAD FULL MATCHING
TRD	QUERCUS TEXANA	TEXAS RED OAK	2	4" CALIPER	12-18" HEIGHT, 8" SPREAD FULL MATCHING
DTW	CHLOPUS LINEARS	DEBERT WILLOW	73	30 GALLON	8" HEIGHT, 3" SPREAD, CONTAINER GROWN, MULTYEAR MATCHING
DNV	LAMPROSOMA	CHERRY NYCTLE	8	30 GALLON	8-10" HEIGHT, 2" SPREAD, CONTAINER GROWN, MULTYEAR MATCHING
VTI	WYEA AGING-CAPITE	WYEA	3	30 GALLON	8-10" HEIGHT, 2" SPREAD, CONTAINER GROWN, MULTYEAR MATCHING
ETH	ELA VONATORIA "NANA"	DRY-APP YALPOUN	88	8 GALLON	12" HEIGHT, 12" SPREAD, PLANTS PER PLAN
SMN	NANDINA "WELF STELAMI"	WELF STELAMI NANDINA	39	8 GALLON	12" HEIGHT, 12" SPREAD, PLANTS PER PLAN
WPS	WASSILLA FENESTRATA	WASSILLA FENESTRATA	302	1 GALLON	12" HEIGHT, 12" SPREAD, PLANTS PER PLAN
LAD	LYONNORHIZA LYONNORHIZA	LYONNORHIZA	992	2 GALLON	12" HEIGHT, 12" SPREAD, PLANTS PER PLAN
SEA	SEA	SEASONAL COLOR	155	2" POTS	PER SEASONAL AND ANNUALS LOCATION PER PLAN
808	CYTHODUS DAETYLON	COBWEB SPIDER	7,238	2"	SOLID 800 PER INDUSTRY STANDARDS



LANDSCAPE PLAN

GENERAL LANDSCAPING NOTES:

- VERIFY EXISTING AND PROPOSED SITE ELEMENTS FOR DISCREPANCIES. SURVEY DATA OF EXISTING CONDITIONS WAS SUPPLIED BY OTHERS.
 - LOCATE EXISTING UNDERGROUND UTILITIES FOR CONFLICTS. EXERCISE CAUTION WHEN WORKING IN THE VICINITY OF UNDERGROUND UTILITIES.
 - CONTRACTOR SHALL PROVIDE A MINIMUM 4" BULGE AWAY FROM STRUCTURES.
 - LEAVE AREAS TO RECEIVE TOPSOIL 6" BELOW FINAL FINISHED GRADE IN PLANTING AREAS AND 1" BELOW FINAL FINISHED GRADE IN LAWN AREAS.
 - CROWN LANDSCAPE ISLANDS TO 6" HEIGHT, TYPICAL AND UNIFORM THROUGHOUT THE SITE.
 - PLANTING BEDS AND LAWN AREAS SHALL BE SEPARATED BY STEEL EDGING. NO STEEL EDGING SHALL BE INSTALLED ADJACENT TO BUILDINGS, WALKERS OR CURBS. CUT STEEL EDGING AT 90 DEGREE ANGLES WHERE IT INTERSECTS WALKS AND CURBS.
 - TOP OF ISLAND TO BE 1" MINIMUM BELOW THE TOP OF WALKS AND CURBS.
 - LAWN AREAS SHALL BE SOLID 800 BERBERGRASS, UNLESS OTHERWISE NOTED ON THE DRAWINGS.
 - LANDSCAPING AREAS TO BE 100% IRRIGATED WITH AN UNDERGROUND AUTOMATIC IRRIGATION SYSTEM AND SHALL INCLUDE RAIR AND PEEP SERVICES PER CITY OF WAXAHACHIE IRRIGATION REQUIREMENTS.
- MAINTENANCE NOTES:**
- PER CITY ORDINANCE SECTION 55.9.1 - THE OWNER SHALL BE RESPONSIBLE FOR THE CONTINUED MAINTENANCE IN PERPETUITY OF LANDSCAPING AND IRRIGATION. IN CORNER LANDSCAPING SHALL BE MAINTAINED BY A RELAY AND ORDER 7 MAINTENANCE. THIS SHALL INCLUDE MOWING, EDGING, PRUNING, FERTILIZING, WATERING, WEEDING, WEEDING BEDS MAINTAINED IN ACCORDANCE WITH STANDARD HORIZONTAL GRASS PRACTICES OR AS RECOMMENDED BY THE LANDSCAPE ADMINISTRATION AND OTHER BEST PRACTICES COMMON TO THE MAINTENANCE OF LANDSCAPING. LANDSCAPING AREAS SHALL BE LEFT FREE OF TREES, LIMBS, WEEDS AND OTHER SUCH MATERIALS OR PLANTS NOT A PART OF THE LANDSCAPING PLAN. MATERIALS SHALL BE MAINTAINED IN A HEALTHY AND GROWING CONDITION AS IS APPROPRIATE FOR THE SEASON OF THE YEAR. IRRIGATION HEADS OR LINES WHICH ARE BROKEN AND FLOW WATER SHALL BE REPLACED/REPAIRED IMMEDIATELY TO PREVENT WASTE OF WATER.

GENERAL LAWN NOTES:

- CONTRACTOR SHALL LEAVE LAWN AREAS 1" BELOW FINAL FINISHED GRADE PRIOR TO TOPSOIL INSTALLATION.
 - CONTRACTOR SHALL FINE GRADE AREAS TO ACHIEVE FINAL CONTOURS AS INDICATED ON GIVE PLANS, ADJUST CONTOURS TO ACHIEVE POSITIVE DRAINAGE AWAY FROM BUILDINGS. PROVIDE LAWN AREAS ROUNDOFFS AT TOP AND BOTTOM OF ISLANDS AND OTHER AREAS IN GRADE. CORNER GRASS/GRASSIES AND AREAS WHERE WATER MAY STAND.
 - LAWN AREAS SHALL BE FINE GRADED, IRRIGATION TRENCHES (WHATEVER SETTLED AND FINISH GRADE).
 - REMOVE ROCKS 3/4" DIAMETER AND LARGER, DIRT CLOUDS, STICKS, CONCRETE SPILLS, ETC. PRIOR TO FINISHING TOPSOIL AND LAWN INSTALLATION.
 - GUARANTEE ESTABLISHMENT OF ACCEPTABLE TURF AREA AND PROVIDE REPLACEMENT FROM LOCAL SUPPLY IF NECESSARY.
 - PLANT 800 BY HAND TO COVER INDICATED AREAS COMPLETELY. ENSURE EDGES OF 800 ARE TIGHTLY. TOP DRESS JOINTS BY HAND WITH TOPSOIL TO FILL VOIDS.
 - ROLL GRASS AREAS TO ACHIEVE A SMOOTH, EVEN SURFACE, FREE FROM UNNATURAL UNDULATIONS.
 - WATER 800 THOROUGHLY AS 800 OPERATION PROGRAMS.
 - IF INSTALLATION OCCURS BETWEEN SEPTEMBER 1 AND MARCH 1, OVER-SEED BERBERGRASS 800 WITH WINTER RYEGRASS, AT A RATE OF FOUR 145 POUNDS PER ONE THOUSAND (145) SQUARE FEET.
- GENERAL NOTES:**
- SURFACE MATERIALS TO MEET MINIMUM STANDARDS AND SPECIFICATIONS PER THE CITY OF WAXAHACHIE, TEXAS.
 - WORK LIGHTING, LUMINAIRE, AND FENCES TO COMPLY WITH THE REQUIREMENTS OF THE CITY OF WAXAHACHIE, TEXAS.
 - LANDSCAPING TO BE PROVIDED PER SITE PLAN. TREE LOCATIONS ARE REPRESENTATIVE AND MAY BE ADJUSTED AT TIME OF PERMIT.

LANDSCAPE TABULATIONS:

THE CITY OF WAXAHACHIE, TEXAS

** NO EXISTING TREES ON THIS PROPERTY **

INTERIOR LANDSCAPE AREA	REQUIRED	PROVIDED:
1. 50% OF PROPOSED BUILDING SHALL BE REQUIRED INTERIOR LANDSCAPE TOTAL BUILDING S.F. = 14,208 S.F.	7,104 S.F. (50%)	8,493 S.F. (60%)
2. 25% OF THE REQUIRED INTERIOR LANDSCAPE SHALL BE IN THE FRONT AND SIDE YARD.	3,228 S.F. (25%)	2,208 S.F. (37%)
3. ONE (1) CANOPY TREE PER 400 S.F. OF REQUIRED LANDSCAPE AREA	(11) CANOPY TREES	(16) CANOPY TREES
4. ONE (1) LANDSCAPE ACCENT TREE PER 200 S.F. OF REQUIRED LANDSCAPE AREA	(28) ACCENT TREES	(29) ACCENT TREES
5. ONE (1) SHRUB PER 40 S.F. OF REQUIRED LANDSCAPE AREA	(1176) SHRUBS	(1176) SHRUBS
6. 15% OF REQUIRED LANDSCAPE AREA SHALL BE GROUND COVER	1,065 SF GROUND COVER (15%)	1,206 S.F.
7. 2% OF REQUIRED LANDSCAPE AREA SHALL BE SEASONAL COLOR	146 SF SEASONAL COLOR (2%)	155 SF SEASONAL COLOR

BUFFERYARD & STREET TREES - TOTAL FRONTAGE: 231'	REQUIRED	PROVIDED:
1. 15% OF THE STREET YARD TO BE PERMANENT LANDSCAPE, STREET YARD = 4,839 SF	806 S.F. LANDSCAPE (10%)	1,307 S.F. LANDSCAPE
2. 10" LANDSCAPE BUFFER	YES	YES
3. ONE (1) 4" CALIPER STREET TREE PER 30 L.F. STREET OF FRONTAGE	(6) TREES	(6) TREES

PARKING LOT LANDSCAPE - TOTAL PARKING SPACES: 74	REQUIRED	PROVIDED:
1. 12 S.F. OF LANDSCAPE PER PARKING SPACE	882 S.F. LANDSCAPE	1,348 S.F. LANDSCAPE
2. 10 (1) TREE 4" CAL. PER 900 S.F. OF REQUIRED PARKING LOT LANDSCAPE AREA	(1) TREE 4" CALIPER	(1) TREE 4" CALIPER
3. TEN (10) SHRUBS PER 900 S.F. OF REQUIRED PARKING LOT AREA	(10) SHRUBS	(10) SHRUBS







 AUGUST 24, 2020

LOT 6-BLOCK A

RVG PLAZA

City of Waxahachie, Texas | 8th Century



LANDSCAPE PLAN

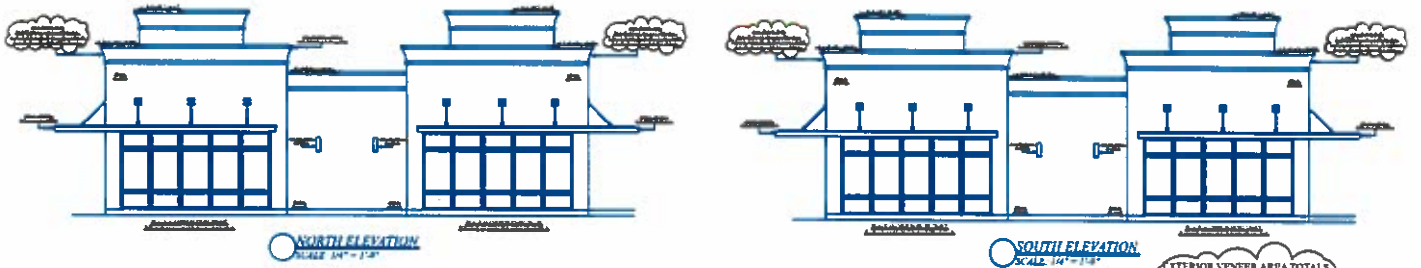
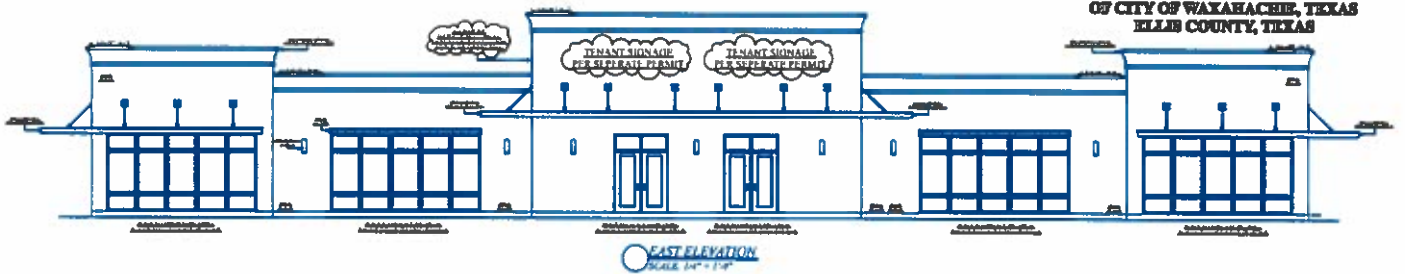
LP 1.0

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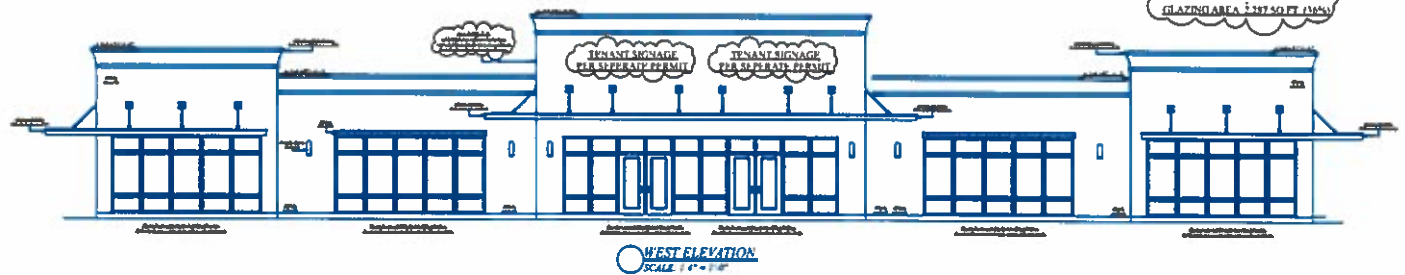
(12)

OWNER INFORMATION:
BARBELL REAL ESTATE
132 BROOKSTONE DR.
WAXAHACHIE, TX 75165
1.381 ACRES 1 LOT

RVG FLAZA
ELEVATION
PLANNED DEVELOPMENT (SP-101-2020)
1340 HWY 287 BYPASS
BLOCK A LOT 6
OFFICIAL MAP OF WAXAHACHIE,
PLAT RECORDS, ELLIS COUNTY TEXAS
OF CITY OF WAXAHACHIE, TEXAS
ELLIS COUNTY, TEXAS



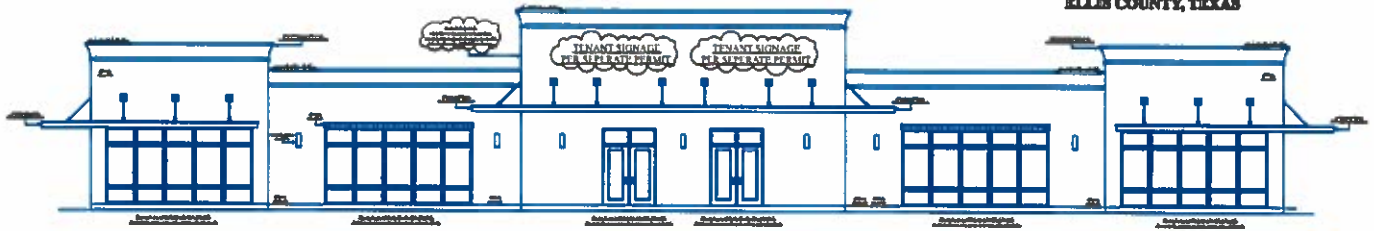
EXTERIOR VENTER AREA TOTALS
BRICK VENTER 4,001.50 FT (64%)
GLAZING AREA 2,287.50 FT (36%)



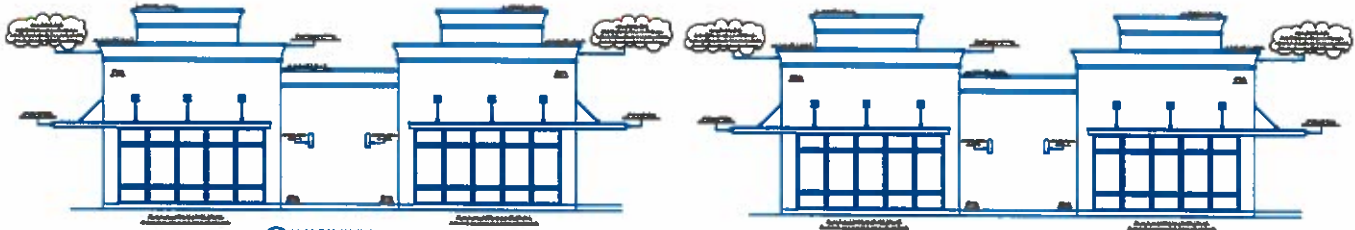
(12)

OWNER INFORMATION:
BARRELL REAL ESTATE
132 BROOKSTONE DR.
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1.381 ACRES 1 LOT

RVG PLAZA
ELEVATION
PLANNED DEVELOPMENT (SP-101-2020)
1348 HWY 287 BYPASS
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OFFICIAL MAP OF WAXAHACHIE,
PLAT RECORDS, ELLES COUNTY TEXAS
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ELLES COUNTY, TEXAS

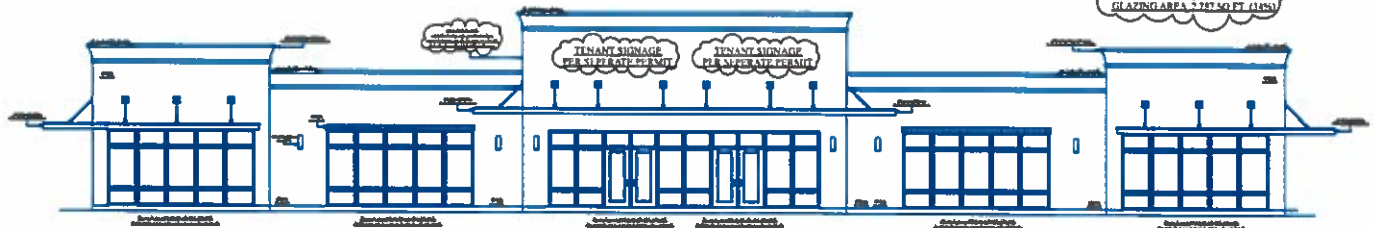


EAST ELEVATION
SCALE 1/4" = 1'-0"



NORTH ELEVATION
SCALE 1/4" = 1'-0"

SOUTH ELEVATION
SCALE 1/4" = 1'-0"



WEST ELEVATION
SCALE 1/4" = 1'-0"

EXTERIOR VENTILATION TOTALS
ROOF VENTILATION 4312.50 FT. (166%)
GLAZING AREA 5287.50 FT. (185%)



Memorandum

To: Honorable Mayor and City Council
From: Tommy Ludwig, Assistant City Manager
Thru: Michael Scott, City Manager
Date: September 4, 2020
Re: Bid Award – 2020 Asphalt Street Rehabilitation

On Tuesday September 08, 2020, a bid award associated with the 2020 Street Rehabilitation Program will appear before the City Council in an amount of \$543,313.00. Staff is also recommending City Council approve funding for a project contingency in the amount of \$30,000.

This project is part of the annual street rehabilitation program. The project includes scarification, re-compaction and cement stabilization of the existing pavement and subgrade and repaving the asphalt driving surface for the following streets:

Street name	from	to
BUFFALO CREEK DR	INDIAN TRACE	CHIEFTAIN
INDIAN TRACE LN/KIOWA LN	BUFFALO CK	BUFFALO CK (HORSE SHOE)
BUFFALO CREEK CIR	BUFFALO CK	END
PETERS ST	GRAHAM	PARK SCHOOL HOUSE
MCKENZIE ST	WILLAM	BROWN
BARGER DR	BROWN	BROWN (HORSE SHOE)
4TH ST	BROWN	DUNN
W. ROSS ST	BROWN	US77/FERRIS

(13)

Bids were received from nine contactors. Reynolds Asphalt and Construction Company was the lowest responsible bidder with a total bid of \$543,313.00. This bid was \$7,080.15 less than the next lowest responsible bidder. This project is a planned expense and the City budgeted \$600,000 for construction in the Public Works and Engineering Department's Operations and Maintenance Budget.

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

Tommy Ludwig

(13)

BIRKHOFF, HENDRICKS & CARTER, L.L.P.
PROFESSIONAL ENGINEERS

11910 Greenville Ave., Suite 600 Dallas, Texas 75243 Phone (214) 361-7900 www.bhcllp.com

JOHN W. BIRKHOFF, P.E.
GARY C. HENDRICKS, P.E., R.P.L.S.
JOE R. CARTER, P.E.
MATT HICKEY, P.E.
ANDREW MATA, JR., P.E.
JOSEPH T. GRAJEWSKI, III, P.E.
DEREK B. CHANG, P.E., R.P.L.S.
CRAIG M. KERKHOPF, P.E.
JUSTIN R. IVY, P.E.

September 1, 2020

Mr. James Gaertner, P.E., CFM
Director of Public Works & Engineering
City of Waxahachie
P.O. Box 757
Waxahachie, Texas 75168-0757

Re: 2020 Asphalt Street Rehabilitation Program
Bid Summary & Evaluation

Dear Mr. Gaertner:

We have checked the bids received at 2:00 p.m., Wednesday, August 26, 2020, for the 2020 Asphalt Street Rehabilitation Program. We are enclosing two (2) copies of the Bid Summary.

Reynolds Asphalt & Construction of Euless, Texas submitted the low bid in the amount of \$543,313.00. References were included on recent similar projects completed by Reynolds for the Cities of Farmers Branch, Grand Prairie, and Prosper. The contacts provided for each of the references reported that Reynolds was knowledgeable, communicated well, and successfully completed the projects indicating they would hire them again.

Accordingly, based on the information we have available to us, we recommend that the City accept the bid from Reynolds Asphalt & Construction and award them a contract in the amount of \$543,313.00 for construction of the 2020 Asphalt Street Rehabilitation Program.

We are available to discuss our evaluation further at your convenience.

Sincerely,



Joseph T. Grajewski, P.E.

Enclosures

Cc: Mr. Jim Lockart, P.E., CFM

(13)

**CITY OF WAXAHACHIE, TEXAS
2020 Asphalt Street Rehabilitation Program**

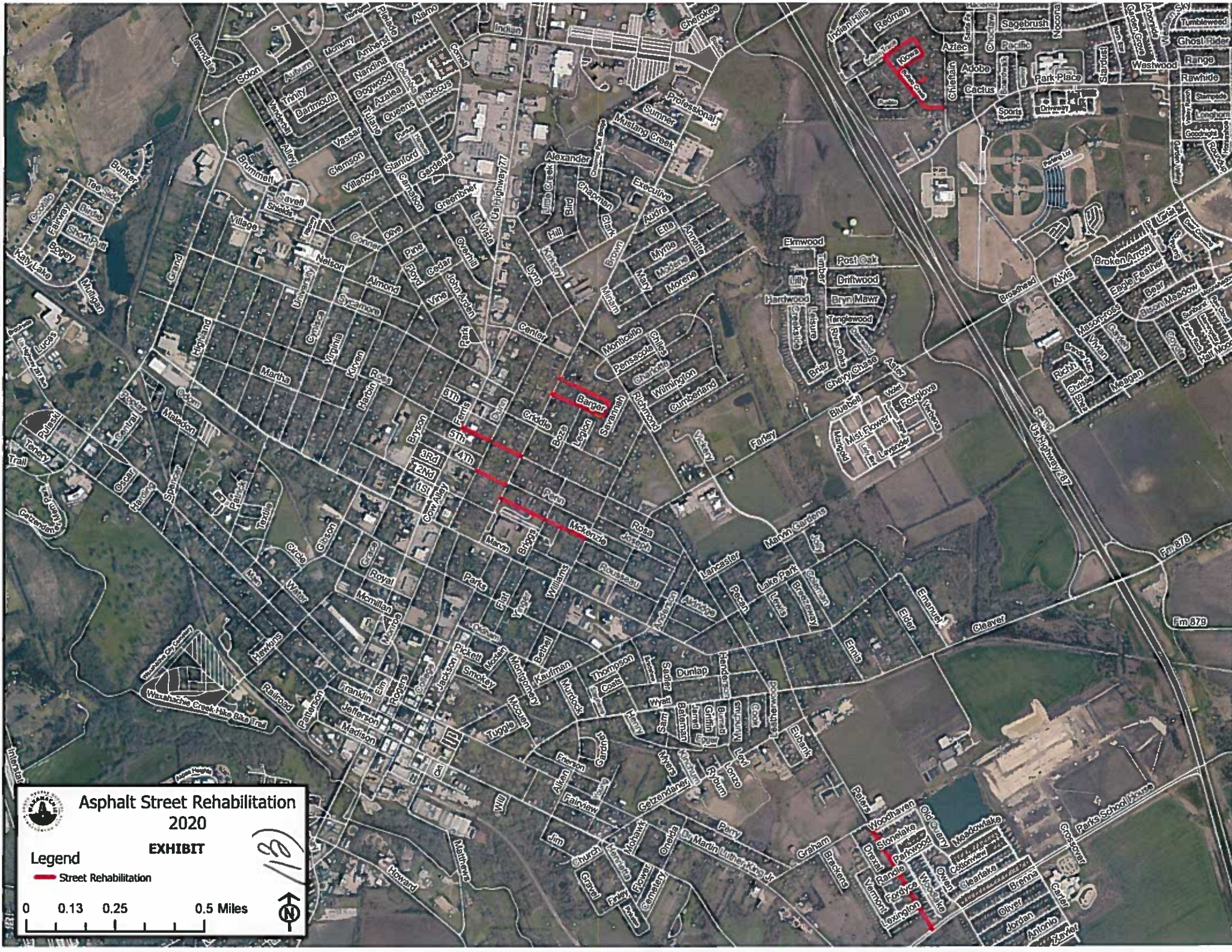
BID SUMMARY

Bids Received on Wednesday, August 26, 2020 at 2:00pm

<u>Contractor</u>	<u>Total Amount Bid</u>
1) Reynolds Asphalt & Construction P.O. Box 370 Eules, Texas 76039 Ned Tawkersley 817-267-3131 ntawkersley@reynoldsasphalt.com	<u>\$ 543,313.00</u>
2) Texas Materials Group dba Texas Bit 420 Decker Drive Ste 200 Irving, Texas 75062 Ronald D. Stinson, Jr. 214-741-3531 ronald.stinson@texasbit.com	<u>\$ 550,393.15</u>
3) Pavecon Public Works, LP 3022 Roy Orr Blvd Grand Prairie, Texas 75050 Daniel Kilman 972-263-3223 russellh@pavecon.com	<u>\$ 604,710.75</u>
4) Anderson Asphalt & Concrete Paving 11343 Mathis Street Dallas, Texas 75229 Pamela Thompson 214-352-3400 coryh@aacpaving.com	<u>\$ 613,468.50</u>
5) Leland & Bradlee Construction, Inc. 4815 Whitehurst Drive Longview, TX 75602 Bradlee Smith 903-236-4872 lelandbradleeconstruction@gmail.com	<u>\$ 668,492.50</u>

(13)

- | | |
|---|---------------|
| 6) Reliable Paving, Inc.
1903 North Peyco Drive
Arlington, Texas 76001
Charles M. Long
817-467-0779
jeremiah@reliablepaving.com | \$ 701,440.00 |
| 7) Peachtree Construction, Ltd.
5801 Park Vista Circle
Keller, Texas 76244
J. Barry Clark
817-741-4658
jbclark@peachtreecon.com | \$ 701,833.75 |
| 8) J & K Excavation
P.O. Box 886
Italy, Texas 76651
Joshua Trees
972-923-2250
jkexcavation@yahoo.com | \$ 736,430.43 |
| 9) FNH Construction, LLC
4099 McEwen Ste 600
Farmers Branch, TX 75244
Candace Gillespie
469-248-0301
candace@fnhconstruction.com | \$ 971,735.00 |



**Asphalt Street Rehabilitation
2020
EXHIBIT**

Legend
— Street Rehabilitation

0 0.13 0.25 0.5 Miles

12

(14)



Memorandum

To: Honorable Mayor and City Council
From: Tommy Ludwig, Assistant City Manager
Thru: Michael Scott, City Manager
Date: September 4, 2020
Re: Lower Mustang Creek Parallel Force Main Project

On Tuesday, September 8th, 2020 a bid award associated with construction of the Lower Mustang Creek Parallel Force Main will appear before the City Council in an amount of \$2,404,205.95 with Wilson Contractor Services, LLP. Staff is also recommending City Council approve funding for a project contingency in the amount of \$50,000.

The City received bids from nineteen proposers. Privcon Developments, Inc., an Arkansas company, was the apparent low base bidder. However, in accordance with state law a non-resident bidder must meet the same requirements for a non-resident bidder submitting in their home state. In the case of Arkansas, the resident (in state bids) are reduced by 5% for comparison to non-resident bids. As a result, Circle H Contractors, LP was determined to be the lowest base bidder.

There was an added alternate associated with this project for the installation of a fiber optic cable conduit. Wilson Contractor Services, LLC was determined to be the low bidder for the combined base bid and added alternate bid. Staff is making a recommendation to Council to award both the base bid and the added alternate, and as a result Wilson Contractors Services, LLC is the lowest responsive bidder for this project.

(14)

The recommended bid is approximately \$84,000 below the project budget. This project is a planned expense and was included in the FY 2019-20 Bond Sale.

As a reminder, this project will install approximately 15,000 linear feet of 20-inch diameter PVC force main sewer pipe. The limits of the project are from the Lower Mustang Creek Lift Station, extending northwesterly upstream terminating just west of Parks School House Road at the intersection of 287 Bypass. This project will provide for the pumping capacity of the existing Lower Mustang Creek Lift Station and the future expansion of the lift station to service the Cole Creek and Grove Creek Basins.

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

Tommy Ludwig

(14)

BIRKHOFF, HENDRICKS & CARTER, L.L.P.
PROFESSIONAL ENGINEERS

11910 Greenville Ave., Suite 600

Dallas, Texas 75243

Fax (214) 461-8390

Phone (214) 361-7900

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DEREK B. CHANEY, P.E.
CRAIG M. KERKHOFF, P.E.
JUSTIN R. IVY, P.E.

September 1, 2020

Mr. James Gaertner, P.E., CFM
City Engineer
City of Waxahachie
401 S. Rogers
Waxahachie, Texas 75168

TRANSMITTED VIA EMAIL

Re: Lower Mustang Creek Parallel Force Main (CIP Project WW-6B)
Recommendation for Council Award

Dear Mr. Gaertner:

We have checked the bids received at 3:00 p.m., Tuesday, August 25, 2020 for the Lower Mustang Creek Parallel Force Main project and enclosing one (1) copy of the Bid Summary and Itemized Bid Tabulation for the City's reference and files. A total of twenty (19) sealed bids were received, opened, and read aloud. The sealed bid submitted from Resicom, Inc. was received at 3:16 p.m. and therefore disqualified.

Privcon Developments, Inc., of Jacksonville, Arkansas submitted the apparent low base bid in the amount of \$2,240,234.45. However, in accordance with Texas Government Code, Chapter 2252, Subchapter A, a non-resident bidder submitting a bid in Texas must meet the same requirements for a non-resident bidder submitting a bid in their home state. In the case of Arkansas, the resident bids are reduced by 5% for comparison to the non-resident bids. Please see the enclosed Vendor's Compliance to State Law form and associated Arkansas Resident Bidder Preference requirements (Arkansas Code 19-11-259) submitted by Privcon Developments, Inc.

The Bid Summary presented herein shows both the actual bid amount submitted by the resident bidders and the 5% reduction in the bid amounts (in parenthesis) for bid evaluation purposes. The base bids submitted by Circle H Contractors, LP, of Midlothian, Texas and Atkins Bros. Equipment Company, Inc. were corrected for mathematical errors made in the bids they submitted.

On this basis, Circle H Contractors, LP submitted the lowest comparative **base bid** in the amount of \$2,153,699.35 (Actual bid of \$2,267,051.95). Wilson Contractor Services, LLC, of Denton, Texas submitted the lowest comparative **base bid plus additive alternate bid** in the amount of \$2,283,995.65 (Actual bid of \$2,404,205.95).

Based on our review of the low bidder's statement of qualifications and past performance record provided by their references, it is our opinion Circle H Contractors, LP and Wilson Contractor Services, LLC have the equipment and experience to properly pursue this project.

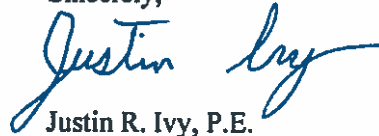
(14)

Therefore, we recommend the City either:

1. Accept the Base Bid from Circle H Contractors, LP. and award them a contract in the amount of \$2,267,051.95 for construction of the Lower Mustang Creek Parallel Force Main project, or
2. Accept the Base Bid plus Additive Alternate Bid from Wilson Contractor Services, LLC and award them a contract in the amount of \$2,404,205.95.

We are available to discuss our evaluation and recommendation further at your convenience.

Sincerely,



Justin R. Ivy, P.E.

Enclosures

cc: Mr. Tommy Ludwig
Mr. David Bailey

(14)

**CITY OF WAXAHACHIE, TEXAS
LOWER MUSTANG CREEK PARALLEL FORCE MAIN
CIP PROJECT NO. 6B - BASE BID**

BID SUMMARY - BASE BID

Sorted by Lowest to Highest Base Bid (Adjusted for Non-Resident Vendor Compliance)

Notes:

- 1 Bold, italic text highlighted in yellow are bids adjusted for comparison purposes. Adjusted 5% per Arkansas State law.
- 2 Corrected Circle H bid (Item #119) total from \$40 to \$40,000 based on per unit bid price.

<u>Contractor</u>	<u>Total Amount Base Bid</u>	<u>Total Amount Add. Alt. Bid</u>	<u>Total Amount Bid</u>
1. Circle H Contractors, LP P.O. Box 220 Midlothian, Texas 76065 Brad Owens 972-723-0802	\$ 2,267,051.95 \$ (2,153,699.35)	\$ 200,216.00 \$ (190,205.20)	\$ 2,467,267.95 \$ (2,343,904.55)
2. Wilson Contractor Services, LLC 3985 Mingo Road Denton, Texas 76208 A.A. Martinez 940-243-1174	\$ 2,344,819.43 \$ (2,227,578.46)	\$ 59,386.52 \$ (56,417.19)	\$ 2,404,205.95 \$ (2,283,995.65)
3. Vaca Underground Utilities, Inc. 6602 Mount Houston Road Houston, Texas 77050 Everardo Vaca 832-275-7241	\$ 2,347,991.00 \$ (2,230,591.45)	\$ 161,863.00 \$ (153,769.85)	\$ 2,509,854.00 \$ (2,384,361.30)
4. Privcon Developments, Inc. 909 West Main Street, Box 180 Jacksonville, AR 72076 Jerry Smith, Jr. 501-605-4161	\$ 2,240,234.45	\$ 81,869.24	\$ 2,322,103.69
5. KIK Underground, LLC 106 Hillside Drive Lewisville, Texas 75057 Tom Koble 469-426-4690	\$ 2,359,142.00 \$ (2,241,184.90)	\$ 175,646.00 \$ (166,863.70)	\$ 2,534,788.00 \$ (2,408,048.60)
6. Blue Star Utility 2600 Chambers Street Venus, Texas 76084 Jonathan Lamey 817-539-9950	\$ 2,400,000.00 \$ (2,280,000.00)	\$ 144,338.00 \$ (137,121.10)	\$ 2,544,338.00 \$ (2,417,121.10)
7. Mountain Cascade of Texas, LLC 11729 East FM 917 Alvarado, Texas 76009 Andrew McCulloch 817-783-3094	\$ 2,490,100.00 \$ (2,365,595.00)	\$ 69,553.00 \$ (66,075.35)	\$ 2,559,653.00 \$ (2,431,670.35)

(14)

CITY OF WAXAHACHIE, TEXAS
LOWER MUSTANG CREEK PARALLEL FORCE MAIN
CIP PROJECT NO. 6B - BASE BID

BID SUMMARY - BASE BID

Sorted by Lowest to Highest Base Bid (Adjusted for Non-Resident Vendor Compliance)

Notes:

- 1 Bold, italic text highlighted in yellow are bids adjusted for comparison purposes. Adjusted 5% per Arkansas State law.
- 2 Corrected Circle H bid (Item #119) total from \$40 to \$40,000 based on per unit bid price.

8. Blackrock Construction 1475 Heritage Parkway Ste 113 Mansfield, Texas 76063 Donny Gamblin 512-392-5725	\$ 2,570,922.00 \$ (2,442,375.90)	\$ 117,657.00 \$ (111,774.15)	\$ 2,688,579.00 \$ (2,554,150.05)
9. Excel Trenching 2228 SE Loop 59 Carthage, Texas 75633 Derrick Gage 210-823-6778	\$ 2,589,388.30 \$ (2,459,918.89)	\$ 96,724.60 \$ (91,888.37)	\$ 2,686,112.90 \$ (2,551,807.26)
10. Ark Contracting Services, LLC 420 South Dick Price Road Kennedale, Texas 76060 Mark North 817-478-7400	\$ 2,639,000.00 \$ (2,507,050.00)	\$ 205,546.00 \$ (195,268.70)	\$ 2,844,546.00 \$ (2,702,318.70)
11. Wicker Construction Co. P.O. Box 6765 Shreveport, LA 71136-6765 James S. Townsend 318-688-0610	\$ 2,741,466.60 \$ (2,604,393.27)	\$ 103,355.80 \$ (98,188.01)	\$ 2,844,822.40 \$ (2,702,581.28)
12. BAR Construction, Inc. P. O. Box 10 Dallas, Texas 75146 Isidro Arrambide, Jr. 972-227-3287	\$ 3,052,704.00 \$ (2,900,068.80)	\$ 117,659.00 \$ (111,776.05)	\$ 3,170,363.00 \$ (3,011,844.85)
13. Belt Construction of Texas, LLC P.O. Box 867 Texarkana, Texas 75504 George Bass 870-772-7216	\$ 3,122,396.00 \$ (2,966,276.20)	\$ 112,536.00 \$ (106,909.20)	\$ 3,234,932.00 \$ (3,073,185.40)
14. SYB Construction Co., Inc. 421 Compton Avenue Irving, Texas 75061 Brian Wood 972-399-1066	\$ 3,300,042.00 \$ (3,135,039.90)	\$ 56,423.20 \$ (53,602.04)	\$ 3,356,465.20 \$ (3,188,641.94)
15. Thalle Construction Co., Inc. 10110 East FM 917 Alvarado, Texas 76009 Stephen Kohler 817-728-3891	\$ 3,313,855.00 \$ (3,148,162.25)	\$ 149,510.00 \$ (142,034.50)	\$ 3,463,365.00 \$ (3,290,196.75)

(14)

CITY OF WAXAHACHIE, TEXAS
LOWER MUSTANG CREEK PARALLEL FORCE MAIN
CIP PROJECT NO. 6B - BASE BID

BID SUMMARY - BASE BID

Sorted by Lowest to Highest Base Bid (Adjusted for Non-Resident Vendor Compliance)

Notes:

- 1 Bold, italic text highlighted in yellow are bids adjusted for comparison purposes. Adjusted 5% per Arkansas State law.
- 2 Corrected Circle H bid (Item #119) total from \$40 to \$40,000 based on per unit bid price.

16. McKee Utility Contractors, Inc. 2319 West Main Street Prague, OK 74864 Shane McKee 405-567-3666	\$ 3,528,208.60 \$ (3,351,798.17)	\$ 85,804.00 \$ (81,513.80)	\$ 3,614,012.60 \$ (3,433,311.97)
17. Atkins Bros. Equip. Co., Inc. P.O. Box 990 Midlothian, Texas 76065 Mike Atkins 972-775-7955	\$ 3,579,993.00 \$ (3,400,993.35)	\$ 109,208.00 \$ (103,747.60)	\$ 3,689,201.00 \$ (3,504,740.95)
18. Joe Funk Construction, Inc. 11226 Indian Trail Dallas, Texas 75229 Rusty Norris 972-243-7141	\$ 3,592,986.60 \$ (3,413,337.27)	\$ 191,994.72 \$ (182,394.98)	\$ 3,784,981.32 \$ (3,595,732.25)
19. SEMA Construction, Inc. 2331 Mustang Drive Ste 300 Grapevine, Texas 76051 Steve Hathaway 817-251-5001	\$ 4,508,967.00 \$ (4,283,518.65)	\$ 277,970.00 \$ (264,071.50)	\$ 4,786,937.00 \$ (4,547,590.15)

(15)



Memorandum

To: Honorable Mayor and City Council
From: Tommy Ludwig, Assistant City Manager
Thru: Michael Scott, City Manager
Date: September 4, 2020
Re: Bio-solids Disposal Contract

On Tuesday, September 8, 2020 a contract with Waste Connections for the disposal of bio-solids (de-watered sludge) from the Wastewater Treatment Plant will appear before the City Council for consideration.

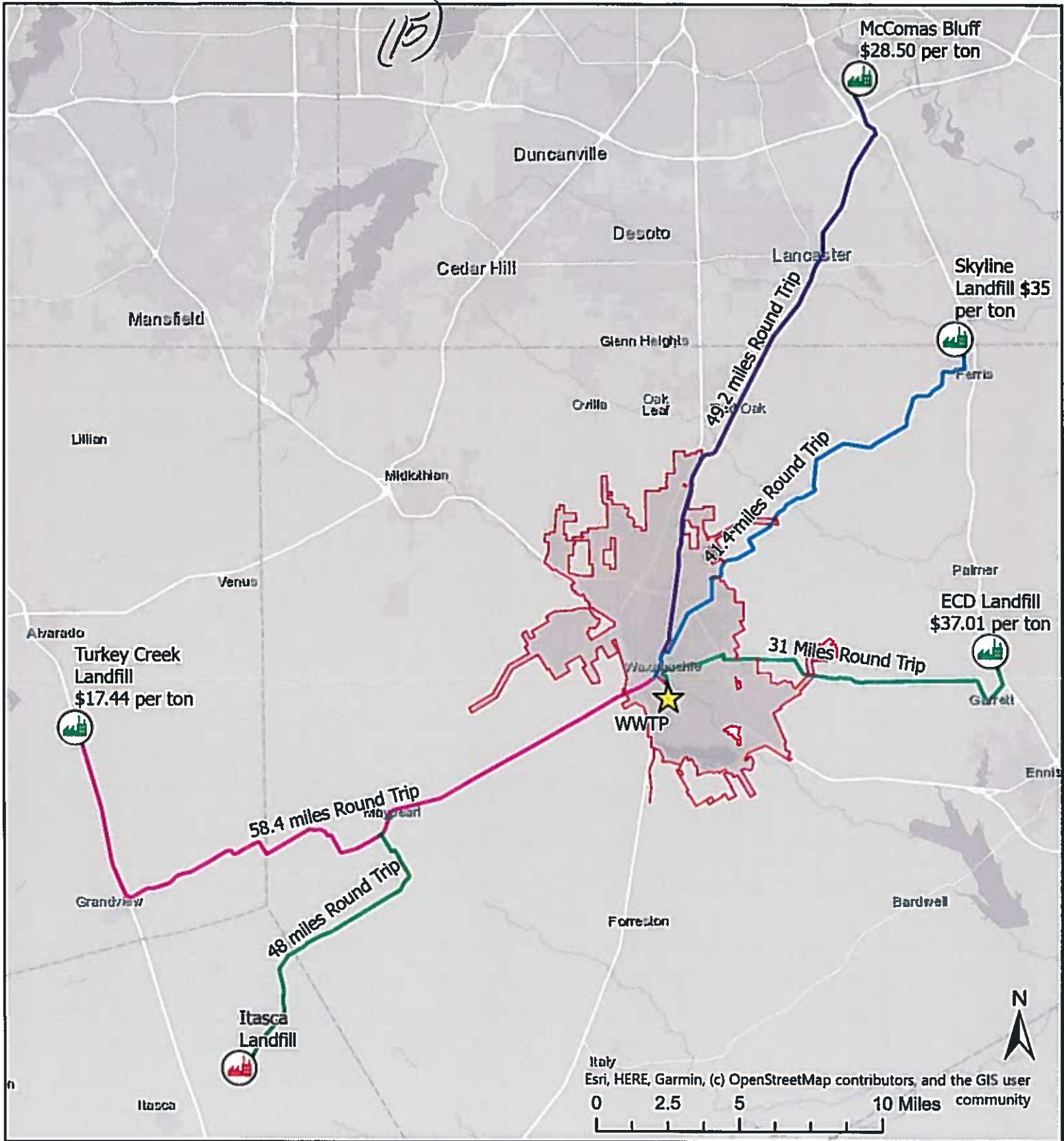
This contract will provide the City a disposal rate of \$17.44 per ton for a five year period at the Turkey Creek Landfill located in Alvarado, Texas. The City has budgeted sufficient funds in both this year and next year's budget to cover the rate in the new agreement. The City currently utilizes the Turkey Creek Landfill for the disposal of bio-solids through its existing contract for trash and recycling services with Waste Connections. As a reminder staff is currently reviewing proposals for a new trash and recycling contract, and staff recommends separating this service from the general trash and recycling agreement.

Staff has researched other area landfills which accept bio-solids, and their associated rates (Potential Landfill Location Exhibit). Through this analysis staff has determined that that Waste Connections/Turkey Creek Landfill is still the most advantageous bio-solids disposal facility for the City.

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

Tommy Ludwig

(15)



Potential Landfill Location Exhibit

Landfills

Accepts Sludge

- Yes
- No

Wastewater Treatment Plant

Routes

- 48 miles Round Trip
- 31 Miles Round Trip
- 41.4 miles Round Trip
- 49.2 miles Round Trip
- 58.4 miles Round Trip

(15)



SPECIAL WASTE DISPOSAL AGREEMENT

Special Waste Profile Number: TC-18-833

Customer Billing Information

Name: City of Waxahachie
 Address: PO Box 757
 City: Waxahachie
 State: TX Zip: 75168
 Phone: 469-309-4322 Fax: _____
 Contact: Rita Munoz

Waste Connections Subsidiary ("Service Provider")

Texas Regional Landfill Company, LP
dba Turkey Creek Landfill
9100 South I-35 W
Alvarado, Texas 76009

Project: Biosolids

Additional Information: _____

- Special Waste Service.** Subject to the terms and conditions contained herein, Service Provider and Customer agree to be legally bound hereby and Service Provider agrees to accept at its Facility, Acceptable Waste (hereinafter referred to as "Special Waste" or "Waste") delivered by Customer, and which is acceptable to Service Provider as herein provided. Customer agrees to deliver one hundred percent (100%) of the Special Waste incorporated under the special waste profile number.
- Acceptable Waste.** Only those Special Wastes described in Section 3 herein and in any Special Waste Profile(s) which number is identical to the contract number referenced above, and which Profile(s) are hereby incorporated by reference herein, and which Waste is subsequently approved by Service Provider and is otherwise in accordance with all laws, regulations and permits, shall be acceptable for disposal at the Facility ("Acceptable Waste").

3. (A) **Rates for Disposal.**

<u>Waste</u>	<u>Disposal Method</u>	<u>Disposal Rate:</u>	<u>Fees / Taxes / Misc.</u>	<u>Transportation</u>
<u>Class II</u>	<u>Landfill</u>	<u>\$16.50 per ton</u>	<u>\$0.94/ton TCEQ Fee</u>	<u>N/A</u>

Additional Information: _____

Customer shall also be liable for all taxes, fees, or other charges imposed by federal, state, local or provincial laws and regulations.

County and State of origin of Waste: Ellis

- Incorporation by Reference.** In addition to Special Waste Profile(s) and the Terms and Conditions of Special Waste Disposal Agreement set forth on the reverse side of this document, the following documents are incorporated by reference into this Agreement as if fully set forth herein.

- _____
- _____

- Term of Agreement.** This Agreement shall be effective as of the date provided for below the parties' signature line and shall continue for 60 months pursuant to the applicable special waste application.

SERVICE PROVIDER AND CUSTOMER, IN CONSIDERATION OF THE MUTUAL OBLIGATIONS CONTAINED HEREIN, AGREE THAT THIS IS A LEGALLY BINDING AGREEMENT WHICH IS SUBJECT TO THE TERMS AND CONDITIONS SET FORTH ON THIS PAGE AND ON THE REVERSE SIDE OF THIS DOCUMENT.

X _____
CUSTOMER SIGNATURE (AUTHORIZED REPRESENTATIVE)

X _____
SERVICE PROVIDER SIGNATURE (AUTHORIZED REPRESENTATIVE)

X _____
CUSTOMER NAME AND TITLE (PLEASE PRINT)

X _____
SERVICE PROVIDER NAME AND TITLE (PLEASE PRINT)

X _____
DATE

X _____
DATE

Terms and Conditions of Special Waste Disposal Agreement

- 5. The Agreement This Special Waste Disposal Agreement (this "Agreement") for the disposal of Special Waste shall consist of this Agreement, riders to the Agreement (if any) and any application, permit and/or approval that may be applicable to such Waste.
6. Waste Accepted at Facility Customer represents, warrants and covenants that the Waste delivered to Service Provider at its Facility hereunder will be Acceptable Waste and will not contain any unacceptable quantity of hazardous materials or substances, radioactive materials or substances, or toxic waste or substances, as defined by applicable federal, state, local or provincial laws or regulations.
7. Special Waste Customer represents, warrants and covenants that the Waste delivered to Service Provider hereunder (i) will not contain any Special Waste that is not specifically described on any application which is attached hereto or which is subsequently approved by Service Provider, (ii) will meet the material description as set forth in any application and otherwise in all significant respects and (iii) will not contain Unacceptable Waste.
8. Rights of Refusal/Rejection Customer shall inspect all Waste at the place(s) of collection and shall remove any and all Unacceptable Waste.
9. Limited License to Enter This Agreement provides Customer with a license to enter the Facility for the limited purpose of, and only to the extent necessary for, off-loading Acceptable Waste at the Facility in the manner directed by Service Provider.
10. Charges and Payment Payment shall be made by Customer within thirty (30) days after receipt of invoice from Service Provider.
11. Termination Customer's obligations, representations, warranties and covenants regarding the Waste delivered and all indemnities shall survive termination of this Agreement.
12. Driver's Knowledge and Authority Customer represents, warrants and covenants that its drivers who deliver Waste to Service Provider's Facility have been advised by Customer of Service Provider's prohibition on deliveries of hazardous materials or substances, radioactive materials or substances, or toxic waste or substances or any other Unacceptable Waste to the Facility of Service Provider's restrictions on deliveries of Special Waste to the Facility, of the definitions of "Hazardous Waste" and "Hazardous Substances" as provided by applicable federal, state and local law, rules and regulations and "Special Waste" as provided herein, and of the terms of this license to enter Service Provider's Facility.
13. Indemnification Customer shall indemnify, defend and hold harmless Service Provider and its subsidiaries, affiliates and parent corporations, as applicable, and their respective officers, directors, lenders, employees, subcontractors and agents from and against any and all claims, suits, losses, liabilities, assessments, damages, fines, costs and expenses, including reasonable attorneys' fees arising under federal, state or local laws, regulations or ordinances, or relating to the content of the Waste, or arising out of or in connection with any breach of this Agreement or arising out of the negligence or willful misconduct of Customer or Customer's employees, agents, subcontractors or representatives thereof, including, without limitation, the negligent collection, transportation and disposal of Waste by Customer or Customer's employees, agents, subcontractors or representatives thereof.
14. Insurance Customer shall maintain in full force and effect throughout the term of this Agreement the following types of insurance in at least the amounts specified below:

Table with 2 columns: Coverages, Minimum Amounts of Insurance. Rows include Worker's Compensation (Statutory), Employer's Liability (\$1,000,000 per incident), General Liability (\$2,000,000 combined single limit), and Automobile Liability (\$2,000,000 combined single limit).

All insurance will be by insurers authorized to do business in the state in which the Facility is located. Prior to Customer being allowed on Facility premises, Customer shall provide Service Provider with

certificates of insurance or other satisfactory evidence that such insurance has been procured and is in force. Customer warrants that it will secure the above minimum amounts of insurance from any transportation of the Waste to the Facility

- 15. Failure to Perform Neither party hereto shall be liable for its failure to perform hereunder due to circumstances not its fault and beyond its reasonable control, including, but not limited to, strikes or other labor disputes, riots, protests, civil disturbances or sabotage, changes in law, fires, floods, compliance with government requests, explosions, accidents, weather, lack of required natural resources, or acts of God affecting either party hereto.
16. Other Termination The occurrence of any of the following events shall also constitute an event of default by Customer and shall give Service Provider the right to immediately terminate this Agreement.
(i) A petition for reorganization or bankruptcy filed by or against Customer
(ii) Failure by Customer to pay any amounts due to Service Provider
(iii) Any breach by Customer of any of its obligations pursuant to the Agreement.

Customer shall be liable for and shall indemnify, defend and hold harmless Service Provider from any losses, claims expenses or damages incurred by Service Provider as a result of termination hereunder

- 17. Assignment Customer may not assign, transfer or otherwise vest in any other Service Provider, entity or person, in whole or in part, any of its rights or obligations under the Agreement without the prior written consent of Service Provider, provided, however, that Service Provider may without any such prior written consent, assign its rights and/or obligations under the Agreement to a subsidiary or affiliate corporation.
18. Right of Disposal This Agreement does not grant any rights to dispose of Acceptable Waste other than in accordance herewith. Additionally, the ability to dispose of Acceptable Waste at the Facility may be limited at any time, and from time to time, by Service Provider in connection with the Facility's permit(s), and capacity constraints, in addition to applicable laws, rules, and regulations.
19. Continue Compliance Customer has a continuing obligation to inform Service Provider of any new information, or information not previously provided to Service Provider by Customer which may affect the acceptability of the Waste by Service Provider.
20. Notices All notices herein provided for shall be considered as having been given upon being placed in the mail, certified postage prepaid addressed to Service Provider or Customer at the address herein set forth in this Agreement or to such other address as may be given to the other party in writing.
21. Liquidated Damages In the event that this Agreement is terminated by Customer in a manner not in accordance with Section 4 hereof, or terminated due to a breach of this Agreement by Customer, Customer shall pay as liquidated damages, and not as a penalty, the greater of an amount equal to six (6) months' service charges or Customer's most recent monthly charge multiplied by six (6).
22. Miscellaneous

- (i) This Agreement shall be governed by the laws of the State in which the Facility is located.
(ii) No waiver of a breach of any of the obligations contained in the Agreement shall be construed to be a waiver of any prior or succeeding breach of the same obligation or of any other obligation of this Agreement.
(iii) No modification, release, discharge or waiver of any provision or obligation hereof shall be of any force, or effect, unless in writing signed by all parties to this Agreement.
(iv) Customer shall treat as confidential and not disclose to others during or subsequent to the terms of this Agreement, except as is necessary to perform this Agreement, or to comply with any applicable law or regulation any information (including any technical information, experience or data) regarding Service Provider's plans, programs, plants, processes, products, costs, equipment or operations which may come within the knowledge of Customer or its employees in the performance of this Agreement, without in each instance securing the prior written consent of Service Provider.
(v) If any term, phrase, obligation or provision of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, this Agreement shall remain in effect and be construed without regard to such term, phrase, obligation or provision.
(vi) This Agreement constitutes the entire understanding between the parties, replacing and amending any prior agreements between the parties, and shall be binding upon all parties hereto, their successors, heirs, representatives and assigns.
(vii) Customer represents, warrants and covenants that it is and, during the term of this Agreement will remain, in compliance with and will perform its obligations pursuant to all applicable laws and regulations and shall indemnify, defend and hold harmless Service Provider from any breach thereof.
(viii) It is the understanding and agreement of the parties that Service Provider is an independent contractor, and is not an agent, nor an authorized representative of Customer

CUSTOMER: X

SERVICE PROVIDER: X

(16)

CITY OF WAXAHACHIE, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WAXAHACHIE, TEXAS, TO MODIFY AND ADOPT NEW REGULATIONS ON SOLICITATION ACTIVITIES BY REPEALING EXISTING CHAPTER 23, "PEDDLERS," AND REPLACING IT WITH A NEW CHAPTER 23, "SOLICITATION ACTIVITIES"; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; REPEALING ALL CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Waxahachie, Texas (the "City") is a Home Rule municipality possessing the full power of local self-government, pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code, as amended, and the City's Home Rule Charter; and

WHEREAS, regulations on peddlers and other solicitation activities in the City were first adopted by the City Council in 1950, and have since been amended and modified multiple times by the City Council as it deemed fit; and

WHEREAS, the City Council possesses, pursuant to § 311.001 of the Texas Transportation Code, as amended, the exclusive control and power over public streets, highways and alleys of the City; and

WHEREAS, there are serious safety issues involved when individuals solicit in or on public streets, street rights-of-way and other areas of vehicular passage, including such concerns as the physical safety of those who solicit as well as the possible impeding of traffic flow on public streets; and

WHEREAS, pursuant to § 215.075 of the Texas Local Government Code, as amended, the City Council has the power and authority to license any lawful business or occupation; and

WHEREAS, the City Council hereby finds that there has been and continues to be an ever-increasing amount of commercial solicitations within the City; and

WHEREAS, the City Council finds that the regulation of such solicitation is in the best interest of the health, safety and welfare of the citizens of the City; and

WHEREAS, based upon United States Supreme Court jurisprudence, the City acknowledges it is limited in its ability to regulate solicitation by religious, political and charitable institutions and groups; and

(16)

WHEREAS, it is the intent of the City Council not to abridge any individual's or group's recognized First Amendment rights; and

WHEREAS, it is the intent of the City Council to fully respect such First Amendment rights in this Ordinance;

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. Existing Chapter 23, "Peddlers," of the Code of Ordinances of the City of Waxahachie, Texas, is hereby repealed in its entirety and is replaced with a new Chapter 23, "Solicitation Activities," to read as follows:

"CHAPTER 23 SOLICITATION ACTIVITIES

Sec. 23-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agent means a person who undertakes to transact some business or manage some affair for another person by the authority and on the account of the latter.

Badge means photographic identification permit issued by the police department of the City.

Canvasser means a person who engages in canvassing activities.

Canvassing or canvassing activity means the act of either (1) traveling either by foot or vehicle, going door-to-door, house-to-house, building-to-building; or (2) occupying space in or traveling on or through any public place in the City, by personally contacting persons to communicate in any manner, whether orally, by written or printed materials including, but not limited to, handbills, leaflets, hand signing or by any other method, direct or implied, for any purpose other than selling or taking orders for goods, wares, merchandise or services or collecting money.

Charitable purpose shall mean philanthropic or other nonprofit objectives, including the benefit of poor, needy, sick or handicapped persons; the benefit of a patriotic or veterans' association or organization; the benefit of any fraternal, social or civic organization; or the benefit of any educational institution.

Consumer means an individual who seeks or acquires real property, service, money or credit for personal, family or household purposes.

Consumer transaction means a sales transaction in which one or more of the parties is a consumer.

(16)

Group exhibit means an association of two (2) or more temporary vendors under the auspices of a promoter, which association is formed for the purpose of simultaneously conducting the business of the temporary vendors upon a common site or premises, such as a flea market, fair, carnival or similar operation.

Handbill means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any manner.

Handbill distribution means traveling either by foot or vehicle, going door-to-door, house-to-house or building-to-building without personally contacting persons to distribute or leave on or at each premises a handbill for any purpose.

Home solicitation transaction means a consumer transaction for the purpose of goods, services, or realty, payable in installments, or in cash, in which the merchant engages in a personal solicitation of the sale to the consumer at a residence, and the consumer's agreement or offer to purchase is given at the residence to the merchant. A home solicitation transaction shall not include a sale made pursuant to a preexisting revolving charge account or retail charge agreement, or a sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale, or a sale of realty in which transaction the purchaser is represented by a licensed attorney or in which the transaction is being negotiated by a licensed real estate broker.

Local business means a business located and operated within the corporate limits of the City.

Merchant means a party to a consumer transaction other than the consumer.

Permit means the permit required under the authority of this chapter to engage in the business of solicitation.

Person means an individual, corporation, trust, partnership, association or other legal entity.

Police department means the police department of the City.

Political purpose shall mean any form of communication related to a political issue, a particular candidate to a position or nonpartisan office, a political committee, as defined by state law, or to a political party.

Promoter means the person, firm, corporation or organization responsible for conducting a group exhibit.

Religious purpose shall mean the use of money or property for the support of a church, religious society or other religious sect, group, or order.

Residence means any separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

(16)

Solicitation shall mean engaging in or attempting to engage in home solicitation transactions. This term does not include solicitation or fundraising of any sort by a political, religious or charitable institution or group, unless indicated otherwise.

Solicitor means all persons, as well as their agents and employees, engaged in or attempting to engage in solicitation.

Temporary vending activities shall mean business within the City at a site for which definite arrangements have not been made for the hire, rental or lease of such premises for at least one month in or upon which such business is to be operated or conducted.

Temporary vendor shall mean a person who is transacting or conducting temporary vending activities.

Sec. 23-2. - Permit required.

(a) It shall be unlawful for any person to go upon any residential premises and ring the doorbell, or rap or knock upon the door, or create any sound in a manner calculated to attract the attention of the occupant of the residence for the purpose of engaging in or attempting to engage in a home solicitation transaction without first obtaining a permit from the City.

(b) Each person engaging in or attempting to engage in a home solicitation transaction must have a permit issued under the terms of this chapter, and such permit shall be personal to the applicant and shall not be reproduced, assigned, or transferred to any other person. Any such attempted transfer or reproduction shall render the permit void.

Sec. 23-3. - Exemptions.

(a) The provisions of this chapter shall not apply to public utility companies or others operating under franchises granted by the City, insurance sales people, real estate sales people, and others licensed by the state, political groups or organizations which are subject to financial disclosure under state or federal law.

(b) The provisions of this chapter shall not apply to commercial agents dealing with local business establishments in the usual course of business.

Sec. 23-4. - Permit application.

(a) Any person desiring to make home solicitation transactions within the City shall submit an online application, on a form provided by the City on the City's website, to the police department for a permit. The application shall contain the following:

- (1) The name, social security number or taxpayer identification number, date of birth and address of the person applying and desiring to make home solicitations;

(16)

- (2) Whether the permit is for an individual (natural person), a partnership, or a corporation; and
 - (a) If an individual, the individual's business or residence address and telephone number;
 - (b) If a partnership, the name of all partners, the principal business address, and telephone number of each partner;
 - (c) If a corporation, the person registering must state whether the corporation is organized under the laws of the state or is a foreign corporation, the mailing address, business location, telephone number, names of all officers and directors or trustees of such corporation, and, if a foreign corporation, the place of incorporation and registered agent for the state;
 - (3) The approximate time period within which the solicitation is to be made, giving the date of the beginning of the solicitation and its projected conclusion;
 - (4) The names of other communities in the state in which the applicant has made home solicitations during the last six months;
 - (5) The nature of the merchandise to be sold or offered for sale or the nature of the services to be furnished;
 - (6) Whether such applicant, upon any order obtained, will demand, accept or receive payment or the deposit of money in advance of final delivery;
 - (7) Whether the applicant or any person employed by the applicant to solicit, has been convicted of a felony or a misdemeanor involving moral turpitude in the past five years;
 - (8) Names, addresses, telephone numbers and social security numbers of the adults who shall be responsible for supervising any solicitor;
 - (9) Names, addresses and telephone numbers of two (2) persons as references, excluding relatives and persons living with the applicant;
 - (10) Valid state driver's license number or a state-approved identification card number with a photograph;
 - (11) All applications shall be on a form provided by the City and shall be sworn to or affirmed. The application shall be filed for public inspection.
- (b) The application must be signed by the applicant if the person is an individual; if the person applying is a partnership, by a general partner; if the person applying is a corporation, by an officer. The individual signing the application will sign a statement that he has carefully read the

(16)

application and that all the information contained therein is true and correct upon penalty of perjury.

(c) If a person applying for a permit intends to contract with, employ or otherwise retain individuals to engage in solicitations, a separate permit must be obtained for each individual.

(d) Said permit shall expire after thirty (30) days, after which the solicitor shall submit a new application and go through the same process again.

Sec. 23-5. - Investigation by the police department.

(a) Upon submission of permit application, the police department shall obtain the applicant's fingerprints and run a background check on the applicant as the police department deems necessary.

(b) The police department is authorized to investigate the affairs of any person soliciting in violation of this Ordinance, either before or after the filing of an application for a permit for solicitation.

(c) The police department may deny a permit to any applicant for good cause, which shall include, but is not limited to, the following:

- (1) being a fugitive from justice;
- (2) submitting an incomplete permit application;
- (3) providing false and/or misleading statements on the permit application; or
- (4) conducting solicitation activities contrary to regulations contained herein.

Sec. 23-6. - Application fee.

A nonrefundable fee of thirty-five dollars (\$35.00), for investigation and administration of the application, shall be charged. Such fee shall not be prorated and shall be paid at the time the application is made and shall not be returned to the applicant, regardless of whether a permit is issued. All fees are subject to change upon Ordinance of the City Council.

Sec. 23-7. - Issuance of a photographic permit (badge).

After review of a permit application to determine its compliance with this chapter, and within ten (10) working days of the receipt of the same, the police department shall either issue a permit in the form of a badge, or notify the person applying that the application does not comply with this chapter, and specifically point out what information or explanation has not been furnished that is required before a permit can be issued.

(16)

Sec. 23-8. - Requirement that badge be displayed.

Upon issuance of the badge by the police department, the following requirements shall apply:

- (1) The badge issued shall be in such form and requirement so as to fully identify the person soliciting and will bear a photographic likeness of the solicitor and shall contain an expiration date.
- (2) The badge shall be valid only for the person to whom it is issued (nontransferable). Each solicitor is also required to carry a state-approved picture identification card or a state driver's license as proof of identification.
- (3) The badge issued shall be carried/displayed by the solicitor in plain sight while he is engaged in soliciting.
- (4) The badge is and shall remain the property of the City and may be revoked and required to be surrendered at any time for any false or misleading information on the permit application, for violation of any City ordinance, including the provisions set forth in this chapter, and for violation of any state or federal law.

Sec. 23-9. - Regulations.

- (a) Every solicitor shall identify himself as a solicitor upon approaching a person at a residence and explain his purpose, whether it be direct sales, solicitation of orders, or the demonstration of goods or merchandise, or any combination of such purposes.
- (b) Solicitors shall conduct solicitation activities, canvassers shall conduct canvassing activities, and handbill distributors shall distribute handbills only on Monday through Saturday. Solicitors, canvassers, and handbill distributors may only conduct solicitation or canvassing activities, or distribute handbills from sunrise to sunset, as officially determined on that day by the National Weather Service.
- (c) A person commits an offense if the person engages in solicitation activities, canvassing activities or handbill distribution at any time on a Sunday, New Year's Day, July 4th, Labor Day, Thanksgiving Day, Christmas Eve Day or Christmas Day.
- (d) Subsections (b) and (c) of this section shall not apply to a visit on the premises as a result of a request or an appointment made by the occupant.
- (e) A person commits an offense if the person engages in solicitation activities - including solicitation or fundraising activities by any institution or group organized for a political, religious or charitable purpose, canvassing activities, or handbill distribution at any premises with a posted notice that such activity is not welcomed or invited. It shall be presumed that there is notice that solicitation, canvassing activity, or handbill distribution is not welcomed or invited when there is exhibited in a conspicuous place on or near the main entrance to the residence, a weatherproof sign

(16)

or card containing the words “No Solicitors,” “No Trespassing,” or words of similar meaning in letters not less than two-thirds of one inch in height.

(f) No person engaged as a solicitor, canvasser, or handbill distributor shall remain or linger at a residence after having been verbally informed by the resident that they are not welcome.

(g) No person may engage in solicitation activities, canvassing activities, or handbill distribution in an aggressive or intimidating manner. The term “aggressive or intimidating manner” means:

- (1) Blocking the path of a person who is the object of the activity; or
- (2) Following behind, ahead or alongside a person who walks away from the solicitor, canvasser, or handbill distributor after being solicited, approached, accosted or offered a handbill, leaflet or any other item.

(h) A person commits an offense if the person engages in solicitation activities, canvassing activities, or handbill distribution and distributes, deposits, places, throws, scatters, or casts a handbill at a residence except by:

- (1) Handing or transmitting the handbill directly to the owner or occupant then present in or upon the premises; or
- (2) Without using adhesive or tape, placing or depositing the handbill in a manner that secures the handbill and prevents it from being blown away, except that mailboxes may not be used when the use is prohibited by federal postal laws or regulations.

(i) A person commits an offense if the person secures a handbill at a residence in the manner described by subsection (h)(2) of this section:

- (1) in a place that is more than five feet from the front door of the residence; or
- (2) When another handbill has already been left or secured at the residence and has not been removed from the outside of the residence.

(j) No solicitor, or any person working on his behalf, shall shout, make any outcry, blow a horn or whistle, ring a bell, or use any sound device, including any loud-speaking radio or sound amplifying system, upon any of the streets, avenues, alleys, parks or other public places of the City, or upon any private premises of the City where sound of sufficient volume is emitted or produced therefrom to be capable to be plainly heard upon the streets, avenues, alleys, parks or other places, for the purpose of attracting attention to the location or to any goods, wares or merchandise which any person permitted pursuant to this chapter proposes to sell. This subsection also prohibits the use of any audio device for the purpose of attracting customers to retail establishments or merchants.

(16)

Sec. 23-10. - Consumer's right to cancel.

(a) In addition to other consumer rights to revoke an offer or to rescind a transaction, or to any other remedy for a merchant's breach, the merchant shall provide to the consumer the right to cancel a home solicitation transaction made in person in which the consideration exceeds \$5.00, until midnight of the third business day after the day on which the consumer signs an agreement or offer to purchase in a home solicitation transaction.

(b) Every merchant in a home solicitation transaction made in person in which the consideration exceeds \$5.00, shall furnish the consumer with a fully completed receipt or copy of any contract pertaining to the home solicitation transaction at the time of its execution, which is in the same language as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name, address and telephone number of the merchant, and in immediate proximity to the space reserved in the contract for the signature of the consumer or on the front page of the receipt if a contract is not used, and in bold face type of a minimum size of ten points, a statement in substantially the following form:

"YOU, THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT."

(c) A merchant in a home solicitation transaction made in person in which the consideration exceeds \$5.00, shall furnish each consumer, at the time he signs the home solicitation transaction contract or otherwise agrees to buy realty, consumer goods or services from the merchant, a completed form in duplicate, captioned "Notice of Cancellation," which shall be attached to the contract or receipt and easily detachable, and which shall contain in bold face type of a minimum size of ten points the following information and statements in the same language as that used in the contract:

NOTICE OF CANCELLATION

(enter date of transaction)

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE. IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN TEN BUSINESS DAYS FOLLOWING RECEIPT BY THE MERCHANT OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELED.

IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE MERCHANT AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE MERCHANT REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE MERCHANT'S EXPENSE AND RISK.

(16)

IF YOU DO NOT AGREE TO RETURN THE GOODS TO THE MERCHANT AND IF THE MERCHANT DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM, TO (Name of merchant) AT (Address of merchant's place of business) NOT LATER THAN MIDNIGHT OF (Date).

I HEREBY CANCEL THIS TRANSACTION.

(Date)

(Buyer's Signature)

(d) Notification by mail shall be considered given at the time mailed as evidenced by the postmark; notification by telegram shall be considered given at the time filed for transmission; and notification by any other writing shall be considered given at the time delivered to the merchant's designated place of business.

(e) Before furnishing copies of the notice of cancellation to the consumer, a merchant shall complete both copies by entering the name of the merchant, the address of the merchant's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the consumer may give notice of cancellation.

(f) A merchant shall not include in any home solicitation transaction contract or receipt any confession of judgment or any waiver of any of the rights to which the consumer is entitled under this chapter including specifically his right to cancel the transaction in accordance with the provisions of this chapter.

(g) A merchant in a home solicitation transaction in which the consideration exceeds \$5.00, shall inform each consumer orally, at the time the consumer signs the contract or purchases the goods or services, of the consumer's right to cancel.

(h) A merchant shall not misrepresent in any manner the consumer's right to cancel.

(i) A merchant shall honor any valid notice of cancellation by a consumer and, within ten business days after the receipt of the notice, a merchant shall:

- (1) refund all payments made under the contract or sale;
- (2) return any goods or property traded in, in substantially as good condition as when received by the merchant;

(16)

- (3) cancel and return any negotiable instrument executed by the consumer in connection with the contract of sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction; and
 - (4) restore improvements on real property to the condition in which he found them unless requested otherwise by the consumer.
- (j) No merchant shall negotiate, transfer, sell or assign any note or other evidence of indebtedness to a finance company or other third party prior to 12:00 midnight of the fifth business day following the day the contract was signed or the goods or services were purchased.
- (k) No merchant shall fail, within ten business days of receipt of the consumer's notice of cancellation, to notify the consumer whether the licensee intends to repossess or to abandon any shipped or delivered goods.
- (l) This section shall not apply to a home solicitation transaction in which the consideration does not exceed \$25.00 if:
- (1) The consumer may within a reasonable time:
 - (a) cancel the order;
 - (b) refuse to accept the goods when delivered without obligation to pay for them; or
 - (c) return the goods to the seller and receive a full refund for any amount the consumer has paid.
 - (2) The consumer's right to cancel the order, refuse delivery or return the goods without obligation or charge is clearly and legibly printed on the face or reverse side of the sales ticket or clearly and legibly printed in or on the package.

Sec. 23-11. - Exhibiting card prohibiting solicitors.

- (a) A person, desiring that no merchant or other person engage in a home solicitation, canvassing activity or handbill distribution at his residence, shall exhibit in a conspicuous place upon or near the main entrance to the residence, a weatherproof sign or card, not less than three inches by four inches in size, containing the words, "NO SOLICITORS," "NO TRESPASSING," or words of similar meaning in letters not be less than two-thirds of an inch in height.
- (b) Every merchant, canvasser, or handbill distributor upon going onto any premises upon which a residence is located shall first examine the residence to determine if any notice prohibiting soliciting, canvassing, or handbill distribution is exhibited upon or near the main entrance to the residence. If such notice is exhibited, the merchant, canvasser, or handbill distributor shall immediately depart from the premises without disturbing the occupant, unless the visit is the result of a request made by the occupant.

(16)

(c) No person shall go upon any residential premises and ring the doorbell, or rap or knock upon the door, or create any sound in a manner calculated to attract the attention of the occupant of the residence, for the purpose of securing an audience with the occupant and engaging in or attempting to engage in a home solicitation transaction, canvassing activities or handbill distribution, if a card as described in subsection (a) of this section is exhibited in a conspicuous place upon or near the main entrance to the residence, unless the visit is the result of a request made by the occupant.

(d) No person, other than the occupant of the residence, shall remove, deface or render illegible, a sign or card placed by the occupant pursuant to subsection (a) of this section.

(e) Any merchant, canvasser, or handbill distributor who has gained entrance to a residence, or audience with the occupant, whether invited or not shall immediately depart from the premises without disturbing the occupant further when requested to leave by the occupant.

Sec. 23-12. - Revocation of permit.

(a) Any permit issued under this chapter may be revoked by the police department for any of the following reasons:

- (1) arrest or conviction of a crime(s) of moral turpitude;
- (2) fraud or misrepresentation in the application for a permit;
- (3) fraud or misrepresentation in the course of conducting solicitation activities;
- (4) conducting solicitation activities contrary to the conditions of the permit;
- (5) conducting solicitation activities in such a manner as to create or constitute a danger to the public health, safety or welfare.

(b) Upon revocation, the police department shall deliver written notice to the permit holder stating the action taken and the reasons supporting such action. The written notice shall be delivered to the permit holder's place of business or mailed to the permit holder's last known address. The chief of police or his designee shall have the authority to seize any and all permit badges possessed by persons conducting business as a solicitor while the official notification process is underway. At such time, any and all solicitation activities conducted under the authority of that permit shall cease.

Sec. 23-13. - Appeal if permit denied or revoked.

If the police department refuses to issue a permit, the applicant shall have the right to appeal to the City Council. Such appeal shall be taken by filing with the City Secretary within ten (10) days from the date of the refusal. The same procedure of appeal shall apply to a permit revoked under this chapter. Thereafter, the City Council shall set a reasonable time and place for a hearing on

(16)

such an appeal and notice of such hearing shall be mailed, postage prepaid, to the permittee at his last known address at least five days prior to the date of the hearing.

Sec. 23-14. - Penalty for violation of Chapter.

Any person violating any of the provisions or terms of this Chapter shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court, be punished by a fine not to exceed the sum of \$500.00 for each offense, and each and every day such violation shall continue be deemed to constitute a separate offense.

Sec. 23-15. - Solicitation on public property.

(a) It shall be unlawful for any person to peddle, hawk, sell, solicit, distribute or take orders for any services, wares, merchandise, or goods, including, but not limited to, magazines, encyclopedias, tools, photographs, flowers, candy, plants, or statues on the streets, street rights-of-way, or medians of the City. This prohibition shall apply to and include any institution or group organized for a political, religious or charitable purpose, or individuals engaging in such activities on behalf of any such institution or group.

(b) No permit provided for herein shall be issued for selling in the above manner.

Sec. 23-16. - Temporary Vendor's License.

(a) It shall be unlawful for any person to engage in temporary vending activities without first obtaining a license to do so from the police department.

(b) Any person desiring a license required by this section shall make application therefore to the police department. The application shall include the following:

- (1) The name, social security number or taxpayer identification number, date of birth and address of the applicant;
- (2) Whether the license is for an individual (natural person), a partnership, or a corporation; and
 - (a) If an individual, the individual's business or residence address and telephone number;
 - (b) If a partnership, the name of all partners, the principal business address, and telephone number of each partner;
 - (c) If a corporation, the person registering must state whether the corporation is organized under the laws of the state or is a foreign corporation, the mailing address, business location, telephone number, names of all officers and directors or trustees of such corporation, and, if a foreign corporation, the place of incorporation and registered agent for the state;

(16)

- (3) the kind of goods or services offered for sale;
 - (4) the description of the location upon which he desires to conduct business;
 - (5) the written permission from the landowner authorizing occupancy; and
 - (6) the period of time for which the applicant wishes to conduct business in the City.
- (c) At the time of filing an application for a license under this section, the applicant shall submit, for inspection by the police department, his social security number, date of birth, written proof of his identity, and provide fingerprint and photographic identification, if required.
- (d) The license fee for a temporary vendor shall be thirty-five dollars (\$35.00) per day. The fees herein provided for shall be used for the purpose of defraying expenses incident to the issuing of such license.
- (e) Any license issued under this section shall be maintained on the site where the business is being conducted and be available for inspection at all times.
- (f) It shall be unlawful for a person to engage in temporary vending activities for more than thirty (30) days within the City during each calendar year.
- (g) No temporary vending activities may be conducted on or within the public right-of-way or on the premises of any public property without first obtaining an event permit from the City. All temporary vending activities must not be on the site of an existing business, in a residential area, or in any other way conflicting with the zoning laws.
- (h) Exemptions from this section:
- (1) The provisions of this section shall not apply to group exhibits or persons exhibiting and selling agricultural products.
 - (2) The fee provisions of this section shall not apply to non-profit organizations.
 - (3) The provisions of this section shall not apply to mobile food establishments and temporary food establishments that are required to get a food establishment permit from the City to sell food.

Sec. 23-17. - Disaster Declaration.

Pursuant to its authority under Government Code Chapter 418, upon the declaration of a state of disaster that encompasses the City of Waxahachie, the police department, in its discretion, may temporarily pause the issuance of permits provided for herein, subject to all appropriate state and federal law governing solicitation activities.”

(16)

SECTION 3. This Ordinance shall be cumulative of all provisions of ordinances of the City of Waxahachie, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 4. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5. Except as provided herein, any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be guilty of a Class C misdemeanor punishable by a fine not to exceed Five Hundred Dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 6. All rights and remedies of the City of Waxahachie are expressly saved as to any and all violations of the provisions existing ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 7. This Ordinance shall become effective from and after its adoption and publication as required by law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, ON THIS THE ___th DAY OF SEPTEMBER, 2020.

David Hill, Mayor

ATTEST:

Lori Cartwright, City Secretary

APPROVED AS TO FORM:

Robert F. Brown, City Attorney

(17)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, APPROVING REVISED BUDGET FIGURES FOR FISCAL YEAR 2019-2020, FUNDS APPROPRIATED FOR STREET MAINTENANCE AND PROFESSIONAL SERVICES WILL BE USED FOR THAT PURPOSE, EITHER BY ENCUMBRANCE OR BY TRANSFER TO CAPITAL PROJECT FUND FOR STREETS; APPROVING AND ADOPTING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2020 AND TERMINATING SEPTEMBER 30, 2021, AND MAKING APPROPRIATIONS FOR EACH DEPARTMENT; REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Manager of the City of Waxahachie, Texas (hereinafter referred to as the "City") has caused to be filed with the City Secretary a budget to cover all proposed expenditures of the government of the City for the fiscal year beginning October 1, 2020, and ending September 30, 2021, (hereinafter referred to as the "Budget"); and

WHEREAS, public notice of the public hearing on the proposed annual budget, stating the date, time, place and subject matter of said public hearing, was given as required by the Charter of the City of Waxahachie and the laws of the State of Texas; and

WHEREAS, such public hearing was held on September 1, 2020, prior approval of such date being hereby ratified and confirmed by the City Council, and all those wishing to speak on the Budget were heard; and

WHEREAS, the City Council has studied the Budget and listened to the comments of the taxpayers at the public hearing therefore and has determined that the Budget attached hereto is in the best interest of the City.

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

Section 1. That all of the above premises are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. That the revised budget figures, prepared and submitted by the City Manager for the 2019-2020 budget, be, and the same are hereby, in all things, approved and appropriated, and any necessary transfers between accounts and departments are hereby authorized, approved, and appropriated.

Section 3. That the Budget attached hereto and incorporated herein for all purposes is adopted for the Fiscal Year beginning October 1, 2020, and ending September 30, 2021; and there is hereby appropriated from the funds indicated such projects, operations, activities, purchases and other expenditures as proposed in the Budget.

Section 4. That the City Manager shall file or cause to be filed a true and correct copy of the approved Budget, along with this ordinance, with the City Secretary and in the office of the County Clerk of Ellis County, Texas, as required by State Law.

(17)

Section 5. That the distribution and division of the above-named appropriations are made at the departmental level in the general fund and the water and sewer fund for the payment of operating expenses and capital outlay as set out in the municipal budget.

Section 6. That at any time during the fiscal year, the City Manager may transfer part or all of any unencumbered appropriation balance among or between general classifications within a department. The City Manager shall report such transfer to the City Council by written message at the next regular council meeting following the transfer action. The City Manager may not authorize transfer of part of all of any unencumbered appropriation balance among or between departments or funds of the City. The City Manager may recommend such transfer to the City Council. The City Council may, at the recommendation of the City Manager or on its own volition, transfer part or all of any unencumbered appropriation balance from one department or fund to another department or fund by resolution.

Section 7. That any and all ordinances, resolutions, rules, regulations, policies or provisions in conflict with the provisions of this Ordinance are hereby repealed and rescinded to the extent of conflict herewith.

Section 8. That if any section, article, paragraph, sentence, clause, phrase or word in the Ordinance, or application thereto my person or circumstances is held invalid or unconstitutional by a Court of competent jurisdiction such holding shall not affect the validity of the remaining portions of the Ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 9. That the necessity of adopting and approving a proposed budget for the next fiscal year as required by the laws of the State of Texas requires that this Ordinance shall take effect immediately from and after its passage, and it is accordingly so ordained.

PASSED, APPROVED AND ADOPTED on this the 8th day of September, 2020.

MAYOR

ATTEST:

City Secretary

(17)

**CITY OF WAXAHACHIE
GENERAL FUND
SUMMARY OF EXPENDITURES BY DEPARTMENT
F Y 2020 - 2021**

DESCRIPTION	ORIGINAL BUDGET F Y 2019-20	REVISED / Y E ESTIMATE F Y 2019-20	BUDGET F Y 2020-21
Revenues	40,428,900	39,464,398	40,874,025
Transfers In	4,556,880	4,682,750	4,605,140
Total Revenues & Transfers In	<u>44,985,780</u>	<u>44,147,148</u>	<u>45,479,165</u>
Expenditures			
General Government			
General Administration	1,581,212	1,551,753	1,600,128
Finance	1,107,725	1,094,224	1,308,480
City Attorney	100,000	115,000	115,000
General Items	402,090	464,467	3,152,769
Facility Maintenance	412,184	397,235	348,480
Human Resources	629,169	601,667	598,895
Information Technology	827,014	868,014	819,300
Economic Development	1,645,097	1,544,558	1,502,155
Downtown Development	275,280	279,657	252,812
Planning	647,582	613,033	888,480
Airport Operations	23,638	23,246	15,343
Total General Government	<u>7,650,991</u>	<u>7,552,854</u>	<u>10,601,842</u>
Public Safety			
Police Department	11,177,055	10,816,390	11,289,689
Emergency Management	211,184	271,894	334,997
Fire Department	8,838,750	8,396,962	9,265,158
Building Services	943,235	1,193,788	935,460
Municipal Court	356,450	342,390	351,950
City Marshall	208,680	144,075	197,780
Total Public Safety	<u>21,735,354</u>	<u>21,165,499</u>	<u>22,375,034</u>
Public Works			
Street Department	6,193,723	7,068,670	6,044,185
Central Garage	302,320	291,375	298,322
Engineering	775,362	836,025	885,285
City Engineer	379,333	317,938	0
Community Services	428,481	375,629	389,805
Animal Control	272,830	234,485	248,790
Total Public Works	<u>8,352,049</u>	<u>9,124,122</u>	<u>7,866,387</u>
Culture & Recreation			
Parks & Recreation	2,234,811	2,731,010	2,417,870
Chautauqua Auditorium	29,450	40,125	22,212
Waxahachie Rodeo	18,030	17,060	18,290
Penn Park Pool	71,540	67,950	69,670
Optimist Pool	98,500	183,500	48,810
Amphitheater	100,680	79,050	113,220
Sims Library Tax Transfer	1,136,200	1,136,200	1,091,814
Senior Citizen Center	752,270	719,313	742,409
Total Culture & Recreation	<u>4,441,481</u>	<u>4,974,208</u>	<u>4,524,295</u>
Total Expenditures	<u>42,179,875</u>	<u>42,816,683</u>	<u>45,367,558</u>
Transfers Out			
Transfer to Main Street Prog Grant	20,000	20,000	0
Total Transfers Out	<u>20,000</u>	<u>20,000</u>	<u>0</u>
Total Expenditures & Transfers Out	<u>42,199,875</u>	<u>42,836,683</u>	<u>45,367,558</u>
Revenues & Transfers In less Expenditures	<u>2,785,905</u>	<u>1,310,465</u>	<u>111,607</u>

(18)

ORDINANCE NO. _____

AN ORDINANCE ADOPTING THE BUDGET, MAKING APPROPRIATIONS FOR THE SUPPORT OF THE CITY OF WAXAHACHIE'S WATER AND WASTEWATER OPERATIONS FOR THE PERIOD BEGINNING OCTOBER 1, 2020 AND ENDING SEPTEMBER 30, 2021 AND DECLARING AN EMERGENCY.

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

SECTION 1. The amounts listed are hereby appropriated out of the Water Fund for the following expenses of the operation, maintenance, debt service and construction of the municipally owned water system.

UTILITY ADMINISTRATION	491,063
METERS	850,563
WATER PRODUCTION	3,910,901
WATER DISTRIBUTION	947,111
UTILITY BILLING	400,520
DEBT SERVICE	2,578,479
TRANSFER TO GENERAL FUND	2,333,920
TRANSFER TO GENERAL FUND WATER USEAGE	158,000
TRA PAYMENT	439,370
TRANSFER TO SOKOLL WATER TREATMENT JOINT VENTURE	1,380,975
TOTAL WATER EXPENSES	13,490,902

SECTION 2. The amounts listed are hereby appropriated out of the Wastewater Fund for the following expenses of the operation, maintenance, debt service, and construction of the municipally owned wastewater system.

(18)

UTILITY ADMINISTRATION	442,831
WASTEWATER COLLECTION	1,274,977
WASTEWATER TREATMENT	2,494,429
UTILITY BILLING	352,485
DEBT SERVICE	3,791,595
TRANSFER TO GENERAL FUND	1,775,000
TRANSFER GENERAL FUND WASTEWATER USAGE	36,000
TOTAL WASTEWATER EXPENSES	10,167,317

SECTION 3. Except in cases of emergency, no money shall be drawn from the City Treasury, nor shall any obligations for the expenditures of money be incurred, other than in accordance with the appropriations contained by the City Charter by transfer between or increases in the amounts appropriated herein.

SECTION 4. In order to provide for the efficient usual daily operation of the City of Waxahachie by immediately appropriating sufficient funds for the support and operation of the City, an emergency is hereby declared to exist, and this ordinance shall take effect immediately from and after its passage.

PASSED, APPROVED AND ADOPTED on this the 8th day of September, 2020.

MAYOR

ATTEST:

City Secretary

(19)

ORDINANCE NO. _____

AN ORDINANCE AMENDING WATER AND WASTEWATER FEES, BY AMENDING VARIOUS SECTIONS OF THE CODE OF ORDINANCES, CITY OF WAXAHACHIE, AND SETTING AN EFFECTIVE DATE OF OCTOBER 1, 2020 AND DECLARING AN EMERGENCY.

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

That Section 33 of the Code of Ordinances, City of Waxahachie, is hereby amended to read as follows:

SECTION 33-33. Deposits required.

Residential: A deposit of ninety-two dollars (\$92.00) is required for regular residential service. A deposit of sixty-nine dollars (\$69.00) is required for accounts with wastewater and trash collection service. A deposit of forty-three dollars (\$43.00) is required for trash collection service only. The billing department may adjust the amount of deposit based on payment history.

Residential New Construction: A deposit of one hundred fifty-nine dollars (\$159.00) is required for each new construction residential account.

Apartments, Commercial, and Industrial: The billing department may require higher amounts; however, deposits are generally based on meter size as follows:

up to 1" water meter	\$238.00
1 ½" water meter	\$357.00
2" water meter	\$594.00
3" water meter	\$1,187.00
4" water meter	\$2,373.00
6" water meter	\$3,559.00
8" water meter	\$7,117.00
10" water meter or larger	\$11,861.00
Fire Hydrant meter with RPZ *	\$2,147.00

*Customer will be responsible for the cost of any damages incurred while meter is in their possession.

No interest shall be paid on deposits. No deposit is required for other government entities. The billing department may waive the deposit for separate irrigation meters.

That Section 33-36 of the Code of Ordinances, City of Waxahachie is hereby amended to read as follows:

(19)

SECTION 33-36. Water and Wastewater Rates.

(A) Water inside city: From and after the effective date of this ordinance, uniform monthly water rates which shall prevail to all City of Waxahachie water customers are:

MONTHLY WATER RATES:

(1) Minimum water bill for the first fifteen hundred (1,500) gallons of usage (all accounts):

up to 1" water meter	\$19.71
1 ½" water meter	\$44.02
2" water meter	\$64.61
3" water meter	\$125.62
4" water meter	\$259.88
6" water meter	\$505.40
8" water meter	\$874.40
10" water meter or larger	\$1,367.02
Fire Hydrant meter	\$216.40

(2) The amount shown for the first fifteen hundred gallons of consumption in the above schedule shall constitute a minimum bill for each customer. Billing shall be made in hundreds of gallons. Irrigation meters using less than 200 gallons per month will not be charged.

(3) Residential and sprinkler system meters will be subject to the following rates:

1,501 - 10,000	\$5.19
10,001 - 20,000	\$6.02
20,001 - 30,000	\$6.82
30,001 - 40,000	\$7.56
40,001 & above	\$8.56

Non-irrigation apartment meters, and commercial/industrial meters will be charged at a rate of \$5.19 per thousand gallons for all monthly usage above 1,500 gallons.

(B) Wastewater inside city: From and after the effective date of this ordinance, sewer charges to apply to each dwelling unit for all single family and duplex residential connections all mobile home parks or apartment complexes, and all commercial and industrial customers shall be as follows:

(19)

Monthly Wastewater Rates

Water Usage	Apartments, Mobile Home, Single-Family and Duplex Residence (Per Dwelling Unit)
First 1,500 gallons	\$24.88 (minimum charge)
Over 1,500 to 11,000 gallons	\$4.38 per 1,000 gallons
All over 11,000 gallons, maximum billing per dwelling	\$66.51

When there is a single billing for more than one (1) residence, each unit is to receive a one thousand five hundred-gallon credit before additional charges are made, not to exceed eleven thousand (11,000) gallons per unit.

Water Usage	Commercial	Industrial	Industrial Cost Recovery Per 1,000 Gallons
First 1,500 gallons	\$24.88 (minimum charge)	\$24.88 (minimum charge)	\$0.21 (minimum charge)
All usage over 1,500 gallons	\$4.38 per 1,000 gallons	\$4.38 per 1,000 gallons	\$0.21 per 1,000 gallons

That Section 33-40 of the Code of Ordinances, City of Waxahachie is hereby amended to read as follows:

SECTION 33-40. Late charges; service restored upon payment of bill; fee for returned checks; fee for replacement of cut-off valve; fire hydrant meter set fee; broken curb stop fee; cut lock fee; reread meter service charge; tampering penalty.

(a) Late Fee. Payment for utility service shall be due fourteen (14) days after the billing date. Any account with a balance due fourteen (14) days after the due date shall be assessed a penalty of \$10.00. If such date falls on the weekend or legal holiday, then payment is due the next business day.

(b) Disconnection for Nonpayment: Any account with a balance due greater than \$130.00, twenty-one (21) days after the billing date, shall be subject to disconnection. The past due amount plus a reconnect fee of \$41.00 (\$74.00 after regular office hours) must be paid prior to reconnection of services.

(c) Return Connection Fee: Customers are encouraged but not required to be present (or have a representative present) anytime service is reestablished (This is recommended in order to prevent flooding and water damage that could result from interior faucets being left in the "on" position, hanging toilets floats, leaks and other conditions that could arise subsequent to the disconnection.) In the event the customer or a designated representative (a) cannot be located on-site when the service is reconnected and (b) the meter registers usage after the service has been reestablished and thus presents the risk of water damage, the service will be turned back off and the customer will be notified of the problem and asked to reschedule the reconnection. Subsequent trips to reestablish service will be subject to a Return Reconnection Fee of \$41.00 each if performed during

(19)

working hours or \$74.00 if performed after working hours. This fee is applicable when service has been disconnected for nonpayment; when service to a new account is established or when service has been disconnected at the request of the customer.

(d) Return Check Fee. In the event the bank does not honor a customer's check, a \$35.00 fee will be charged.

(e) Replacement of Cut-off Valve. In the event a customer has damaged a cut-off valve or curb stop to the point the valve must be replaced, then, the customer shall be billed a \$74.00 replacement fee, plus the actual cost of materials to replace the damaged item. In the event a customer has broken a cut-off valve for the purpose of removing a lock, an additional tampering penalty of \$152.00 (see "(j)" below) must be paid before service is restored.

(f) Fire hydrant meter set fee: \$38.00

(g) Meter Box Replacement Fee: \$63.00 plus actual materials cost

(h) Cut lock fee: \$152.00

(i) Reread meter service charge: \$18.00

(j) Tampering penalty: \$152.00

(k) New account fee: \$19.00

(l) Sokoll Rate fee: \$1.40 per 1,000 gallons

(k) Solid Waste fee: \$14.13 (*excluding sales tax)

PASSED, APPROVED AND ADOPTED this the 8th day of September, 2020.

ATTEST:

City Secretary

Mayor

(20)

ORDINANCE NO. _____

AN ORDINANCE ADOPTING THE BUDGET, MAKING APPROPRIATIONS FOR THE SUPPORT OF THE SOKOLL WATER TREATMENT PLANT JOINT VENTURE FOR THE PERIOD BEGINNING OCTOBER 1, 2020 AND ENDING SEPTEMBER 30, 2021 AND DECLARING AN EMERGENCY.

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

SECTION 1. The amounts listed are hereby appropriated out of the Sokoll Water Treatment Plant for the following expenses of the operation, maintenance, and debt service of the Water Treatment Joint Venture water system.

WATER PRODUCTION	1,969,645
DEBT SERVICE	2,763,260
TRANSFER TO CITY OF WAXAHACHIE GENERAL FUND	120,000
TRANSFER TO CITY OF WAXAHACHIE WATER FUND	185,000
TRANSFER TO CITY OF WAXAHACHIE WASTEWATER FUND	75,900
TOTAL WATER EXPENSES	5,113,805

SECTION 2. Except in cases of emergency, no money shall be drawn from the City Treasury, nor shall any obligations for expenditures of money be incurred, other than in accordance with the appropriations contained by the City Charter by transfer between or increases in the amounts appropriated herein.

SECTION 3. In order to provide for the efficient usual daily operation of the City of Waxahachie by immediately appropriating sufficient funds for the support and operation of the City, an emergency is hereby declared to exist, and this ordinance shall take effect immediately from and after its passage.

PASSED, APPROVED AND ADOPTED on this the 8th day of September, 2020.

MAYOR

ATTEST:

City Secretary

(21)

ORDINANCE NO. _____

AN ORDINANCE MAKING APPROPRIATIONS FOR THE SUPPORT OF THE CITY GOVERNMENT OF THE CITY OF WAXAHACHIE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2020 AND ENDING SEPTEMBER 30, 2021 AND DECLARING AN EFFECTIVE DATE.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS.

SECTION 1. The amount of \$1,867,706 is appropriated out of the Refuse Service Fund for disposal operations.

SECTION 2. The amount of \$803,057 is appropriated out of the Hotel Tax Fund for contractual obligations.

SECTION 3. The amount of \$5,118,898 is appropriated out of the Waxahachie Community Development Corporation of operation of the Civic Center, operation of the Sports Complex, Community Beautification, debt service, and economic development.

SECTION 4. The amount of \$6,192,233 is hereby appropriated out of the Interest and Sinking Fund for debt service requirements.

SECTION 5. Except in cases of emergency, no money shall be drawn from the City Treasury, nor shall any obligations for the expenditures of money be incurred, other than in accordance with the appropriations contained by the City Charter for transfer between or increases in the amounts appropriated herein.

SECTION 6. In order to provide for the efficient usual daily operation of the City of Waxahachie, by immediately appropriating sufficient funds for the support and operation of the City, an emergency is hereby declared to exist, and this ordinance shall take effect immediately from and after its passage.

INTRODUCED, PASSED, APPROVED AND ADOPTED on this the 8th day of September, 2020.

MAYOR

ATTEST:

City Secretary

(22)



Memorandum

To: Honorable Mayor and City Council

From: Chad Tustison, Finance Director

Thru: Michael Scott, City Manager

Date: September 4, 2020

Re: Consider a Motion to Ratify the Property Tax Revenue Increase
Reflected in the Fiscal Year 2020-2021 Budget In Accordance With the
Texas Local Government Code

The Texas Local Government Code requires that "adoption of a budget that will require raising more revenue from property taxes than in the previous year requires a separate vote of the governing body to ratify the property tax increase reflected in the budget."

The increase in the budget provides for continued and additional funding for essential city services such as public safety and street maintenance, additional parks and senior center improvements, and continued support of the City's capital improvements program.

The motion would be -

"I move to ratify the property tax increase reflected in the budget."

(23)

ORDINANCE NO. _____

AN ORDINANCE LEVYING FOR THE USE AND SUPPORT OF THE MUNICIPAL GOVERNMENT OF THE CITY OF WAXAHACHIE, TEXAS, AND PROVIDING FOR THE INTEREST AND SINKING FUND FOR FISCAL YEAR 2021 AND APPORTIONING EACH LEVY FOR THE SPECIFIC PURPOSE.

Be it ordained by the City Council of the City of Waxahachie, Texas, that section 30-2 of the Code of Ordinances, City of Waxahachie, is hereby amended to read as follows:

Sec. 30-2. Tax Levy. There is hereby levied and there shall be assessed and collected for the Maintenance and Operation of the municipal government of the City of Waxahachie, Texas, and to meet Interest and Sinking requirements for fiscal year 2021, upon all property, real, personal and mixed within the corporate limits of the City subject to taxation, a total tax of 66 cents on each one hundred dollars (\$100.00) of assessed valuation based on 100% of market value of said property, said tax being so levied and apportioned to the specific purpose herein set forth.

- a. For the maintenance and operation of the general government including current expenses and for general improvements of the City and its property, known as the General Fund, 46.580 cents on each one hundred dollars (\$100.00) of assessed valuation of all taxable property, and
- b. For the maintenance and operation of a public library within the City, known as Sims Library, 2.620 cents on each one hundred dollars (\$100.00) of assessed valuation of all taxable property, and
- c. For the purpose of paying interest and principal for the redemption of bonds, warrants, and other long-term obligations heretofore legally issued by the City, known as the Interest and Sinking Fund, 16.800 cents on each one hundred dollars (\$100.00) of assessed valuation of all taxable property.

THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE.

THE TAX RATE WILL EFFECTIVELY BE RAISED BY 2.89 PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$13.84.

All Taxes as set out above shall be payable as set out by existing city ordinances and statutes of the State of Texas.

In order to provide for the efficient, usual daily operation of the City by immediately levying the tax rates for the current fiscal year, an emergency is hereby declared to exist and this ordinance shall take effect immediately from and after its passage.

PASSED, APPROVED AND ADOPTED on this the 8th day of September, 2020.

MAYOR

ATTEST:

City Secretary

(23)

Motion to Adopt the Tax Rate

Tax Code 26.05(b) requires that the following language be used in adopting the tax rate.

- "I move that the property tax rate be increased by the adoption of a tax rate of 0.66, which is effectively a 4.7% percent increase in the tax rate."

(24)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WAXAHACHIE, TEXAS, ESTABLISHING AND RE-ESTABLISHING CLASSIFIED POSITIONS UNDER CIVIL SERVICE IN THE FIRE AND POLICE DEPARTMENTS, REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. The classified positions under Civil Service in the Fire Department shall be as follows:

Assistant Fire Chief	1
Fire Marshal	1
Fire Battalion Chief	5
Fire Captain	9
Fire Lieutenant	3
Fire Pumper Engineer	12
Firefighter	33

SECTION 2. The classified positions under Civil Service in the Police Department shall be as follows:

Assistant Police Chief	2
Police Lieutenant	5
Sergeants	8
Corporal	4
Police Patrol Officer	55

SECTION 3. The annual/monthly base rate pay for each of the above captioned classified positions shall be determined by each year's budget.

SECTION 4. The positions of Assistant Fire Chief and Assistant Police Chief shall be appointed positions, appointed by the head of the department.

SECTION 5. That all ordinances of the City of Waxahachie heretofore adopted which are in conflict with the provisions of this ordinance be, and the same are hereby repealed.

SECTION 6. That this ordinance shall take effect thirty days after passage and all requirements under Chapter 143 of the Local Government Code have been satisfied.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2020.

MAYOR

ATTEST:

CITY SECRETARY